# Unified Development Ordinance

## New Hanover County, North Carolina

Updated November 16, 2020

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# Article 1: General Provisions

## Section 1.1. Title

This Ordinance shall be officially known as the “Unified Development Ordinance of New Hanover County, North Carolina” and may be referred to as “the Unified Development Ordinance” or “this Ordinance” or the “UDO.”

## Section 1.2. Authority

### 1.2.1. GENERAL AUTHORITY

This Ordinance consolidates the County’s zoning, subdivision, and flood damage prevention regulatory authority as authorized by the North Carolina General Statutes, and is adopted in accordance with:

**A.** The authority granted to New Hanover County by the General Assembly of the State of North Carolina;

**B.** The North Carolina General Statutes, including:

**1.** Chapter 153A, Article 6 (General Police Powers);

**2.** Chapter 153A, Article 18 (Planning and Regulation of Development);

**3.** Chapter 113A, Article 4 (Sedimentation and Pollution Control);

**4.** Chapter 143, Article 21, Part 6 (Floodway Regulations); and

**C.** All other relevant laws of the State of North Carolina.

### 1.2.2. REFERENCES TO NORTH CAROLINA GENERAL STATUTES.

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

## Section 1.3. General Purpose and Intent

It is the purpose of this Ordinance to:

**A.** Promote the health, safety, and general welfare of the residents of New Hanover County;

**B.** Implement the policies and goals contained within officially adopted County plans;

**C.** Preserve the overall quality of life for residents and visitors;

**D.** Maintain orderly and compatible land-use and development patterns;

**E.** Support long-term community resilience;

**F.** Establish clear and efficient development review and approval procedures; and

**G.** Accommodate growth and development that complies with the preceding stated purposes.

## Section 1.4. Applicability and Jurisdiction

### 1.4.1. GENERAL APPLICABILITY

The regulations set forth in this Ordinance shall be applicable within the planning jurisdiction of unincorporated New Hanover County, unless land or development is expressly exempted by a specific section or subsection of this Ordinance.

### 1.4.2. EXEMPTIONS

The following are exempted from this Ordinance:

**A.** Bona fide farm lands as defined by the North Carolina General Statutes, except that the standards in Article 9: Flood Damage Prevention, shall apply to bona fide farm lands.

**B.** Court-ordered subdivisions of land that comply with state law and all relevant requirements of this Ordinance.

### 1.4.3. NO DEVELOPMENT UNTIL COMPLIANCE WITH THIS ORDINANCE

**A.** Unless exempted, no land shall be developed without compliance with this Ordinance and all other applicable County, state, and federal regulations.

**B.** No person shall use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under their control, except in accordance with this Ordinance.

**C.** No building, or portion thereof, shall be erected, used, moved, or altered except in conformity with the regulations specified in the zoning district in which it is located.

## Section 1.5. Relationship with the Comprehensive Plan

The New Hanover County Comprehensive Plan serves as the basic policy guide for the regulations included this Ordinance. The policies and actions of the Comprehensive Plan may be amended from time to time to meet the changing requirements of the County in accordance with state law.

## Section 1.6. Relationship with other Laws

### 1.6.1. CONFLICTS WITH OTHER COUNTY CODES OR LAWS

When the requirements of this Ordinance conflict with the requirements of other lawfully adopted rules, regulations, or ordinances of New Hanover County, the more stringent requirements shall govern. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

### 1.6.2. CONFLICTS WITH STATE OR FEDERAL LAW

If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the state or federal government, the more restrictive provision shall control, to the extent permitted by law.

### 1.6.3. RELATIONSHIP TO PRIVATE AGREEMENTS/CONFLICTS WITH PRIVATE AGREEMENTS

Nothing in this Ordinance is intended to supersede, annul, or interfere with any deed restriction, covenant, easement, or other agreement between private parties, but such deed restrictions, covenants, easements and other private agreements shall not excuse any failure to comply with this Ordinance. The County may review private agreements, such as those related to maintenance of private common open space set-asides, but the County shall not be responsible for monitoring or enforcing private covenants and restrictions.

### 1.6.4. EXISTING AGREEMENTS OR VESTED RIGHTS

Nothing in this Ordinance is intended to repeal, supersede, annul, impair, or interfere with any existing private agreements or vested rights previously adopted or issued in accordance with all applicable laws, provided such agreements or rights are lawfully established and remain in effect.

## Section 1.7. Transitional Provisions

### 1.7.1. EFFECTIVE DATE

This Ordinance was adopted on February 3, 2020 and became effective on February 3, 2020.

### 1.7.2. CONSTRUCTION IN PROGRESS

The adoption of this Ordinance does not require a change in the plans, construction, or designated use of any building for which actual construction was lawfully begun before February 3, 2020 and on which actual construction has been diligently pursued. For the purpose of this provision, “actual construction” includes the erection of construction materials in permanent position and fastened in a permanent manner, or demolition, elimination, and removal of an existing structure in connection with such construction, provided that actual construction work must be diligently pursued until completion of the building.

### 1.7.3. APPROVALS GRANTED BEFORE EFFECTIVE DATE

**A.** Approved zoning permits, building permits, variances, special use permits, subdivision plans, and site plans that are valid on February 3, 2020 shall remain valid until their expiration date. Development may be completed in accordance with such approvals even if such building, development or structure does not fully comply with provisions of this Ordinance. If building is not commenced and diligently pursued in the time allowed under the original approval or any extension granted, then the building, development or structure shall be subject to the requirements of this Ordinance.

**B.** To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 11: Nonconforming Situations.

**C.** Any re-application for an expired development approval or permit shall comply with the standards in effect at the time of re-application.

**D.** All development and use of land in a PD District that was approved before September 8, 2020 shall comply with the standards approved for that district. The Planning Director may approve minor deviations from the PD District standards identified in Section 10.3.4.C.8.b, Minor Deviations, provided the deviations have no material effect on the character of the approved development. All other modifications of the PD District standards shall be considered major modifications and are subject to the procedures and standards in Section 10.3.4, Master Planned Development. *[09-08-2020]*

### 1.7.4. APPLICATIONS IN PROGRESS BEFORE EFFECTIVE DATE

**A.** Applications for development approvals and permits that were submitted in complete form and are pending on February 3, 2020 shall be reviewed and decided in accordance with the regulations in effect when the application was accepted.

**B.** Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time of application acceptance. If the application fails to comply with the required time frames, it shall expire and future development shall be subject to the requirements of this Ordinance.

**C.** An applicant with a pending application accepted before February 3, 2020 may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance. The application submittal fees will be waived for this new application.

**D.** An applicant with a pending application for a PD District that was accepted before September 8, 2020 may opt to have the proposed PD District reviewed and decided under either the zoning regulations in effect at the time the application was accepted, in whole, or the procedures and standards of this ordinance, in whole. If the applicant opts to have the proposed PD District reviewed under the procedures of this Ordinance, the applicant shall withdraw the pending application and submit a new application in accordance with the standards of this Ordinance. The application submittal fees will be waived for this new application. *[09-08-2020]*

**E.** Except for a PD District approved in accordance with subsection D above, to the extent an application approved under this section proposes development that does not comply with this Ordinance, the development, although permitted, shall be nonconforming and subject to the provisions of Article 11: Nonconforming Situations.

### 1.7.5. VIOLATIONS CONTINUE

Any violation of the previous Ordinance and other regulations replaced by this Ordinance shall continue to be a violation under this Ordinance, and subject to the penalties set forth in Article 12: Violations and Enforcement, unless the development complies with the express terms of this Ordinance.

### 1.7.6. NONCONFORMITIES

If any use, structure, lot of record, or sign was legally established on the date of its development, but does not fully comply with the standards of this Ordinance or any amendments thereto, that use, structure, lot of record, or sign shall be considered nonconforming and subject to the provisions of Article 11:: Nonconforming

Situations. If a use, structure, lot of record, or sign that was legally nonconforming under the previous Ordinance becomes conforming under this Ordinance, it shall no longer be deemed nonconforming and subject to the provisions of Article 11:: Nonconforming Situations.

## Section 1.8. Severability

It is the legislative intent of the Board of County Commissioners that if any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity and continued enforcement of any other provision of this Ordinance. The Board of County Commissioners hereby declares that it would have adopted this Ordinance and any section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases of the Ordinance is declared invalid by a court of competent jurisdiction.

## Section 1.9. Technical Corrections

The Planning Director is authorized to make corrections of a purely technical nature to this Ordinance to cure typographical, formatting, or other similar errors.

# Article 2: Measurements and Definitions

## Section 2.1. Measurements

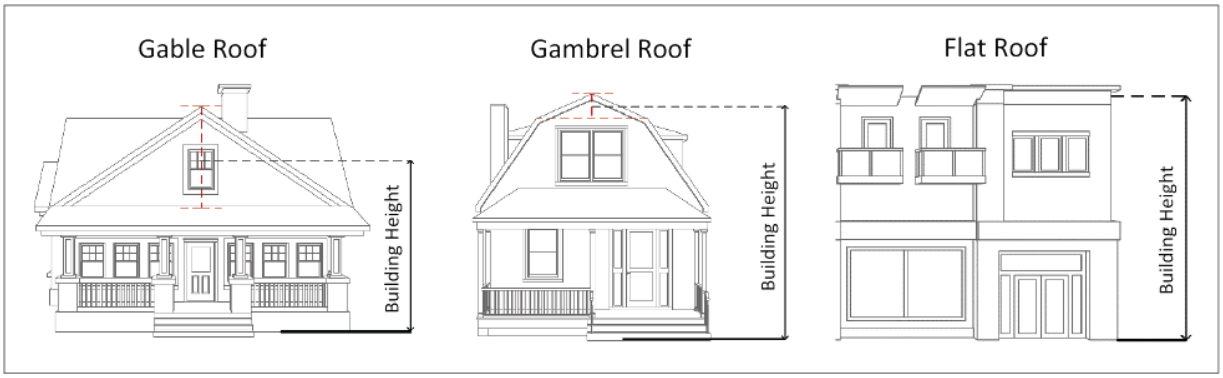
**BUILDABLE AREA**
The portion of a lot remaining after required setbacks and yards are provided.

**BUILDING HEIGHT**
The vertical distance measured from the average elevation of the proposed finished grade at the front of the structure to one of the following (see Figure 2.1: Building Height Measurement):

1. The midpoint between eave and ridgeline on a simple sloped roof (e.g., gable or hip roof) or curved roof (e.g., barrel roof);
2. Where there are multiple roof planes (e.g., gambrel or mansard roof), the highest midpoint on a sloped or curved roof surface or the highest flat roof plane, whichever is highest; or
3. The highest roof plane on a flat roof (not including any parapet wall).

Appurtenances usually required to be placed above the roof level and not intended for human occupancy (e.g., antennas, chimneys, solar panels) shall not count toward the building height (see Section 3.1.3.B, Structural Appurtenances). *[09-08-2020]*

Figure 2.1: Building Height Measurement




**DIAMETER AT BREAST HEIGHT (DBH)**
The diameter or width of the main stem of a tree as measured 4.5 feet above the natural grade at its base. Whenever a branch, limb, defect, or abnormal swelling of the trunk occurs at this height, the diameter at breast height (DBH) shall be measured at the nearest point above or below 4.5 feet at which a normal diameter occurs.

**DENSITY FACTOR**
An intensity measure expressed as the number of units per "net buildable site acre" (as calculated pursuant to 3.1.3.E.1, Site Capacity. The density factor establishes the permitted density on the buildable portion of a site with an Additional Dwelling Allowance.

**FLOOR AREA RATIO (FAR)**
The total floor area of all structures located on lot divided by the gross lot area.

$$\text{FAR} = \frac{\text{TOTAL FLOOR AREA OF ALL STRUCTURES ON A LOT}}{\text{GROSS LOT AREA}}$$

In the B-2 district, parking deck area calculations shall be excluded from the total building area calculations when computing the FAR.

**SETBACK**
The minimum distance a building or structure must be separated from the lot lines. Setbacks are specified as front, side, and rear; are located within the corresponding front, side, and rear yards; and establish the minimum required front, side, and rear yards.

Setbacks shall be measured from the structure. If a roof overhang extends more than two feet from the structure, the setback shall be measured from the drip line of the roof.

Setbacks shall not be occupied or obstructed by a structure or portion of a structure, unless otherwise allowed by another provision of this Ordinance.

Fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any setback subject to height limitations and requirements limiting obstruction of visibility.

Private driveways or easements serving three or fewer lots in accordance with Section 5.2.2.B.3 may also be permitted in any setback.

Minimum setback distances for overhead canopies shall be determined by measuring a straight line distance from the nearest point of the required reference boundary (i.e., street right-of-way, zoning district line, or property line) to the point on the ground surface which is perpendicular to the closest edge of the canopy overhang. Setback distances from street rights-of-way may be reduced by one half.

**SETBACK, FRONT**
The depth of a front setback shall be measured at right angles to a straight line joining the foremost points of the side lot lines, and in such a manner that the front yard established shall provide minimum depth parallel to the front lot line.

**SETBACK, SIDE**
The width of a side setback shall be measured in such a manner that the side yard established is a strip of the minimum width required by the district regulations with its inner edge parallel with the side lot line.

**SETBACK, REAR**
The depth of a rear setback shall be measured in such a manner that the rear yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

**SETBACK LINE**
The line on the front, rear, and sides of a lot, which delineates the area upon which a structure may be built and maintained.

**SIGN, HEIGHT**
As applied to a sign, height shall be measured as the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and a level plane going through the nearest point of the improved public right-of-way at the ground-level curb line.

**SIGN, SURFACE AREA OF**
The surface area of a sign, which is computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

**SPACING BETWEEN BUILDINGS**
The minimum distance, measured horizontally, from the closest point on one building to the closest point of an adjacent building. The closest point shall include projections such as bump-outs, bay windows, or similar projections, and eaves or roof overhangs that extend more than two feet from the building. *[11-16-2020]*

**YARD**
An open space on the same lot with a structure, lying between the structure and nearest lot line, that is unoccupied and unobstructed by the structure or any portion of the structure.

**YARD, FRONT**
A yard extending between side lot lines across the front of a lot adjoining a public or private street. Through lots shall be considered to have two front yards.

**YARD, SIDE**
A yard extending from the front setback line to the rear lot line.

**YARD, REAR**
A yard extending across the rear of the lot between inner side setback lines. In the case of through lots and corner lots, there shall be no rear yards, but only front and side yards.

## Section 2.2. Rules of Construction

The rules in this section shall apply for construing or interpreting the terms and provisions of this Ordinance.

### 2.2.1. MEANINGS AND INTENT

All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.3, General Purpose and Intent, and the specific purpose statements set forth throughout the UDO. When a specific section of the UDO gives a different meaning than the general definition provided in this article, the specific section's meaning and application of the term shall control.

### 2.2.2. HEADINGS, ILLUSTRATIONS, AND TEXT

In the event of a conflict or inconsistency between the text of this UDO and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

### 2.2.3. LISTS AND EXAMPLES

Unless otherwise specifically indicated, lists of items or examples that use terms like "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

### 2.2.4. COMPUTATION OF TIME

**A.** In computing any period of time prescribed or allowed, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

**B.** The term "day" means a business day, unless a calendar day is indicated.

**C.** The term "month" means a calendar month.

**D.** The term “year” means a calendar year unless otherwise indicated.

**E.** Whenever a person has the right or is required to do some act within a prescribed period of time following the service of a notice or other document through mailed delivery:

**1.** Three days shall be added to the prescribed period; and

**2.** The time period shall be counted starting from and including the post-marked date.

### 2.2.5. REFERENCES TO OTHER REGULATIONS/PUBLICATIONS

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall mean a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

### 2.2.6. DELEGATION OF AUTHORITY

**A.** Any act authorized by this UDO to be carried out by the Planning Director may be delegated by the Planning Director to a County employee under the Planning Director’s authority or control.

**B.** Any act authorized by this UDO to be carried out by the County Engineer may be delegated by the County Engineer to a County employee under the County Engineer’s authority or control.

### 2.2.7. PUBLIC OFFICIALS AND AGENCIES

All public officials, bodies, and agencies to which references are made are those of the New Hanover County, North Carolina, unless otherwise indicated.

### 2.2.8. MANDATORY AND DISCRETIONARY TERMS

The words "shall," "must," "should" and "will" are mandatory, establishing an obligation or duty to comply with the particular provision. The word "may" is permissive.

### 2.2.9. CONJUNCTIONS

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

**A.** "And" indicates that all connected items, conditions, provisions or events apply; and

**B.** "Or" indicates that one or more of the connected items, conditions, provisions,

### 2.2.10. TENSES AND PLURALS

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

### 2.2.11. TERM NOT DEFINED

If a term used in this UDO is not defined in this UDO, the Planning Director is authorized to interpret its meaning in accordance with Section 10.3.15, Interpretation. Such interpreted meaning shall be based upon the definitions used in accepted sources—including, but not limited to, *A Planners Dictionary, A Glossary of Zoning, Development, and Planning Terms*, and *A Survey of Zoning Definitions* (all published by the American Planning Association), as well as general dictionaries such as Merriam-Webster, American Heritage, Webster's New World, and New Oxford American dictionaries.

### 2.2.12. USE AND OCCUPATION

The words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied.

## Section 2.3. Definitions and Terms

**ACCESSORY DWELLING UNIT**
An ancillary or secondary dwelling unit that is clearly subordinate to the principal dwelling, which has a separate egress/ingress independent from the principal dwelling, and which provides complete independent living facilities for one or more persons and which includes provisions for living, sleeping, eating, cooking, and sanitation. It is located on the same parcel as the principal dwelling unit and may be either attached to or detached from the principal dwelling.

**ACCESSORY STRUCTURE**
A structure subordinate to a principal structure and use, the use of which is customarily found in association with and is clearly incidental to the use of the principal structure of the land and which is not attached by any part of a common wall or roof to the principal structure. (When a specific structure is identified in this Ordinance as accessory to another use or structure, the structure need not be customarily incidental to, or ordinarily found in association with, the principal use to qualify as an accessory structure.) This definition does not apply to the provisions of Article 9: Flood Damage Prevention; for that meaning, see Section 9.5: Definitions.

**ACCESSORY USE, CUSTOMARY**
A use of a structure or land that is subordinate and customarily incidental to, and ordinarily found in association with, a principal use, which it serves; is subordinate in purpose, area, floor area, intensity, and extent to the principal use, and; does not change the character of the principal use.

**ADDITIONAL DWELLING ALLOWANCE**
A permit to exceed the residential density limit established in an applicable zoning district in accordance with an additional density factor established by this ordinance.

**ADDITIONAL HEIGHT ALLOWANCE**
A permit to exceed the maximum height for a particular zoning district by a specified number of feet and/or stories.

**ADULT DAY CARE**
An establishment licensed pursuant to NCGS §131D and engaged in the provision of group care and supervision of more than 5 adults in a place other than their permanent residence.

**ADULT ENTERTAINMENT ESTABLISHMENT**
Retail or service establishments which are characterized by an emphasis on specified sexual activity and/or specified anatomical areas, including, but not limited to:

A. Any bookstore, video store, or other establishment in which a substantial portion of its stock in trade is devoted to printed matter or visual representation of specified sexual activities or specified anatomical areas;

B. Any movie theater offering movies or other displays, or any establishments offering coin-operated devices, which emphasize specified sexual activities or specified anatomical areas;

C. Any cabaret, club, tavern, theater, or other establishment which offers any entertainment emphasizing specified sexual activities or specified anatomical areas;

D. Any establishment offering massage or similar manipulation of the human body, unless such manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional licensed by the State. This definition does not include massages or similar manipulation offered at an athletic club, health club, school, gymnasium, spa, or similar establishments.

**AGRICULTURAL AND FORESTRY USES, GENERAL**
Uses characterized by general active and ongoing agricultural activities, including agronomy, animal husbandry, aquaculture, biotechnical agriculture (including education parks for biotechnical agriculture or a demonstration farm), forestry, fisheries, apiculture, and similar uses. For the purposes of this UDO, this definition shall include any bona fide farm as defined in N.C.G.S. 160D-903. *[11-16-2020]*

**AIRPORT**
For purposes of Section 5.10, Airport Height Restriction, the Wilmington International Airport.

**AIRPORT AND TERMINAL**
Establishments providing air traffic control to regulate the flow of air traffic; establishments that operate international, national, or civil airports or public flying fields; or that support airport operations (such as rental of hangar spaces, cargo handling services, and passenger parking lots); and establishments providing specialty air transportation or flying services.

**AIRPORT AUTHORITY**
For purposes of Section 5.10, Airport Height Restriction, the New Hanover County Airport Authority and its agents, who are charged with administering the operations of the Wilmington International Airport.

**AIRPORT ELEVATION**
The highest point of an airport's usable landing area measured in feet from sea level

**ALLEY STREET**
See “Street, Alley”.

**AMATEUR RADIO ANTENNA**
Amateur radio antennas as prescribed in North Carolina General Statutes §160D-905. *[09-08-2020]*

**ANIMAL GROOMING SERVICE**
A commercial establishment where a pet may be bathed, brushed, clipped, trimmed, and/or styled for the purposes of enhancing its appearance and/or health. This use typically includes an accessory retail component that is subordinate to the grooming service. This use does not include the breeding, boarding, training, raising, or selling of any animals; for those activities, see “Kennel”. *[11-16-2020]*

**ANIMAL SHELTER**
A non-residential facility that is used to house or contain animals, and is owned, operated, and maintained for the purpose of providing temporary kenneling and care for the animals and finding permanent adoptive homes for them.

**ANIMATED SIGN**
See “Sign, Animated”.

**ANTENNA**
Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services. *[09-08-2020]*

**APPLICANT**
A person who submits an application for a development approval or permit under this UDO.

**APPLICATION**
A formal application form submitted by an applicant for a development approval or permit under this UDO.

**APPROACH SURFACE**
A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope set forth in Section 5.10 of this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

**APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES**
See Section 5.10.6, Airport Zones.

**ARTERIAL STREET**
See “Street, Arterial”.

**ARTISAN MANUFACTURING**
On-site production of goods by hand manufacturing involving the use of hand tools and small-scale light mechanical equipment. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing and similar types of arts and crafts or very small-scale manufacturing uses that have very limited, if any, negative external impacts on surrounding properties, water resources, air quality, and/or public health.

**AUCTION HOUSE**
An establishment where the real or personal property or others is sold by a broker or auctioneer to persons who attend scheduled sales or events. *[11-16-2020]*

**BANK AND/OR FINANCIAL INSTITUTION**
A facility that has as its primary purpose the custody, loan, exchange, or issue of money, the extension of credit, and transmission of funds. Accessory uses may include automated teller machines (ATMs) and facilities providing drive-through services.

**BANNER SIGN**
See "Sign, Banner".

**BAR/NIGHTCLUB**
A non-restaurant establishment that generates more than 49 percent of its quarterly gross receipts from the sale of alcoholic beverages for on-premises consumption. Bars and nightclubs may provide live music (bands) and other music, dancing, and games of skill such as pool or darts for use by the patrons of the establishment.

**BARRIER ISLANDS**
Any land formation composed of unconsolidated materials lying on the ocean side of the mainland. Estuaries or wetlands separate the islands from the mainland.

**BASE STATION**
For the purposes of the Communications and Information Facilities standards of Subsection 4.3.3., "base station" shall mean a station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics. *[09-08-2020]*

**BED AND BREAKFAST INN**
A place of lodging that located in a single family detached dwelling unit with a resident manager that provides 5 or fewer guest rooms and breakfast for transient occupants.

**BLOCK**
A parcel of land, which is entirely surrounded by streets, highways, railroad rights-of-way, parks or green strips, rural land or drainage channels, or a combination thereof.

**BOARD OF ADJUSTMENT**
The New Hanover County Board of Adjustment charged with the responsibility of hearing and deciding appeals and requests for variance from the requirements of this UDO.

**BOAT**
A vessel or watercraft of any type or size specifically designed to be self-propelled, whether by engine or sail, including yachts, pontoon boats, sail boats, personal watercraft such as Jet-Skis®, and motorized inflatable boats such as Zodiacs®. For the purposes of this ordinance, this definition does not include small watercraft, as herein defined. *[09-08-2020]*

**BOAT DEALER**
Uses engaged primarily in the sale of personal, consumer-oriented boats.

**BOATING FACILITY, COMMUNITY**
A private, non-profit boating facility including a dock, pier and/or launching ramp on property having water frontage; the use of which is intended to serve five or more residential lots or residential units. The use of such a facility is limited to the residence owners or tenants and their invited guests and does not include commercial activities of any kind.

**BOATING FACILITY, PRIVATE RESIDENTIAL**
A private, nonprofit boating facility including a dock, pier, and/or launching ramp on property having water frontage, the use of which is to service fewer than five residential lots or units. The use of such facility is limited to the residence owners or tenants and their invited guests and does not include commercial activities of any kind.

**BROADCASTING AND PRODUCTION STUDIO**
Facilities for the filming, recording, and/or broadcasting of radio, television, film, music, and/or internet media content.

**BUILDING BASE**
The lower levels of a building that do not exceed 4 stories or 50 feet, whichever is less, and are distinguished architecturally from the upper floors of the building.

**BUS AND TAXI TERMINAL**
A facility that includes a lot and related building(s) utilized for the operations, maintenance, and/or storage of bus, coach, taxi, or similar transportation services. A terminal shall not include a location where the bus stops to drop off or take on passengers when there are not operational facilities.

**BUSINESS SERVICE CENTER**
An establishment engaged in providing mailbox rental and other postal and mailing services; copy centers or shops engaged in providing photocopying, duplicating, blueprinting, and other document copying services without also providing print services; and businesses providing a range of office support services, such as mailing services, document copying services, facsimile services, word processing services, on-site computer rental services, and accessory office product sales.

**CAMPGROUND/RECREATIONAL VEHICLE (RV) PARK**
Any parcel or tract of land upon which campsites are occupied or intended to be occupied by tents for overnight camping or upon which recreational vehicles are occupied for sleeping purposes, regardless of whether or not a charge is made for such purposes.

**CAR WASH**
A facility for washing or steam cleaning passenger automobiles (including self-service operations), operating either as a separate facility or when installed and operating in conjunction with another use, and which installation includes equipment customarily associated with a car wash and which is installed solely for the purpose of washing and cleaning automobiles.

**CEMETERY**
Land or facilities used for the permanent interment of humans or animals or their cremated remains, such as a mausoleum, columbarium, memorial park, and pet cemetery.

**CERTIFICATE OF OCCUPANCY**
The certificate from the County Inspections Department allowing the occupancy of a building.

**CHILD CARE CENTER**
An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care, unless excluded by NCGS §110-86(2).

**CIRCUSES, CARNIVALS, AND FAIRS**
Itinerant enterprises consisting of amusements such as games, mechanical rides, acrobatic or magic shows, animal shows, and the exhibition of agricultural or other products.

**COASTAL AREA MANAGEMENT ACT (CAMA)**
North Carolina's Coastal Area Management Act, this act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environmental Quality (NCDEQ's) Division of Coastal Management (DCM). This definition does not apply to the provisions of Article 9: Flood Damage Prevention; for that meaning, see Section 9.5: Definitions

**COASTAL BARRIER RESOURCES SYSTEM (CBRS)**
Consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

**COLLECTOR STREET**
See "Street, Collector".

**COLLEGES, UNIVERSITIES, AND PROFESSIONAL SCHOOLS**
A public or private, non-profit institution for post-secondary education offering courses in general or technical education that operates within buildings or premises on land owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, and other facilities that further the educational mission of the institution. In no event shall this definition prohibit a college or university from engaging in an activity historically conducted in such institutions.

**COLLOCATION**
The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles, or wireless support structures. *[09-08-2020]*

**COMMERCIAL KITCHEN, CATERING**
An establishment whose principal business is to prepare food on-site, then to transport and deliver or serve off-site. No business consumption of food or beverages is conducted on the premises. *[11-16-2020]*

**COMMERCIAL PARKING LOT OR FACILITY**
An off-street, hard-surfaced, ground level area—or a structure composed of one or more levels or floors—that is used as a commercial enterprise for the parking of personal automobiles, is not accessory to any other use on the same lot, and contains parking spaces rented to the general public or reserved for individuals by the hour, day, week, or month. This definition shall not include storage of vehicles awaiting repair, pending insurance or legal action, awaiting demolition, or vehicles stored for the stripping of parts.

**COMMERCIAL RECYCLING FACILITY, LARGE COLLECTION**
A facility greater than 500 square feet in size that buys or accepts recyclable materials for the purpose of storage until enough has accumulated for shipment.

**COMMERCIAL RECYCLING FACILITY, PROCESSING**
A facility that uses power-driven machinery to prepare recyclable materials for shipment. Machinery used in the processing of the materials includes shredders, balers, brickers, and can compactors.

**COMMERCIAL RECYCLING FACILITY, PROCESSING AND COLLECTION**
A facility that both collects and processes recyclable materials.

**COMMERCIAL RECYCLING FACILITY, SMALL COLLECTION**
A facility no greater than 500 square feet in size that is used as a drop point for temporary storage of recyclable materials, such as metal, glass, plastics, and/or newspapers, as the principal use of a parcel.

**COMMUNITY CENTER**
A meeting, recreational, and/or social facility provided by the government or a nonprofit institution for public use.

**COMMUNITY GARDEN**
An area managed and maintained by a group of individuals to grow and harvest fruits, flowers, vegetables, or ornamental plants for personal or group consumption, for donation, or for incidental sale. *[11-16-2020]*

**CONICAL SURFACE**
A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

**CONSTRUCTION OFFICE**
Modular units or other structures used solely as field offices for contractors during the duration of a specific construction project.

**CONSTRUCTION PLANS**
See “Subdivision Construction Plans”.

**CONTRACTOR OFFICE**
An establishment primarily engaged in the day-to-day administrative and clerical services for businesses providing contracted services, such as building contractors, heating and air conditioning (HVAC) repair, landscaping and janitorial services, etc., that require outside and/or fleet storage. The use may include some on-site repair and material preparation work.

**CONVENIENCE STORE**
A small retail self-service store selling a limited line of fast-moving food and nonfood items, usually with extended hours of operation and usually with a high volume of customer traffic comprised of quick transactions of a small number of items. Includes fuel sales as an accessory use.

**COUNTY**
New Hanover County, North Carolina, a political subdivision of the State of North Carolina.

**COUNTY ENGINEER**
A Professional Engineer, registered in the State of North Carolina, employed by the County Board of Commissioners to provide engineering services to New Hanover County.

**CRITICAL AREA**
The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from remaining areas of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the surface water in which the intake is located or to the ridge line of the watershed, whichever comes first; or, one-half mile upstream form the intake located directly in the stream or run-of-the-river or the ridge line of the watershed, whichever comes first.

**CUL-DE-SAC STREET**
See “Street, Cul-de-sac”.

**DATA CENTER**
An establishment primarily engaged in providing infrastructure (e.g., computer systems and associated components such as telecommunications and storage systems) for data processing and storage, web hosting, application hosting, streaming services, and related services. *[11-16-2020]*

**DEBRIS SITE**
A site for the temporary storage of trees, branches, shrubs, and logs and other similar vegetative debris resulting from a natural disaster.

**DEVELOPER**
Any person, firm, or corporation who develops any land.

**DEVELOPMENT**
Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**DIRECTIONAL SIGN (ON PREMISES)**
See "Sign, Directional (on premises)".

**DISABLED PERSON**
Individuals with disabilities, including individuals recovering from alcoholism and/or drug addiction, who are protected by either the provisions of the Americans with Disabilities Act of 1990, 42 USC 12101, the Fair Housing Act, 42 USC 3601 *et. seq*., or Chapter 168, Article 3, N.C.G.S.

**DOMESTIC ANIMAL**
Dogs, cats, rodents, birds, reptiles, fish, pot-bellied pigs weighing less than 70 pounds, and any other species of animal that is commonly kept as a household pet in the County. This term does not include skunks, nonhuman primates, and other species of wild or exotic animals.

**DRY CLEANING/LAUNDRY PLANT**
An establishment engaged in providing dry cleaning or laundering services on-site or specialty cleaning services for specific types of garments and other textile items, such as fur or leather, on-site. This does not include drop-off dry cleaning and/or laundering shops.

**DRY STACK BOAT STORAGE FACILITY**
A facility with vertical storage of boats in a rack system, providing for storage of at least two layers of boats.

**DWELLING UNIT**
One or more rooms together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

**DWELLING, DUAL-UNIT ATTACHED**
A dwelling containing two dwelling units sharing a common wall that is part of a performance residential, mixed use, or master planned development. Each dwelling unit is occupied exclusively by one family.

**DWELLING, MULTI-FAMILY**
A residential development other than a townhouse dwelling containing five or more dwelling units. Units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings. Multifamily dwellings include what are commonly called apartments or condominium units.

**DWELLING, QUADRAPLEX**
A residential building containing four dwelling units, which are either located side-by-side (four in a row), or two units on the first floor with two units located above.

**DWELLING, ROW-STYLE**
A residential development containing five or more dwelling units that are attached horizontally through common walls, occupying space from the ground to the roof of the building.

**DWELLING, SINGLE-FAMILY DETACHED**
A single detached dwelling unit on a lot, other than a mobile home dwelling and excluding any accessory dwelling unit.

**DWELLING, TRIPLEX**
A residential building containing three dwelling units, where the units are attached by common walls.

**DWELLING, TWO-FAMILY (DUPLEX)**
A dwelling containing two dwelling units sharing a common wall that is not part of a performance residential subdivision or is on an individual lot. Each dwelling unit is occupied exclusively by one family. A two-family or duplex dwelling may include two-story units where a floor/ceiling have the function of a common wall.

**EASEMENT**
A grant by the property owner for use, by the public, a corporation or person of a strip of land for specific purposes.

**ELECTRIC SUBSTATION**
A subsidiary station of an electricity generation, transmission, and distribution system where voltage is transformed from high to low or the reverse using transformers.

**ELECTRIC VEHICLE CHARGING STATION**
A vehicle parking space served by an electrical component assembly or cluster of component assemblies (battery charging station) designed and intended to transfer electric energy by conductive or inductive means from the electric grid or other off-board electrical source to a battery or other energy storage device within a vehicle that operates, partially or exclusively, on electric energy. *[11-16-2020]*

**ELECTRICITY GENERATING FACILITIES**
A standalone plant not ancillary to another land use which generates electricity to be distributed to customers, including but not limited to fossil fuel burning facilities and wind power farms. This definition shall not include electricity produced at or on an agricultural farm, residence, business, or other facility where use of the electricity so produced is limited primarily to on-site consumption. Solar energy collection facilities are a type of electricity generating facility; however, for the purposes of this ordinance, they are considered a separate use in the Table of Permitted Uses.

**ELECTRONIC GAMING OPERATION**
A business enterprise, whether principal or accessory, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of odds or chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic Gaming Operations do not include any lottery approved by the State of North Carolina.

**ELEMENTARY AND SECONDARY SCHOOLS**
An educational institution that offers a program of high school, technical high school, middle school (or junior high school), and/or elementary school (including kindergarten, pre-k, pre-k-8, or nursery school) instruction meeting State requirements for a school. Such uses include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution. *[11-16-2020]*

**ELIGIBLE FACILITIES REQUEST**
A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification. *[09-08-2020]*

**EMERGENCY SERVICES FACILITY**
An establishment for the provision of emergency services, such as fire, rescue and emergency medical service, and associated emergency preparedness, emergency management, or disaster management activities. *[11-16-2020]*

**EQUESTRIAN FACILITY**
A facility for keeping equines not associated with an agricultural or residential use and which includes the boarding, breeding, training, riding, or showing of the domestic animals.

**EQUIPMENT COMPOUND**
An area surrounding or near the base of a wireless support structure within which a wireless facility is located. *[09-08-2020]*

**EQUIPMENT RENTAL AND LEASING**
Facilities for the sale, rental, or lease of commercial vehicles and heavy equipment.

**EVENT CENTER**
A commercial establishment, either indoors or outdoors, with the primary purpose of providing space for meetings, gatherings, reunions, weddings, conventions, private parties, and other similar gatherings. Includes convention centers, wedding and event venues, and other uses not included as part of community centers; lodges, fraternal, or social organizations; or religious assemblies. *[11-16-2020]*

**FAMILY**
One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption, or marriage, no such family shall contain over three persons, but further provided that:

(A) Domestic servants employed on the premises may be housed on the premises without being counted as part of the family residing on the premises; and

(B) A foster home as designated by the North Carolina Department of Social Services for the care of not more than five children less than 18 years of age be considered as family.

(C) Any child less than eighteen years of age living with parent(s) or a legal guardian is not to be counted as a person in the calculations.

**FAMILY CARE HOME**
A home with support and supervisory personnel that provides room and board, personal care, and rehabilitation services in a family environment for not more than six resident handicapped persons.

**FAMILY CHILD CARE HOME**
An arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care, unless excluded by NCGS §110-86(2).

**FARM IMPLEMENT SALES**
An establishment engaged in the on-premises lease, rental, or retail sales of new or used machinery, tools, supplies, and small appliances designed and used for agricultural or horticultural use. This use includes the sale of farm-specific vehicles such as tractors, tillers, and farm trailers, but does not include the sale of industrial equipment used in the processing of farm products at locations removed from the farm where such products are grown.

**FARM STAND**
An area for the temporary or seasonal sales and promotion of agricultural products, generally located on the farms where products are grown.

**FARMERS' MARKET**
A collective enterprise selling directly to the public and operated under a unified set of management guidelines and restrictions, concentrated in a single location, and leasing or otherwise assigning spaces to growers/producers who personally sell fresh produce and related farm products.

**FENESTRATION**
The arrangement and design of openings, such as windows, within a building.

**FINAL PLAT**
See "Plat, Final".

**FLAG SIGN**
See "Sign, Flag".

**FLASHING SIGN**
See "Sign, Flashing".

**FLOATING STRUCTURE**
Any structure or vessel in fact used, designed, and occupied as a permanent dwelling unit, business or source of any occupation, or any private or social club, which floating structure or vessel is primarily immobile and out of navigation or which functions substantially as a land structure while the same is moored or docked on waters within County jurisdiction, whether such floating structure is self-propelled or not.

**FLOODWAY**
See Article 9: Flood Damage Prevention, Section 9.5 for definition.

**FOREST MANAGEMENT PLAN**
A document that defines a landowner's forest management objectives and describes specific measures to be taken to achieve those objectives. The plan shall be prepared by a licensed forester and shall include silviculture practices that both ensure optimal forest productivity and environmental protection of land. (NC Division of Forest Resources and NC Cooperative Extension Service can provide educational materials and lists of licensed foresters.)

**FOOD MARKET**
An establishment that offers specialty food products at retail, such as meat, seafood, produce, artisanal goods, baked goods, pasta, cheese, confections, coffee, and other specialty food products, and may also offer additional food and non-food commodities related or complementary to the specialty food products.

**FOOD PANTRY**
A facility where stocks of food and personal care items, typically basic provisions and nonperishable items, are supplied free of charge to people in need. This use does not include food pantry as an accessory use to a Religious Assembly principal use, nor does it include incidental structures commonly referred to as Little Free Pantries. *[11-16-2020]*

**FOUNDATION PLANTINGS**
A required planting area between the curb line or edge of a parking facility or drive isle and the building's facade. See Section 5.4.7, Foundation Plantings.

**FRATERNITY/SORORITY RESIDENCE**
A building or structure occupied and maintained for residential uses exclusively for college or university students who are members of a social, honorary, or professional organization chartered by a national, fraternal, or sororal order.

**FREEBOARD**
See Article 9: Flood Damage Prevention, Section 9.5 for definition.

**FUEL BULK STORAGE FACILITIES**
A facility whose primary purpose is the storage, distribution, mixing, or transfer of flammable or combustible liquids, gases, or solids, received or transferred by truck, train, tank vessel, pipelines, tank car, piping, portable tank or containers, or other method, including propane, methane, ethanol, gasoline, kerosene, oil, coal, and other fuels. This definition shall not include fueling stations; retail oil or gas dealers; or fuel stored at or on an agricultural farm, residence, business, or other facility where fuel usage is limited primarily to on-site consumption.

**FUEL PUMP ISLAND**
Any device or group of devices used for dispensing motor fuel or similar petroleum products to the general public.

**FUEL SALES**
A facility engaged in the storage, distribution, and retail sales of vehicle fuels for personal vehicles, fleet vehicles, and/or trucks.

**FUNERAL SERVICES**
Establishments engaged in preparing the dead for burial or interment and conducting funerals. Funeral Services includes crematories as an accessory use.

**GOLF COURSE**
A tract or tracts of land laid out for at least nine holes for playing the game of golf, and which may include a clubhouse, golf schools, driving ranges, and accessory uses such as restaurants/bars, pro shops, and related facilities.

**GOVERNMENT OFFICES AND BUILDINGS**
An office of a governmental unit or agency that provides administrative and/or direct services to the public such as, but not limited to: employment offices, public assistance offices, motor vehicle licensing, and registration services.

**GROCERY STORE**
An establishment that offers a diverse variety of unrelated, non-complementary food and non-food commodities such as beverages, dairy, dry goods, fresh produce, and other perishable items, frozen foods, household products, and paper goods; may include a prescription pharmacy, coffee shop, and/or delicatessen and prepare minor amounts of food on-site for immediate consumption.

**GROUP DEVELOPMENT**
A group of two or more principal structures built on a single lot, tract, or parcel of land and designed for occupancy by separate families, firms, businesses, or other enterprises.

**GROUP HOME**
A home in which more than three unrelated persons with a disability, as defined in the U.S. Fair Housing Act, 42 U.S.C. 3601 et seq., live together as a self-supporting and self-sufficient household unit.

**HAZARD TO AIR NAVIGATION**
An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of navigable airspace.

**HAZARDOUS MATERIAL**
Any substance listed as such in the Superfund Amendments Reauthorization Act (SARA), Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

**HEIGHT**
For the purpose of determining the height limits in all zones set forth in Section 5.10, Airport Height Restriction, the datum shall be mean sea level elevation unless otherwise specified.

**HELIPORT**
A facility designed to accommodate all phases of helicopter operations, with space for a terminal and the loading, unloading, service, and storage of helicopters, including accessory uses commonly associated with an airport terminal.

**HIGH DENSITY DEVELOPMENT**
A development with an Additional Dwelling Allowance permit.

**HOME OCCUPATION**
A business, profession, occupation, or trade that is conducted within a residential dwelling unit for the economic gain or support of a resident of the dwelling, and is incidental and secondary to the residential use of the lot.

**HORIZONTAL SURFACE**
For purposes of Section 5.10, Airport Height Restriction, the horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

**HOSPICE**
A licensed hospice facility which provides palliative care and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a group residential setting. *[11-16-2020]*

**HOSPITAL**
An institution receiving inpatients and rendering medical care on a 24-hours-per-day basis. The term includes general hospitals, sanitariums, sanatoriums, and institutions in which service is limited to special fields, such as cardiac; eye, ear, nose, and throat; pediatric; orthopedic; skin; cancer; mental; tuberculosis; chronic disease; and obstetrics. The facilities may also include outpatient care, ambulatory care, offices of medical practitioners, adult day care, respite care, medical day care and day care for sick children, gift shops, restaurants, and other customary accessory uses. The term shall not include “adult day care center,” “assisted living facility,” or “nursing home facility.”

**HOTEL OR MOTEL**
A building or a group of buildings in which six or more sleeping units are offered to the public and intended primarily for use by transient persons or tourists on an overnight or short-term lodging basis. Such uses may include kitchenettes, microwaves, and refrigerators within the guest units.

**INCIDENTAL SIGN**
See "Sign, Incidental".

**INDOOR RECREATION ESTABLISHMENT**
A commercial establishment that provides indoor facilities for recreation, entertainment (except adult entertainment), or amusement, including but not limited to: bowling alleys, pool rooms, indoor sports gymnasiums, movie theaters and live theaters, indoor skating rinks, video arcades, and indoor shooting ranges.

**INOPERATIVE MOTOR VEHICLE**
A motor vehicle which meets only one of the following criteria:

(A) Is presently unable to satisfy the vehicle inspection standards of the State of North Carolina, regardless of whether the vehicle possesses a currently valid inspection certificate. Motor vehicles which lack such an inspection certificate, or which display an expired certificate, shall be presumed to be inoperative; or

(B) Is partially dismantled or wrecked; or

(C) Cannot be self-propelled or moved in the manner in which it originally was intended to move.

**INSTRUCTIONAL SERVICES AND STUDIOS**
Establishments primarily engaged in teaching skills within a group setting pertaining to specialized recreational or artistic pursuits, including but not limited to, dance studios, yoga studios, fitness classes, martial arts, painting, sculpting, and singing. *[11-16-2020]*

**INTEGRAL SIGN**
See "Sign, Integral".

**INTENSIVE INDUSTRY**
Uses listed under the heading "intensive industry" in the Table of Permitted Uses shall be considered intensive industry uses.

**INTERIOR LOT**
See "Lot, Interior".

**INVASIVE SPECIES**
A species of tree or other plant listed as a nonnative invasive plant by the US Department of Agriculture, Forest Service. *[11-16-2020]*

**JUNK YARDS, SCRAP PROCESSING**
An establishment or place of business maintained, operated, or used for storing, keeping, buying, or selling of junk materials such as old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, or other old or scrap ferrous or non-ferrous metal.

**KENNEL**
An establishment, including doggy day cares, that engages in the business, for a fee, or boarding, breeding, grooming, or training of more than three domesticated animals at any one time; or an establishment in the business, for a fee, of selling more than one litter of domesticated animals at any one time or the selling of any three individual domesticated animals (not defined as litter herein) at any one time. The following shall not constitute the operation of a kennel:

(A) The ownership of domesticated animals as household pets;

(B) The ownership of domesticated animals for hunting or tracking purposes;

(C) The ownership of domesticated animals for the purpose of exhibiting at shows, obedience or field trials; and

(D) The ownership of domesticated animals for the purpose of protection of guarding of residences or commercial establishments.

**KINETIC SIGN**
A sign that depicts motion either illusory or real.

**LABOR ORGANIZATION**
An office or other establishment used by an organization, agency, committee, or group for the purpose of undertaking activities on the behalf of employees of an industry or industries in regard to collective contracts or general conditions of employment.

**LAKES AND PONDS**
Natural or artificial bodies of water which retain water year round. Artificial ponds may be created by dams or may result from excavation.

**LANDFILL, DEMOLITION**
A sanitary landfill that receives, stores, and/or processes concrete, brick, wood, or other construction and development debris materials.

**LANDFILL, LANDSCAPE**
A sanitary landfill that is limited to receiving, storing, and/or processing of stumps, limbs, leaves, uncontaminated earth or other vegetative debris or earth materials.

**LARGER THAN UTILITY RUNWAY**
A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

**LIBRARY**
A public and/or nonprofit facility in which literary, musical, artistic, or reference material such as, but not limited to, books, manuscripts, computers, recordings, or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

**LIVE/WORK OR CARETAKER UNIT**
A structure or portion of a structure that combines a nonresidential use that is allowed in the zoning district with a residential living space for the owner of the commercial or manufacturing business, or the owner's employee, and that person's household and where the resident owner or employee of the business is responsible for the commercial or manufacturing activity performed.

**LIVESTOCK SALES**
An establishment primarily engaged in the sale and distribution of livestock and may include livestock auction sales.

**LOCAL STREET**
See “Street, Local”.

**LODGES, FRATERNAL, & SOCIAL ORGANIZATIONS**
An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational or like activities, operated on a nonprofit basis for the benefits of its members, and certified as a non-profit organization by the Secretary of State of the State of North Carolina.

**LOT**
One or more contiguous properties or portions thereof, not separated by a public right-of-way. Such "lots" shall be of sufficient size to meet minimum zoning district requirements for use, coverage, and area, and provide such yards and open space as are required for the location of a principal building or use and its accessory buildings and uses. The word lot also includes the words "plot" and "parcel".

**LOT DEPTH**
The mean horizontal distance between front and rear lot lines.

**LOT FRONTAGE**
That portion of a lot abutting on a street, including the side dimension of a corner lot.

**LOT OF RECORD**
A lot which is part of a subdivision recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds, the description of which is recorded.

**LOT TYPES**
Lot types include corner, interior, and through lots.

> **LOT, CORNER**
> A lot located at the intersection of two or more streets.
>
> **LOT, INTERIOR**
> A lot other than a corner lot with only one frontage on a street.
>
> **LOT, THROUGH**
> A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

**MARINA, COMMERCIAL**
Any dock or basin and associated structures commercially providing permanent or temporary harboring or storing of two or more boats (pleasure and/or commercial), and providing marine services, including but not limited to retail sales for fuel, repair, convenience food and rental goods, boats, engines, and accessory boat and equipment rental.

**MEDICAL AND DENTAL OFFICE AND CLINIC**
Small-scale facilities or offices where patients are admitted for examination, diagnostic testing, and treatment by one or more physicians, dentists, or other health practitioners on a short-term basis. The use includes the offices of physicians, dentists, chiropractors, optometrists, podiatrists, audiologists, speech pathologists, and other health practitioners. It also includes facilities providing short-term outpatient care and treatment (which may or may not be overnight), such as kidney dialysis centers, outpatient pain therapy clinics, biofeedback centers, sleep disorder clinics, family planning clinics, community health clinics, and health maintenance organization (HMO) medical clinics. Such facilities that provide overnight care and treatment may include sleeping rooms for care workers and members of patients’ families. This use does not include hospitals or massage therapy establishments.

**MICROBREWERY/MICRODISTILLERY**

An establishment where beer, malt beverages, wine, distilled alcohol, or mead is made on the premises primarily for on-site consumption and/or retail sales, and may be packaged for distribution off-site. Typical accessory uses may include a restaurant, tasting room, retail, food truck, and/or live entertainment, as otherwise permitted in the zoning district. For the purposes of this definition, the following shall constitute a microbrewery/microdistillery:

(A) In the case of Microbreweries, breweries that produce no more than 15,000 barrels of beer per year AND where the total brewery size, as measured by the sum of the gross floor area, does not exceed 25,000 square feet.

(B) In the case of Microdistilleries, distilleries that produce no more than 50,000 US gallons per year AND where the total distillery size, as measured by the sum of the gross floor area, does not exceed 25,000 square feet.

For breweries and distilleries that exceed the square footage and production limits, see "Beverage Manufacturing" in the Principal Use Table. *[11-16-2020]*

**MINING**

(A) The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of mineral, ores, or other solid matter.

(B) Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location.

(C) The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial or construction use.

The definition applies regardless of whether the mining activity is for a commercial or noncommercial purpose, and regardless of size of the affected area. Activities such as vibracoring, box coring, surface grab sampling, and other drilling and sampling for geotechnical testing, mineral resource investigations, or geological research are not considered mining. Excavation of mineral resources associated with the construction or maintenance of an approved navigation project in accordance with 15A N,C.A.C. 7B .0200 is not considered mining. Environmental remediation or reclamation projects or the removal of material incidental to excavation and carried out pursuant to an approved site plan (as specified in Section 74-49 (7)(d) of the Mining Act of 1971) are exempt from this definition and shall be allowed in any zoning district provided applicable state and local permits are acquired.

**MINING & QUARRYING, HIGH INTENSITY**

Mining operations with on-site processing, use of explosives, and/or that are more than 20 acres in size.

**MINING & QUARRYING, LOW INTENSITY**

Mining operations no more than 20 acres in size with no on-site processing or use of explosives.

**MINI-WAREHOUSE/SELF-STORAGE**

A facility in which storage space such as rooms, lockers, and/or containers (storage units) are rented to tenants, usually on a short-term basis (month-to-month), for profit. The facility may include outdoor storage areas for boats and recreational vehicles (RVs) that are licensed and in operable condition. *[09-08-2020]*

**MINOR SUBDIVISION**

See "Subdivision, Minor".

**MIXED-USE RESIDENTIAL**
A structure that combines a commercial unit or unit(s) with a separate residential dwelling unit or units located on any floor except the ground floor.

**MOBILE HOME**
A moveable or portable dwelling not compliant with the North Carolina State Uniform Residential Building Code and that is over 32 feet in length and over 8 feet wide, constructed to be towed on its own chassis and designed without a permanent foundation for year-round occupancy. The dwelling may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or two or more units separately towable but designed to be joined in one integral unit. This definition does not apply to the provisions of Article 9: Flood Damage Prevention for "manufactured home"; for that meaning, see Section 9.5: Definitions.

**MOBILE HOME AND PREFAB BUILDING SALES**
A fixed location engaged in the display and sale of mobile homes or pre-fabricated buildings.

**MOBILE HOME PARK**
Any site or tract of land of contiguous ownership upon which manufactured home or travel trailer spaces are provided in accordance with the requirements set forth in Section 4.3, Standards for Specified Principal Uses. This definition does not apply to the provisions of Article 9: Flood Damage Prevention for "manufactured home park"; for that meaning, see Section 9.5: Definitions.

**MOBILE HOME SPACE**
A plot of land, the minimum size of which shall not be less than 5,000 square feet, designed to accommodate a single mobile home within a mobile home park.

**MOBILE HOME SUBDIVISION**
Any new development consisting of three or more contiguous lots for the purpose of locating mobile homes and that is designed and approved pursuant to Article 6: Subdivision Design and Improvements, and Article 10: Administrative Procedures. This definition does not apply to the provisions of Article 9: Flood Damage Prevention for "manufactured home subdivision"; for that meaning, see Section 9.5: Definitions.

**MOBILE HOME, DOUBLEWIDE**
A mobile home designed to be joined into one integral unit that measures at least 24 feet by 40 feet.

**MOTOR FREIGHT TRANSPORTATION WAREHOUSING**
A business, service, or industry involving the use of commercial vehicles in the loading, unloading, and transportation of cargo. It may also include the fueling, maintenance, servicing, storage, or repair of commercial vehicles, or the storage of cargo.

**MULTI-MODAL TRANSPORTATION OPPORTUNITIES**
Public transit, walking, bicycling, and/or water-oriented transit and the facilities necessary for such uses.

**MULTI-UNIT SIGN**
See "Sign, Multi-Unit".

**MUSEUM**
A facility for exhibiting, or an institution in charge of, a collection of books, or artistic, historical, or scientific objects.

**N.C.G.S**
The North Carolina General Statutes.

**NATIVE SPECIES**
A species of tree or other plant that evolved naturally in Southeastern North Carolina without human intervention as identified by the North Carolina Extension Service or US Department of Agriculture. *[11-16-2020]*

**NONCONFORMING BUILDING OR STRUCTURE (DIMENSIONAL NON-CONFORMITY)**
A nonconforming situation which lawfully existed before the effective date of any provision of this ordinance or subsequent amendment thereto, when the height, size, or minimum floor space of a building or the relationship between an existing building and setbacks does not conform to the regulations applicable to the district in which the property is located.

**NONCONFORMING LOT**
A lot which complied with the requirements of the regulations in existence at the time of its creation, that does not currently comply with the minimum lot area requirements of the district in which the lot is located.

**NONCONFORMING PROJECT**
Any structure, development, or undertaking that is incomplete on the effective date of a provision of this ordinance and would be inconsistent with any regulations applicable to the district in which it is located if completed as proposed or planned.

**NONCONFORMING SIGN**
Any sign or sign structure which was lawfully erected and maintained in accordance with all standards and provisions in effect at the time which fails to comply with the standards of Section 5.6, Signs, and any amendments thereto, and which fails to conform to any other applicable provisions of this Ordinance.

**NONCONFORMING SITUATION**
A situation that occurs when an existing lot, structure, or use was lawfully created, but does not conform to one or more of the regulations applicable to the district in which the lot or structure is located.

**NONCONFORMING USE**
A nonconforming situation which lawfully existed before the effective date of any provision of this ordinance or subsequent amendment thereto, which occurs when property is used for a purpose or in a manner made unlawful by the permitted use regulations applicable to the district in which the property is located or by other use regulations in this Ordinance.

**NON-PRECISION INSTRUMENT RUNWAY**
A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

**NON-SUBSTANTIAL MODIFICATION**
See “Eligible Facilities Request.” *[09-08-2020]*

**NORMAL HIGH WATER (NHW)**
The ordinary extent of high tide based on site conditions such as presence and location of vegetation, which has its distribution influenced by tidal action, and the location of the apparent high tide line.

**NURSING AND REHABILITATION CENTER**
A home for chronic or convalescent patients, who, on admission, are not as a rule acutely ill and who do not usually require special facilities such as an operating room, x-ray facilities, laboratory facilities, and obstetrical facilities. A Nursing and Rehabilitation Center provides care for persons who have remedial ailments or other ailments for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. This term includes nursing homes.

**OBSTRUCTION**
For purposes of Section 5.10, Airport Height Restriction, any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 5.10, Airport Height Restriction.

**OFFICES FOR PRIVATE BUSINESS AND PROFESSIONAL ACTIVITIES**
Establishments primarily engaged in the day-to-day administrative or clerical services for businesses or other organizations that provide professional or other services to the general public on a walk-in or appointment basis in an office setting.

**OFFICIAL MAP OR PLANS**
Any maps, plans, charts, or texts officially adopted by the County Board of Commissioners for the development of New Hanover County.

**OFF-PREMISES ADVERTISING**
Any sign either free standing or attached to a structure that directs attention to a business, commodity, service, entertainment or other activity conducted, sold, or offered elsewhere than on the premises on which said sign is located.

**OFF-STREET PARKING SPACE**
See “Parking Space, Off-Street”.

**OIL AND GAS DEALER, RETAIL**
An establishment primarily engaged in the retail sale of heating oil, liquefied petroleum (LP) gas, and other fuels. *[11-16-2020]*

**OUTDOOR ADVERTISING SIGN**
See “Sign, Outdoor Advertising”.

**OUTDOOR RECREATION ESTABLISHMENT**
Uses that provide commercial recreation or amusement outdoors (except adult entertainment), including but not limited to: drive-in movie theater, amusement park or theme park, fairgrounds, miniature golf establishments, golf driving ranges, water slides, and batting cages.

**OUTDOOR SHOOTING RANGE**
An area of land reserved or specifically designed for the discharging of firearms (excluding paintball guns) for the purposes of exhibition, training, educational, recreational, therapeutic, or competition activities. Excluded from this use type shall be general hunting and the discharging of firearms conducted solely by an individual property owner and/or their guest(s), provided no fee is assessed for the activity.

**OVERHEAD CANOPY**
Any structure placed over, around, or near a fuel pump island or bank drive-thru and intended to provide lighting and/or protection from the elements for island users shall be considered an overhead canopy.

**OWNER**
The person or entity that owns land.

**PARK AND RECREATION AREA**
An area of land set aside for public use and enjoyment and consisting of facilities for passive and/or active recreation, specifically excluding commercially operated recreational facilities. This use does not include passive or active open spaces developed to be ancillary to residential neighborhoods and developments.

**PARKING SPACE, OFF-STREET**
A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

**PENNANT SIGN**
See “Sign, Pennant”.

**PERFORMANCE BOND**
A performance bond from a surety financial guarantee company authorized to do business in North Carolina, made issued or made payable to New Hanover County. The performance bond shall be in a form reasonably acceptable to the County.

**PERFORMANCE RESIDENTIAL DEVELOPMENT**
A residential development varying from the dimensional requirements of conventional residential development but not exceeding the density limit established in the applicable zoning district.

**PERSON**
Any individual, corporation, partnership, joint venture, trust, company, agency, unincorporated association, organization, municipal corporation, county, state or federal agency, or any combination thereof.

**PERSONAL SERVICES, GENERAL**
Establishments primarily engaged in providing non-medical services to individuals involving the care of a person or his or her personal goods or apparel, including barber shops, beauty salons, nail care salons, tanning services, shoe and clothing repair, and drop off laundry services.

**PHARMACY**
A retail store with the primary function of selling or dispersing medicines and related medical products that may offer other retail goods in addition to prescription pharmaceuticals.

**PIER-HEAD LINE**
A line established to limit the extension of piers into public waters in order to preserve the citizens' use of those waters for commercial and recreational purposes. Piers may not be constructed that extend into the channel portion of the water body and shall not extend more than one-third the width of a natural water body or man-made canal or basin. However, piers constructed along the Atlantic Intracoastal Waterway (AIWW) that are intended for public use or for research or scientific studies affiliated with public or private universities and colleges may extend to the minus 4.0-foot mean low water depth (-04.0' mlw) provided such extension is no closer than 85 feet from and parallel to the edge closest to the pier of the official navigation channel of said waterway as established by the United States Corps of Engineers. It shall be the responsibility of the owner/petitioner to locate the setback line based upon accurate channel surveys maintained by the Corps. Such piers shall conform with all other criteria established by the North Carolina Coastal Resources Commission.

**PLANNING DEPARTMENT**
The New Hanover County Planning and Land Use Department.

**PLANNING DIRECTOR**
The New Hanover County Planning and Land Use Director, who is responsible for administering and enforcing this Ordinance (see Section 10.1.6, Planning Director).

**PLAT**
Includes the map, plan, plat, replat, replot; a map or plan of a tract or parcel of land which is to be, or which has been subdivided.

**PLAT, FINAL**
A map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications, and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas and other dimensions of land required by this UDO.

**PLAZA AREA**
An area adjacent to the roadway which serves as a physical barrier to direct the flow of traffic and to separate highway traffic from the activity on private property.

**PORTABLE OR MOVEABLE SIGN**
See “Sign, Portable or Moveable”.

**POST OFFICE**
An office or station of a government postal system at which mail is received and sorted, from which it is dispatched and distributed, and at which stamps are sold or other services rendered.

**PRECISION INSTRUMENT RUNWAY**
A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**PRELIMINARY PLAN**
A map of proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.

**PRIMARY SURFACE**
A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**PRINCIPAL BUILDING**
A building in which is conducted the principal use of the lot on which it is located.

**PRINCIPAL SIGN**
See “Sign, Principal”.

**PRODUCE STAND**
A single-vendor enterprise established to sell a variety of farm products directly to the public in a single location for one or several off-site growers.

**PROFESSIONAL ARCHEOLOGIST**
A person who has a graduate degree in archaeology, anthropology, or a closely related field, plus:

(A) At least one year of full-time professional experience or equivalent specialized training in archaeological research, administration and management.

(B) At least four months of supervised field and analytic experience in general North American Archeology; and

(C) Demonstrated ability to carry research to completion.

**PROFESSIONAL HISTORIAN**
A person who has a graduate degree in history or a closely related field, plus one of the following:

(A) At least two years of full-time experience in research, writing, teaching, interpretation or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or

(B) Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

**PROJECTING SIGN**
See “Sign, Projecting”.

**RAILROAD FREIGHT DEPOT**
A facility where freight is collected and transferred by rail.

**RAILROAD PASSENGER TERMINAL**
A facility that receives and discharges railroad passengers.

**RECREATIONAL VEHICLE**
See Travel Trailer.

**RECREATIONAL VEHICLE AND BOAT TRAILER STORAGE LOT**
A ground level parking area on which recreational vehicles and boat trailers, with or without boats, can be stored for a fee when not in use.

**RECREATIONAL VEHICLE PARK**
See Travel Trailer Park.

**REGULATED TREE**
See “Tree, Regulated”.

**RELIGIOUS ASSEMBLY**
A facility or area for people to gather together for public worship, religious training, or other religious activities including a church, temple, mosque, synagogue, convent, monastery, or other structure, together with its accessory structure(s), including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in and ancillary to a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions. Schools and other childcare services are not accessory uses and shall require approval as separate principal uses.

**REPAIR SHOP**
Establishments engaged in repairing and maintaining consumer electronics, computer and office machines, household appliances, home and garden equipment, furniture, and related equipment.

**RESEARCH AND DEVELOPMENT FACILITY**
An establishment that engages in research, or research and development, of innovative ideas in medical, biological, technology-intensive, or similar fields. This use may include laboratories and facilities for the construction of prototypes.

**RESIDENTIAL PRIVATE PIER**
A dock, pier, launching tamp, and/or supportive boating activity extending from a residential lot into water adjacent thereto; the use of which is limited to members of the family of the lot owner or his tenant and/or their invited guests.

**RESTAURANT**
Establishments where food and beverages are prepared and sold on a retail basis for consumption on or off premises as its principal business.

**RETAIL NURSERY**
A facility or area for the displaying and sale of plant stock, seeds, or other horticultural items. The growing of plant stock is not included in this definition.

**RETAIL SALES, BUILDING AND CONSTRUCTION SUPPLIES**
Commercial enterprises providing building and construction supplies for sale directly to the consumer. This use may include outdoor storage areas and ancillary leasing or renting of equipment.

**RETAIL SALES, GENERAL**
Commercial enterprises that provide goods and/or services for sale, lease, or rental directly to the consumer. Examples include stores selling, leasing, or renting consumer, home, and business goods such as art, clothing, dry goods, electronic equipment, furniture, garden supplies, hardware, jewelry, pet food, and printed material.

**REVOLVING SIGN**
See “Sign, Revolving”.

**RIVER’S EDGE**
The Normal High Water (NHW) level, as established by a field representative from the Division of Coastal Management or by the New Hanover County Local Permit Officer when an application for a CAMA permit has been submitted, measured from the water’s edge to the proposed building elevation closest to and facing the river.

**ROADS/STREETS**
For the purposes of Article 6: Subdivision Design and Improvements, a right-of-way with infrastructure for vehicular movement which is designed, dedicated, and constructed for public or private use to a standard commensurate with its function. The functional classifications of roads/streets are as follows:

> **STREET, ARTERIAL**
> Arterial road systems provide a higher speed, high volume network for travel between two points of interest. The design covers a broader range of roadways, from two lane to multi-lane, and is oriented more toward efficient mobility rather than property access. Example: Market Street, College Road.

**STREET, COLLECTOR**
Collectors serve a dual purpose, collecting traffic for movement between arterial and local streets and providing limited access to abutting properties. These streets not only serve traffic movements between arterials and local streets, but through traffic within local areas. Collector streets shall intersect with existing or planned collector or arterial streets.

**STREET, CUL-DE-SAC**
A street open at one end that is planned, constructed, and operated for the sole purpose of property access. Cul-de-sacs shall include a turnaround at the closed end of the street to permit reverse direction. In the interest of public service delivery response, the total length of a cul-de-sac shall be minimized. Example: Amelia Court.

**STREET, ALLEY**
Alleys provide side or rear access to individual parcels that front on a higher order street. They are characterized by narrow right-of-way and travelway widths to accommodate passenger vehicles and residential services at slow speeds. Alleys generally connect at both ends to local or collector streets. In some instances, dead end alleys are permissible with a vehicle turnaround at the terminus of the travelway. No permanent parking is allowed. Alley example: Loring Alley.

**STREET, LOCAL**
Local streets provide access to parcels and may be planned, constructed, and operated for the function of property access and limited through traffic. Traffic volumes are largely short trips or a relatively small part of longer trips where local streets connect with major streets or highways of higher classifications. Street example: Mallow Road.

**STREET STUBS**
A dedicated right- of- way that abuts undeveloped property for the purpose of allowing future access, connectivity, or to logically extend the street system into the surrounding area. All street stubs designated as public or private shall be paved to the property line in order to be counted toward the road connectivity requirements. Temporary access bulbs to facilitate adequate turnaround consisting of an all weathered surface may be required. Wings of bulb shall be removed when adjoining land is developed. No gates or obstructions will be permitted. However, adequate signage installed by the developer to warn motorists of dead end shall be required.

**ROOF SIGN (INTEGRAL)**
See “Sign, Roof (integral)”.

**RUNWAY**
A defined area on an airport prepared for landing and take-off of aircraft along its length.

**RV OR TRAVEL TRAILER DWELLING**
A dwelling unit that meets the definition of a Recreational Vehicle (RV) or Travel Trailer, as defined herein, but that does not include Temporary Relocation Housing as defined by this ordinance. *[09-08-2020]*

**SEASONAL SALES**
The sale of merchandise outdoors for a definite time period and not associated with a principal retail use. Seasonal sales can include the sale of such items as Christmas trees, pumpkins, and similar seasonal or holiday-related products.

**SENIOR LIVING: ASSISTED LIVING FACILITY**
Any group housing and services program for two or more unrelated adults that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies, in accordance with NCGS §131D-2.1.

**SENIOR LIVING: CONTINUING CARE RETIREMENT COMMUNITY**
A residential community that accommodates changing lifestyle preferences and health care needs and offers several levels of assistance, including all of the following: independent living, assisted living, and nursing home care. It provides a written agreement or long-term contract between the resident and the provider community that offers assurance of a continuum of housing, services, and health care, most commonly all on one campus, and frequently last for the resident's lifetime.

**SENIOR LIVING: INDEPENDENT LIVING RETIREMENT COMMUNITY**
A housing development that may contain a variety of housing types designed for and restricted to occupancy by households having at least one member who is 55 years of age or older, living independently. Facilities and services typically include features such as: security; lawn and building maintenance; wellness, fitness, or spa services and facilities; central meeting areas; programmed recreation or social facilities and activities; communal garden spots; AARP Universal design or other similar characteristics. Minimal supportive services may also be offered to residents in senior apartment facilities.

**SEPTAGE, SLUDGE DISPOSAL**
A site for the disposal of septage and/or sludge.

**SHOPPING CENTER**
Two or more commercial establishments planned and constructed as a single unit with off-street parking and loading facilities provided on the property and related in location, size, and type of shops to the trade area which the unit serves.

**SIGHT DISTANCE**
Area at intersecting street that establishes a clear line of sight for a waiting vehicle to see oncoming traffic and make turning movements into or out of street or driveway safely or for traffic to see entering or waiting vehicles.

**SIGN**
Any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

**SIGN, ANIMATED**
Any sign which uses movement or change of lighting to depict action or to create a special effect or scene (compare "flashing sign").

**SIGN, BANNER**
A suspended sign made of a flexible material such as canvas, sailcloth, plastic, or waterproof paper.

**SIGN, DIRECTIONAL (ON-PREMISES)**
A sign or guide to direct pedestrian or vehicular traffic on the premises on which it is displayed. Examples include "in," "out," "entrance," and "exit."

**SIGN, FLAG**
Refers to devices generally made of flexible materials such as cloth, paper or plastic, and displayed on a flagpole.

**SIGN, FLASHING**
An illuminated sign of direct or indirect lighting on which the artificial light flashes on and off in regular or irregular sequences.

**SIGN, FLOATING**
Any sign painted on or attached to any boat or structure which floats or is designed to float, whether such boat or structure is self-propelled or not.

**SIGN, INCIDENTAL**
A single face or double face non-illuminated professional or announcement sign attached wholly to a building, window, or door containing information relative to emergencies, store hours, credit cards honored, and other similar accessory information.

**SIGN, INTEGRAL**
Names of buildings, dates of erection, monumental citations, tablets, and the like when carved into stone, concrete or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the building.

**SIGN, MULTI-UNIT**
A freestanding sign which contains three or more identification signs for multi-occupancy premises, such as a shopping center.

**SIGN, OUTDOOR ADVERTISING**
Any sign either free standing or attached to a structure which directs attention to a business, commodity, service, entertainment, or other activity, conducted, sold, or offered elsewhere than on the premises on which said sign is located.

**SIGN, PENNANT**
A tapered or dovetailed banner or flag.

**SIGN, PORTABLE OR MOVEABLE**
A sign that is not permanently attached to the ground, a structure, or a building, and that can easily be moved from one location to another and used for a temporary purpose.

**SIGN, PRINCIPAL**
A sign which directs attention to a business, commodity, service, entertainment, or other activity, conducted, sold, or offered exclusively on the premises upon which the sign is located.

**SIGN, PROJECTING**
A sign end-mounted or otherwise attached to an exterior wall of a building or structure, and which projects out from the wall.

**SIGN, REVOLVING**
A sign which revolves 360 degrees.

**SIGN, ROOF (INTEGRAL)**
Any sign erected or constructed as an integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches. Chimneys or other similar features are not an integral part of a normal roof structure. An integral roof sign shall be considered to be a wall sign and shall be subject to the regulations pertaining to wall signage.

**SIGN, SPECIAL PURPOSE**
A temporary sign to announce sales, new products, openings, or closeouts, and other special events.

**SIGN, TEMPORARY**
Sign permitted for a period not exceeding 12 months, including for sale, for rent, construction company's name, subcontractor's names, architect's, and planner's names.

**SIGN, TIME AND/OR TEMPERATURE**
A sign containing numerals which may be alternately displayed to show the time and/or temperature. A time and/or temperature sign shall not be considered a flashing or animated sign; time and temperature signs shall not change or alternate messages more frequently than once every three seconds.

**SIGN, WALL**
A sign which is attached flat to a wall or facade facing of a building and which projects not more than eighteen inches from the wall.

**SIGN, WINDOW**
A sign attached directly onto the inside or outside of the window of a building, or placed inside the window so that it is visible from the outside.

**SITE SPECIFIC DEVELOPMENT PLAN**
A land development plan approved by the County Commissioners following notice and public hearing which describes with reasonable certainty the type and intensity of land use for a specific parcel or parcels. Site specific development plans include performance residential developments, special use permits, site plans (major and minor), and master plan developments.

**SOLAR ENERGY COLLECTION FACILITY**
A facility designed to meet energy demands for a large area and consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in hot water heating or space heating and cooling, and/or that collects energy and converts it into electricity.

**SOLAR ENERGY COLLECTION FACILITY, ACCESSORY**
A facility designed to meet energy demands for the principal use of the property on which the collection facility is located, and consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in hot water heating or space heating and cooling, and/or that collects energy and converts it into electricity. A solar energy collection facility intended to serve the energy needs of a use or uses beyond the property on which the collection facility is located shall constitute a “Solar Energy Collection Facility” principal use. *[11-16-2020]*

**SPECIAL FUNDRAISING FOR NON-PROFIT ORGANIZATIONS**
A temporary fundraising activity and/or sale conducted by a non-profit organization to support its defined mission.

**SPECIAL HIGHWAY**
Any highway, such as but not limited to interstate corridors, freeways, arterials, and collectors, designated by the County Commissioners for its scenic qualities and its ability to provide safe and efficient traffic flow.

**SPECIAL PURPOSE SIGN**
See “Sign, Special Purpose”.

**SPECIAL USE**
A use that would not be appropriate generally as a right without restriction throughout a zoning district, but which, if controlled as to number, area, location, or relation to neighborhood, would promote the public health, safety, morals, or the general welfare.

**SPECIFIED ANATOMICAL AREAS**
1) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES**
1) Human genitals in a state of sexual stimulation or arousal; 2) acts of human masturbation, sexual intercourse, or sodomy; 3) fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

**SPECIMEN TREE**
See "Tree, Specimen."

**STABLE**
A facility for the keeping of horses for the private use of the residents or owners of the lot. This use includes accessory boarding of horses.

**STREET**
In general, a dedicated and accepted public or private right-of-way for vehicular traffic which affords the principal means of access to abutting properties. For the purposes of Article 6: Subdivision Design and Improvements, see the definition for Roads/Streets.

**STREET LINE**
The right-of-way boundary of a street.

**STRUCTURE AND/OR BUILDING**
Anything constructed or erected within a fixed location on the ground, or attached to something having a fixed location on the ground. The terms building and/or structure shall be construed to include porches, decks, carports, garages, sheds, roof extensions, overhangs extending more than two inches, and any other projections directly attached to the structure and/or building. For purposes of Section 5.10, Airport Height Restriction, a structure is any object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines. This definition does not apply to the provisions of Article 9: Flood Damage Prevention; for that meaning, see Section 9.5: Definitions.

**STRUCTURAL ADDITION TO A MOBILE HOME**
Any roofed, canopied, enclosed porch and/or room or structure that is used in connection with a mobile home. A concrete slab porch or open deck with no roof shall not be considered a structural addition.

**SUBDIVIDER**
Any person, firm or corporation who subdivides any land.

**SUBDIVISION**

A "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 are created for the purpose, whether immediate or future, of sale or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition nor be subject to the regulations authorized by this UDO:

(1) the combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as shown in Article 6: Subdivision Design and Improvements;

(2) the division of land into parcels greater than ten acres where no street right-of-way dedication is involved;

(3) the public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors; or

(4) the division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) 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 as shown in Article 6: Subdivision Design and Improvements.

**SUBDIVISION CONSTRUCTION PLANS**

Plan, profile, and detail drawings sufficient to indicate the construction of all improvements associated with the property to be subdivided, prepared by a professional, legally recognized by a State of North Carolina licensing board as being licensed to perform such activities or undertakings.

**SUBDIVISION, MINOR**

A minor subdivision is a subdivision

(1) involving not more than five lots, all of which front on an existing approved street; and

(2) not involving any new streets or prospectively requiring any new street for access to interior property; and

(3) not requiring drainage improvements or easements to serve the applicant's property or interior properties.

**SUBSTANTIAL MODIFICATION**

The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria:

A. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

B. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.

C. Increasing the square footage of the existing equipment compound by more than 2,500 square feet. *[09-08-2020]*

**SUNSHINE LIST**
A list of email addresses on file with the Clerk to the Planning Board of persons or organizations with a standing written request or subscription to receive public meeting notices.

**SURFACE DRAINAGE**
A drainage system consisting of culverts and open ditches.

**TECHNICAL REVIEW COMMITTEE**
A committee formed by the County Commissioners for the purpose site plan and subdivision review as prescribed by this UDO (see Section 10.1.5, Technical Review Committee (TRC)). Abbreviated as "TRC" in this Ordinance.

**TEMPORARY EMERGENCY SERVICES FACILITY**
A temporary establishment for the provision of emergency services, such as fire, rescue and emergency medical services, and associated emergency preparedness, emergency management, or disaster management activities. *[11-16-2020]*

**TEMPORARY FAMILY HEALTHCARE STRUCTURE**
A transportable residential structure accessory to a principal dwelling, not on a permanent foundation, for occupancy by a caregiver providing care for a mentally or physically impaired person, that is primarily assembled at a location other than its site of installation and complies with applicable provisions of the State Building Code and GS 143-139.1(b). *[11-16-2020]*

**TEMPORARY REAL ESTATE OFFICE/MODEL**
A dwelling, dwelling unit, or other marketable unit of a new development that is used for real estate sales or leasing activities associated with the development.

**TEMPORARY RELOCATION HOUSING**
Temporary housing utilizing nonpermanent facilities for the displaced as a result of a natural or other disaster.

**TEMPORARY SIGN**
See "Sign, Temporary".

**THROUGH LOT**
See "Lot, Through".

**TIME AND/OR TEMPERATURE SIGN**
See "Sign, Time and/or Temperature".

**TOWER (AS APPLIES TO TELECOMMUNICATIONS)**
For the purposes of the Communications and Information Facilities standards of Subsection 4.3.3, "tower" shall be used interchangeable with "wireless support structure." See "Wireless Support Structure." *[09-08-2020]*

**TRANSITIONAL SURFACES**
These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

**TRANSPORTATION VEHICLE SERVICE AND STORAGE FACILITY**
A garage or yard facility where public transportation or freight vehicle fleets are stored, maintained, and dispatched into service. These facilities do not involve the storage of personal vehicles, equipment, or other items used by the general public. *[11-16-2020]*

**TRAVEL TRAILER**
A wheeled vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel and/or recreational purposes, including, but not limited to structures mounted on auto or truck bodies that are commonly referred to as campers. Also referred to as Recreational Vehicles, RVs, except for the purposes of Article 9: Flood Damage Prevention.

**TRAVEL TRAILER PARK**
Any site or tract of land upon which are located the minimum number of travel trailer spaces or land area required by this ordinance regardless of whether or not a charge is made for such service.

**TRAVEL TRAILER SPACE**
A plot of land within a travel trailer park designed for the accommodation of one travel trailer.

**TREE**
For purposes of Section 5.10, Airport Height Restriction, any object of natural growth.

**TRC**
See “Technical Review Committee.”

**TREE, UNDERSTORY**
Any tree 40 feet at maturity capable of thriving in the lower light intensities found under the canopy of shade/canopy trees.

**TREE, SPECIMEN**
Any Live Oak tree that is 36” diameter at breast height (DBH) or larger.

**TIMBER HARVEST**
The felling, loading, and transportation of forest products, round wood or logs (Source: North Carolina Division of Forest Resources)

**UNDERSTORY TREE**
See “Tree, Understory”.

**URGENT CARE FACILITY**
A facility that provides emergency medical services with no provision for continuing care on an inpatient basis. Such establishments generally have a wider range of business hours than medical and/or dental offices and/or clinics, serve primarily drop-in patients, and may include accessory uses such as heliports. *[11-16-2020]*

**USE VALUE**
The North Carolina General Assembly enacted the "Land Use Program," which allows reduced tax values for individually owned property used for certain purposes, including forestry. Basic eligibility requirements are forestland consisting of one or more tracts, one of which consists of at least 20 acres that is in actual production and are not included in a farm unit. A forestry management plan is required. (Contact NHC Tax Administration for more information.)

**UTILITY LINES, STRUCTURES, AND/OR FACILITIES; GENERAL**
Lines, facilities, or structures engaged in the treatment, transmission, and/or distribution of electricity, gas, steam, water, sewer, cable, or other utility not otherwise specified by this ordinance.

**UTILITY RUNWAY**
A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

**VARIANCE**
A relaxation of the terms of this Ordinance which permits development or construction in a manner otherwise prohibited by this Ordinance where, owing to conditions peculiar to the property and not the result of the action of the application, a literal enforcement of the ordinance would result in unnecessary and undue hardship, issued in conformity with the provisions of Section 10.3.11, Variance – Zoning and Subdivision. Such variances shall not authorize the establishment or expansion of a use otherwise prohibited, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district. This definition does not apply to the provisions of Article 9: Flood Damage Prevention; for that meaning, see Section 9.5: Definitions.

**VEGETATED BUFFER**
For purposes of Section 5.7.5, Vegetated Buffer Controls for Conservation, an existing natural area, or an area planted as recommended in the "Reference Lists and Publications for Guidance in the Selection of Vegetated Buffer Plants", set forth in the County's Standards for Tree and Plant Materials for Landscaping, which preserves, protects, and restores water quality and estuarine resources. These buffers are an effort to provide the following functions: filter suspended solids, nutrients, bacteria, and other pollutants before entering surface waters; provide soil stabilization; provide shading to assist in temperature regulation of estuarine waters; provide wildlife habitat and aesthetic beauty.

**VEHICLE SALES**
A facility used primarily for the sale of consumer-oriented motor vehicles, such as automobiles, pickup trucks, and motorcycles.

**VEHICLE SERVICE STATION, LARGE VEHICLES**
Repair of large vehicles such as commercial tractor trailer trucks, buses, etc., including assembly or disassembly of engine parts, body parts, transmission, etc. and recapping of tires.

**VEHICLE SERVICE STATION, MAJOR**
Repair of small and/or personal vehicles consisting of assembly or disassembly of engine parts, body parts, transmissions, chassis, axles, etc. and/or the process of painting or upholstering.

**VEHICLE SERVICE STATION, MINOR**
Repairs of small and/or personal vehicles consisting of a minor nature, such as tune ups, oil changes, chassis lubrication, tire change or repair, wheel alignment, and muffler repair or installation.

**VEHICLE TOWING SERVICE AND STORAGE YARD**
Any lot, structure, or the use of any portion of such lot or structure for the temporary outdoor storage of towed vehicles that are to be claimed by the titleholders or their agents.

**VESTED RIGHTS (ZONING)**
The right pursuant to Section 153A-344.1, N.C.G.S, to undertake and complete the development of property under the terms and conditions of an approved site specific development plan. The duration of vesting shall not exceed two years unless expressly provided for by the County.

**VETERINARY SERVICE**
A facility for the diagnosis and treatment of domestic and other animals including, but not limited to, dogs, cats, birds, and horses; and the incidental grooming, boarding, or breeding of animals may also be provided.

**VISUAL RUNWAY**
A runway intended solely for the operation of aircraft using visual approach procedures.

**VOCATION OR TRADE SCHOOL**
A public or private school offering vocational or trade instruction—such as teaching of trade or industrial skills, clerical or data processing, barbering or hair dressing, computer or electronic technology, or artistic skills—to students and that operates in buildings or structures or on premises of land leased or owned by the educational institution for administrative purposes and meets the State requirements for a vocational training facility. Such uses include classrooms, laboratories, auditoriums, libraries, cafeterias, and other facilities that further the educational mission of the institution.

**WALL SIGN**
See "Sign, Wall".

**WALKING DISTANCE**
A distance within which a pedestrian is able to travel between an origin and destination without obstruction, in a safe and comfortable environment on a continuous network of sidewalks, all-weather-surface footpaths, crosswalks, or equivalent pedestrian facilities and not be required to cross a street with speed limits greater than 35 mph without signals or stop signs at crosswalks.

**WAREHOUSING**
The storing of goods, wares, and merchandise within an enclosed building, whether for the owners or others. There is little on-site sales activity with the customer present. Uses include: cold storage facilities (including frozen food lockers); distribution warehouses (used primarily for temporary storage pending distribution in response to customer orders); storage warehouses (used for storage by retail stores such as furniture and appliance stores); warehouse storerooms; or similar uses.

**WATERCRAFT, SMALL**
A vessel or watercraft, generally smaller than boats as herein defined, that floats on or operates on the water, regardless of the means of propulsion, which is usually stored at a residence rather than a marina, is not permanently stored in the water, and is not generally launched from a trailer. Examples are canoes, kayaks, rowboats, paddleboards, rowing sculls, and sailboats shorter than 14 ft. in length, such as Sunfish®. Excluded from this definition are rafts, surfboards, boogie boards, towable tubes, and the like, which are not regulated by this ordinance. *[09-08-2020]*

**WATER ORIENTED PARKING**
A designated docking space provided by a commercial establishment for the express use of its customers. Water-oriented parking shall only be allowed in conjunction with commercial establishments that are located on navigable waters.

**WATER SUPPLY WATERSHED**
The entire land area that contributes to surface drainage and other runoff into a surface water supply.

**WATER TRANSPORTATION FACILITIES**
A facility for passengers to enter or exit a ship, ferry, cruise ship, or boat that is utilized for the movement of passengers through or across a body of water.

**WAYFINDING SIGN**
A sign of which the message is exclusively limited to guiding the circulation of and providing direction for motorists or pedestrians within the site.

**WHOLESALE NURSERY**
A facility or area for the growing, displaying, and sale of plant stock, seeds, or other horticulture items. This may include raising plants outdoors or in greenhouses for sale either as food or for use in landscaping and retail sales.

**WHOLESALING**
Uses engaged in the wholesale sales, bulk storage, and distribution of goods. Such uses may also include incidental retail sales. Wholesale showrooms are also included in this use category.

**WHOLESALING SEAFOOD WITH WATER FRONTAGE**
Uses fronting a water way and engaging in the wholesale sales, bulk storage, and distribution of seafood.

**WIND DEVICE**
Any flag, banner, balloon, pennant, streamer, or similar device that moves freely in the wind. All wind devices are considered to be signs and are regulated and classified as attached or detached by the same regulations as other signs.

**WIND ENERGY COLLECTION FACILITY, ACCESSORY**
An alternate energy device which converts wind energy by means of a rotor to mechanical or electrical energy to serve the energy needs of the principal use of the property on which the collection facility is located. A wind generator may also be deemed a windmill. A wind energy collection facility intended to serve the energy needs of a use or uses beyond the property on which the collection facility is located shall constitute an “Electricity Generating Facilities” principal use. *[11-16-2020]*

**WINDOW SIGN**
See “Sign, Window”.

**WIRELESS FACILITY**
Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include any of the following: a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated. b. Wireline backhaul facilities. c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. *[09-08-2020]*

**WIRELESS SUPPORT STRUCTURE**
A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure. *[09-08-2020]*

# Article 3: Zoning Districts

## Section 3.1. General

### 3.1.1. ZONING MAP AND INTERPRETATION

#### A. Official Zoning Map

The planning jurisdiction of New Hanover County is divided into zones, or districts, as described in this UDO and shown on the Official Zoning District Map. The Official Zoning District Map is adopted by reference into this UDO. The most current Official Zoning District Map shall be maintained by the Planning and Land Use Department in digital or printed records and is available for view on the New Hanover County website. The Official Zoning District Map shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the County.

#### B. Maintenance and Replacement of Official Zoning Map

The Official Zoning District Map shall be maintained and periodically updated by the Planning and Land Use Department when district changes are approved in accordance with procedures set forth in Article 10: Administrative Procedures. Updates shall be produced in conjunction with Amendments to the Official Zoning District map (see Section 10.3.2, Zoning Map Amendment, Section 10.3.3, Conditional Zoning, and Section 10.3.4, Master Planned Development), or to correct documented errors or omissions. The date of the most recent update shall be identified on the public version of the Official Zoning District Map. All available records pertaining to its adoption or amendment shall be preserved according to the County's standard archiving procedures.

#### C. Rules for Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Distrait Map, the following rules shall apply:

1. Boundaries indicated as approximately following a street, alley, waterway, or right-of-way shall be construed to be in the center of the street, alley, waterway, or right-of-way, excepting water bodies not zoned by the adjacent jurisdiction;
2. Boundaries indicated as approximately following the center lines of streets or highways shall be construed to follow such center lines;
3. Boundaries indicated as approximately following the right-of-way of streets or highways shall be construed as following such rights-of-way;
4. Boundaries indicated as approximately following the platted lot lines shall be construed as following such lot lines;
5. Boundaries indicated as approximately following the County boundary shall be construed as following such County boundary;
6. Boundaries indicated as approximately following town limits shall be construed as following such town limits;

7. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

8. All areas within the jurisdiction of the County that are under water and are not shown as included within any district shall be considered to be included in the district immediately adjoining the water area and subject to all its regulations. If the water area adjoins two or more districts, the boundaries in each district shall be construed to extend into the water in a straight line until they meet the boundaries of another district or the jurisdictional limit;

9. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning District Map, or in other circumstances not covered by subsection 1 through 8 above, the Board of Adjustment shall interpret the district boundaries consistent with the intent of the district or standards in question, and adopted plans or policies of the County.

### 3.1.2. ESTABLISHMENT OF ZONING DISTRICTS

#### A. Zoning Districts

For the purposes of this UDO, portions of unincorporated New Hanover County are hereby divided into the zoning districts identified in Table 3.2.1.A: Zoning Districts.

**Table 3.2.1: Zoning Districts**

| Category | District | Abbreviation |
|---|---|---|
| Residential | Rural Agricultural | RA |
| | Airport Residential | AR |
| | Residential 20S | R-20S |
| | Residential 20 | R-20 |
| | Residential 15 | R-15 |
| | Residential 10 | R-10 |
| | Residential Moderate Density | R-7 |
| | Residential Moderate-High Density | R-5 |
| | Residential Multi-Family Low Density | RMF-L |
| | Residential Multi-Family Moderate Density | RMF-M |
| | Residential Multi-Family Medium-High Density | RMF-MH |
| | Residential Multi-Family High Density | RMF-H |
| Mixed Use | Urban Mixed Use Zoning | UMXZ |
| | Riverfront Mixed Use Planned Development | RFMU |
| | Exceptional Design Planned Development | EDZD |
| | General Planned Development | PD |
| Commercial & Industrial | Neighborhood Business | B-1 |
| | Community Business | CB |
| | Regional Business | B-2 |
| | Office and Institutional | O&I |
| | Shopping Center | SC |
| | Commercial Services | CS |

| Table 3.2.1: Zoning Districts | | |
|---|---|---|
| **Category** | **District** | **Abbreviation** |
| | **Airport Commerce** | **AC** |
| | **Light Industrial** | **I-1** |
| | **Heavy Industrial** | **I-2** |
| **Overlay and Special Purpose** | **Special Highway Overlay** | **SHOD** |
| | **Water Supply Watershed Overlay** | **WSW** |
| | **Conditional Zoning Districts** | **CZ** |
| | **Conditional Use Zoning Districts** | **CUD** |

### 3.1.3. SUPERSEDING DIMENSIONAL STANDARDS

Dimensional standards for each zoning district are in tabular format in this article. Notes within each table provide additional details where necessary, and rules for measuring dimensional standards are in Section 2.1, Measurements. The dimensional standards in this article apply generally, but may be superseded by other standards in this Ordinance, including but not limited to the standards identified in this section (3.1.3).

#### A. Use-Specific Standards

Superseding dimensional standards are set forth for some uses in Article 4: Uses and Use-Specific Standards.

#### B. Structural Appurtenances

The height limitations contained in the table of dimensional standards for each zoning district do not apply to antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

#### C. Setback Requirements in Certain Commercial and Industrial Districts

*[11-16-2020]*

Interior side setbacks and rear setbacks in the B-1, B-2, O&I, AC, I-1, and I-2 districts shall be as follows:

1. No interior side or rear setbacks are required for nonresidential structures from lot lines shared with abutting nonresidential uses where the structure and the abutting use are located within the B-1, B-2, O&I, AC, I-1, and I-2 districts.
2. A setback of 20 feet is required for any structure in the B-1, B-2, O&I, AC, I-1, and I-2 districts from any lot line adjacent to a lot in a residential district occupied by a nonresidential use.
3. Table 3.1.3.C: Interior Side and Rear Setbacks from Residential Properties, establishes the setback requirements for structures in the B-1, B-2, O&I, AC, I-1, and I-2 districts from lot lines shared with abutting residential uses and/or platted lots located within a residential zoning district. The setbacks in Table 3.1.3.C may be reduced in the AC, I-1, and I-2 Districts in accordance with Section 5.4.3, Transitional Buffer

Standards, but may not be reduced below the absolute minimum setback specified in Table 3.1.3.C (by use of the language “in no case less than”).

**Table 3.1.3.C: Interior Side and Rear Setbacks from Residential Properties**

| Zoning District | Side Setback | Rear Setback |
|---|---|---|
| B-1 | 25 ft. | 30 ft. |
| B-2 | 30 ft. | 35 ft. |
| O&I | 25 ft. | 30 ft. |
| AC | 45 ft., in no case less than 35 ft. | 50 ft., in no case less than 40 ft. |
| I-1 | 50 ft., in no case less than 35 ft. | 50 ft., in no case less than 40 ft. |
| I-2 | 100 ft., in no case less than 40 ft. | 100 ft., in no case less than 45 ft. |

*[11-16-2020]*

### D. Performance Residential Development

Performance Residential Developments are not subject to the minimum lot size, minimum lot width, and front, rear, and side setback requirements in the zoning district where they are located. Performance Residential Developments shall comply with the standards in this section and with all other applicable standards in this Ordinance.

#### 1. Setbacks and Spacing

**a.** Buildings on the periphery of a Performance Residential Development shall setback a minimum of 20 feet from the adjoining property line.

**b.** Multi-family dwelling units shall be spaced a minimum of 20 feet from any part of another dwelling unit. All other dwelling units shall be spaced a minimum of 10 feet from each other. *[11-16-2020]*

#### 2. Density

**a.** In calculating the density for a proposed Performance Residential Development, the areas in subsections 1 and 2 shall first be subtracted from the gross area of land to be committed to development. In lieu of subtracting Dorovan, Johnston, and Pamlico soils, the developer may choose to preserve 100 percent of such areas as conservation space in accordance with Section 5.7, Conservation Resources:

**1.** All natural lakes, ponds, rivers, or marshes; and,

**2.** All areas of Class IV soils as defined in A Classification of Soils in New Hanover County for Septic Tank Suitability. All calculations shall be rounded to the nearest whole unit.

**b.** The density of clustered residential units shall not exceed 2.5 units per net tract acre in areas classified Rural Residential place type, Conservation place type, AE or VE special flood hazard areas, or CAMA Estuarine Areas of Environmental Concern, except in the areas of the site outside of the AE or VE special flood hazard areas or CAMA Estuarine Areas of Environmental Concern, provided:

1. The number of units in the AE or VE special flood hazard areas or CAMA Estuarine Areas of Environmental Concern shall be reduced by an equal amount;
2. No areas designated as AE or VE special flood hazard areas, CAMA Estuarine Areas of Environmental Concern, Rural Residential place type, or Conservation place type shall have a residential density that exceeds 2.5 units per acre; and
3. The overall density of the project shall not exceed the limits specified in the respective residential zoning districts.

**c.** The density of clustered residential units shall not exceed 2.5 units per net tract acre in areas classified Conservation, Rural, or Resource Protection in the Wilmington - New Hanover Land-Use Plan, except in Resource Protection or Rural areas, provided:

1. The number of units in the Conservation area shall be reduced by an equal amount;
2. No portion of the project classified conservation shall have a residential density that exceeds 2.5 units per acre;
3. The overall density of the project shall not exceed the limits specified in the respective residential zoning districts.

**d.** For the purposes of subsection c above, the conservation area shall include all lands following their natural topography that are at or below the 100 year flood elevation as shown on the Flood Insurance Rate Map and upland of any marsh line.

**e.** Any land designated as open space may be used in calculating the density for a proposed development subject to the provisions of Section 5.8: Open Space Requirements.

**3. Drainage Plan**

A drainage plan pursuant to Section 6.3.3.E, Surface Water Drainage, shall be submitted to the County Engineer for approval.

**4. Water and Sewage Disposal**

Water supply and sewage disposal facilities shall be approved by the County and appropriate local or state agency in accordance with Section 6.3.3.C, Sewage Disposal and Water Supply.

**5. Open Space**

Open space set-aside provisions are outlined in Section 5.8, Open Space Requirements. *[11-16-2020]*

**6. Private Streets**

Private streets will be permitted in Performance Residential Developments; however, dedication of public streets and utility easements may be required if such are indicated on the official plans as adopted by New Hanover County or any municipality therein or if it is

determined by the County Planning Board that such public streets or easements are necessary.

**7. Homeowners Association**

A homeowners association meeting the following requirements shall be established:

**a.** When a plat or map is to be recorded, the maps or plat shall contain a Certificate indicating the book and page number of the homeowners association covenants, conditions and restrictions;

**b.** Responsibilities for maintenance of private streets, open space, recreation facilities, and other common areas shall be specified;

**c.** Responsibilities for exterior maintenance of attached dwelling units shall be specified; and

**d.** The Association shall be authorized to rebuild damaged or destroyed portions of structures containing attached dwelling units when the individual owner fails to do so.

**8. Development Approval**

**a.** An application for a Performance Residential Development shall be submitted and reviewed as a major subdivision application in accordance with Section 10.3.7, Subdivision, provided, an applicant may submit a major site plan application in accordance with Section 10.3.6, Site Plan, prior to submittal of a preliminary plan application in accordance with subsection 2 below.

**b.** If the proposed Performance Residential Development includes more than 150 dwelling units, the applicant may seek approval of a major site plan in accordance with Section 10.3.6, Site Plan, as modified by subsections a through c below, prior to submittal of a preliminary plan application.

**1.** The applicant shall include a statement in the application that the applicant seeks a vested right in accordance with N.C.G.S. §§ 153A-344.1.

**2.** The TRC shall review the major site plan application and make a recommendation to the Planning Board based on 10.3.6.F, Site Plan Review Standards.

**3.** The Planning Board shall provide notice for and conduct a public hearing on the requested vested right in accordance with the requirements in N.C.G.S. §§ 153A-344.1, and shall make a decision on the application in accordance with 10.3.6.F, Site Plan Review Standards.

**c.** If the Planning Board approves a major site plan in accordance with subsection b above, a vested right shall be established which shall confer upon the applicant the right to develop the total number of dwelling units approved, and the general type (single-family detached or attached, townhouses, apartments, patio homes, etc.) of units approved, in accordance with the approved site plan, for a period of

five years. The following shall not vest, but shall be presumed to be valid in the review of subsequent preliminary plan applications, subject to engineering and environmental considerations:

**1.** The location of collector roads;

**2.** The general location and density of the various types of dwellings.

**d.** Revisions for Performance Residential developments shall be reviewed the same as an original submittal. Such revisions shall be limited to those areas still owned by the developer. Density calculations shall not include land areas already platted and/or sold.

## E. Additional Dwelling Allowance

Development is permitted up to the maximum densities set forth in Section 3.1.3.E.1, Site Capacity, subject to approval of a special use permit in the R-20, R-15, R-10, and O&I districts, and in a Planned Development (PD) District in accordance with the applicable MPD Master Plan and MPD Terms and Conditions document, provided the development complies with the standards in this section (3.1.3.E).

### 1. Site Capacity

**a.** Site capacity for any proposed additional dwelling allowance is equal to the base site area multiplied by the density factor outlined below. The purpose of this section is to determine the extent to which a site may be used given its location and physical characteristics.

**b.** Base site area shall be determined by subtracting the acreage of the following features from the gross site area as determined by an actual on-site survey of the parcel:

**1.** Water bodies and other areas below mean high water line, if tidally influenced, or below mean water line, if non-tidally influenced;

**2.** Land used as open space in prior residential development(s); and

**3.** Land used for commercial, office and institutional, and light industrial purposes in a PD district.

**c.** The maximum number of dwelling units that may be built shall be determined by multiplying the base site area by the appropriate density factor in Table

**Table 3.1.3.E.1.c: Density Factor by Zoning District**

| District | Density Factor |
|---|---|
| R-20 | 4.25 units/acre |
| R-15 | 10.2 units/acre |
| R-10 | 17 units/acre |
| PD | 4.25 units/acre |
| OI | 10.2 units/acre |

**d.** Residential units shall not be clustered at a density greater than 2.5 units per base site acre in the AE or VE special flood hazard areas or CAMA Estuarine Areas of Environmental Concern.

**2. Location and Access**

**a.** Developments allowed an additional dwelling allowance shall be located on a parcel of land that is either totally or primarily in, contiguous to, or within 250 feet of, the boundary of areas classified as Employment Center, Urban Mixed Use, or Community Mixed Use place types in the Comprehensive Plan.

**b.** The development shall have direct access to and from an existing major or minor arterial as indicated on the Wilmington MPO Functional Classification Map. This direct access requirement will be satisfied if:

**1.** One or more property boundary lines is contiguous with and utilizes access to and from an existing major or minor arterial; or

**2.** The development accesses an existing major or minor arterial roadway by a NCDOT-maintained public street, or by a private street designed and constructed in accordance with the County's minimum standards for a collector road.

**c.** All interior drives shall be designed so as to provide adequate access for emergency service vehicles.

**3. Required Open Space and Improved Recreational Land**
*[11-16-2020]*

**a. Minimum Requirements**

**1.** Table 3.1.3.E.3.a.1: Required Minimum Open Space, establishes the minimum amounts of the gross site area that shall be set aside as open in accordance with the standards of Section 5.8, Open Space Requirements.

**Table 3.1.3.E.3.a.1: Required Minimum Open Space for Projects with Additional Dwelling Unit Special Use Permit**

| District | Minimum Open Space [1] |
|---|---|
| R-20 | 50% |
| R-15 | 35% |
| R-10 | 20% |
| GPD | 35% |
| O&I | 35% |

NOTES:

[1] As a percentage of the base site area.

*[11-16-2020]*

**2.** If the development shall consist of detached single family units on subdivided lots no less than 6,000 square feet, however, the above minimum amounts for open space or improved recreational land may be reduced by one-half.

**4. District Improvement Requirements**

Minimum improvements set forth in Table 3.1.3.E.4: Required Minimum District Improvements, shall be required to be constructed in accordance with the standards set by the county or appropriate local or state agency.

**Table 3.1.3.E.4: Required Minimum District Improvements**

| District | Public or Community Sewer | Public or Community Water | Underground Storm Drainage | Curb and Gutter | Maximum Impervious Surface Ratio for Gross Site Area |
|---|---|---|---|---|---|
| R-20 | Yes | Yes | No | No | .30 |
| R-15, O&I | Yes | Yes | Yes | No | .40 |
| R-10 | Yes | Yes | Yes | Yes | .50 |
| GPD | Yes | Yes | No | No | .40 |

**5. Setbacks**

**a.** The required minimum setback for developments with an Additional Dwelling Allowance shall not be less than 25 feet.

**b.** When such projects are located and adjacent to any existing detached residential development (not including Mobile Home Parks, other developments with an Additional Dwelling Allowance or High Density Development special use permit, or General Planned Development districts), structures over 25 feet in height shall be setback a distance equal to the height of the structure.

**c.** Multi-family dwelling units shall be spaced a minimum of 20 feet from any part of another dwelling unit. All other dwelling units shall be spaced a minimum of 10 feet from each other. *[11-16-2020]*

**6. Other Development Standards**

**a.** Buffer strips shall be required in accordance with Section 5.4, Landscaping and Buffering.

**b.** Parking shall be provided in accordance with Section 5.1, Parking and Loading.

**c.** Signs shall be in accordance with Section 5.6, Signs.

**d.** Sewage disposal facilities shall be in accordance with the requirements for utility lines and facilities outlined in Section 4.3.3.I, Utilities.

**7. Homeowners Association**

A homeowners association meeting the following requirements shall be established:

**a.** When a plat or map is to be recorded, the maps or plat shall contain a Certificate indicating the book and page number of the homeowners association covenants, conditions and restrictions;

**b.** Responsibilities for maintenance of private streets, open space, recreation facilities, and other common areas shall be specified;

**c.** Responsibilities for exterior maintenance of attached dwelling units shall be specified; and

**d.** The Association shall be authorized to rebuild damaged or destroyed portions of structures containing attached dwelling units when the individual owner fails to do so.

**8. Submittal and Review Requirements**

**a.** When a development proposal is submitted under this section, it shall be reviewed in accordance with the same standards as established in this ordinance for subdivisions even if the project does not involve the subdivision of land. The Technical Review Committee shall review such plans in addition to board approval of the special use permit.

**b.** A site plan conforming to the requirements of Section 10.3.6, Site Plan, shall be submitted and shall include the approximate delineation of Corps of Engineers Section 404 and Section 10 wetlands.

**c.** A drainage plan pursuant to Article 6: Subdivision Design and Improvements, and the County's Stormwater Management Ordinance shall be submitted.

**d.** Revisions for development plans with an Additional Dwelling Allowance shall be reviewed the same as an original submittal in accordance with the site plan requirements. Such revisions shall be limited to those areas still owned by the developer. Density calculations shall not include land areas already platted and/or sold.

**F. Special Density Exception for Pre-Existing Utility Parcels**

**a.** This exception applies in all residential districts.

**b.** For parcels within older subdivisions where water, septic or other utilities were provided privately in the original development, and where public services are now available to free those utility parcels from their original purposes, a special exception may allow for the development of those parcels formerly dedicated to a community service other than recreation. All of the following conditions and limitations must be in evidence in order to be granted a special exception under this section:

**1.** The major residential subdivision must have been approved and the final plat recorded prior to July 7, 2002;

**2.** One or more of the parcels on the recorded final plat was designated for private well site(s), communal septic drain field(s), or other utility parcel necessary to serve the original subdivision and the acreage of the parcel was included in calculating the allowable density for the subdivision;

3. The parcel meets the minimum requirements of this ordinance; and

4. The accommodation of those services or utilities has been otherwise met by public providers since the subdivision was developed.

**c.** If all the conditions and limitations listed above are met, the former utility parcel(s) may be converted to building lot(s) within the subdivision subject to the following requirements:

1. The density approved for the original subdivision may not be increased by special exception more than a total of three additional dwelling units in any eligible subdivision.

2. Utility parcels shown on the final subdivision plat during the period of eligibility may not be further divided for the purposes of adding dwelling units.

3. Public water and sewer services must be readily available to serve the entire subdivision.

4. Each lot must front on a dedicated street right-of-way.

5. No part of any parcel considered for special exception shall have been designated open space or recreational space for the approved subdivision which they served.

6. Development of any lot subject to this exception must be of a character consistent with the scale and design of pre-existing development in the neighborhood.

7. All lots are subject to conservation resources regulations and may be ineligible for this special exception based upon inability to meet those standards.

**d.** Special exceptions are not allowed in the following situations:

1. Any subdivision for which the courts have established a specified density.

2. Parcels located in a special flood hazard area.

3. When development of new lot(s) is inconsistent with the Comprehensive Plan.

**e.** Approval of a special density exception shall be an administrative decision made in conformance with the standards outlined in Section 10.3.8: Zoning Compliance Approval.

# Section 3.2. Residential Zoning Districts

### 3.2.1. INTENT

The residential zoning districts are intended to:

**A.** Provide appropriately located areas for residential development that are consistent with the adopted New Hanover County Comprehensive Plan and with the public health, safety, and general welfare;

**B.** Ensure adequate light, air, and privacy for all dwelling units;

**C.** Protect the scale and character of existing residential neighborhoods and the community; and

**D.** Establish standards and dimensions for the creation of a variety of housing types;

**E.** Protect residential districts from flooding and other adverse environmental impacts;

**F.** . Provide for the public services and facilities needed to serve residential development;

**G.** Provide for safe and efficient vehicular and pedestrian access and circulation.

### 3.2.2. ESTABLISHED RESIDENTIAL ZONING DISTRICTS

The residential base zoning districts established by this UDO are identified in Table 3.3.2: Established Residential Zoning Districts

**Table 3.3.2: Established Residential Zoning Districts**

| Category | District | Abbreviation |
|---|---|---|
| Residential | Rural Agricultural | RA |
| | Airport Residential | AR |
| | Residential 20S | R-20S |
| | Residential 20 | R-20 |
| | Residential 15 | R-15 |
| | Residential 10 | R-10 |
| | Residential Moderate Density | R-7 |
| | Residential Moderate-High Density | R-5 |
| | Residential Multi-Family Low Density | RMF-L |
| | Residential Multi-Family Moderate Density | RMF-M |
| | Residential Multi-Family Medium-High Density | RMF-MH |
| | Residential Multi-Family High Density | RMF-H |

### 3.2.3. RESIDENTIAL DISTRICT SPECIFIC STANDARDS

#### A. Storage of Inoperative Motor Vehicles

It shall be unlawful for any person to store, keep, or maintain more than one inoperative motor vehicle in any residential district.

#### B. Non-Residential Off-Street Parking

Non-residential off-street parking shall be permitted in residential districts provided with a special use permit issued in accordance with Section 10.3.5: Special Use Permit:

- **a.** The sites shall be used solely for ground level parking in conjunction with the principal use as opposed to paid parking lots, loading facilities, etc.
- **b.** Access to the site shall be limited through the principal use site, shall be prohibited through residential areas, and shall be placed within the common boundary with the principal use.
- **c.** The site shall be adjacent to the principal use site for at least a minimum distance of 25 feet.
- **d.** No point of the proposed parking site shall be further than 200 feet from any and all points of the non-residential zoning district boundary, not including any intervening street right-of-way.
- **e.** The site shall be located no closer than 50 feet from any street right-of-way other than that to which the principal use is adjacent.
- **f.** The site shall be located within the same parcel or group of parcels under the same ownership as the principal use.
- **g.** A minimum buffer of 10 feet shall be provided in accordance with provisions of Section 5.4.3: Transitional Buffer.
- **h.** Lighting requirements, as outlined for non-residential uses, outlined in Section 5.5: Exterior Lighting, shall be met.

## 3.2.4. RURAL AGRICULTURAL (RA) DISTRICT

### A. Purpose

The purpose of the Rural Agricultural (RA) District is to:

- Allow very low density single family residential development that is compatible in scale and character to rural and agricultural settings;
- Encourage rural farming activities and the preservation of open space; and
- Preserve the rural areas and development patterns of New Hanover County through the continued review of the impact of proposed development.

The district is designed to promote exurban, low density residential development not requiring public infrastructure or services while maintaining prime farm land and a rural lifestyle.

### B. Concept

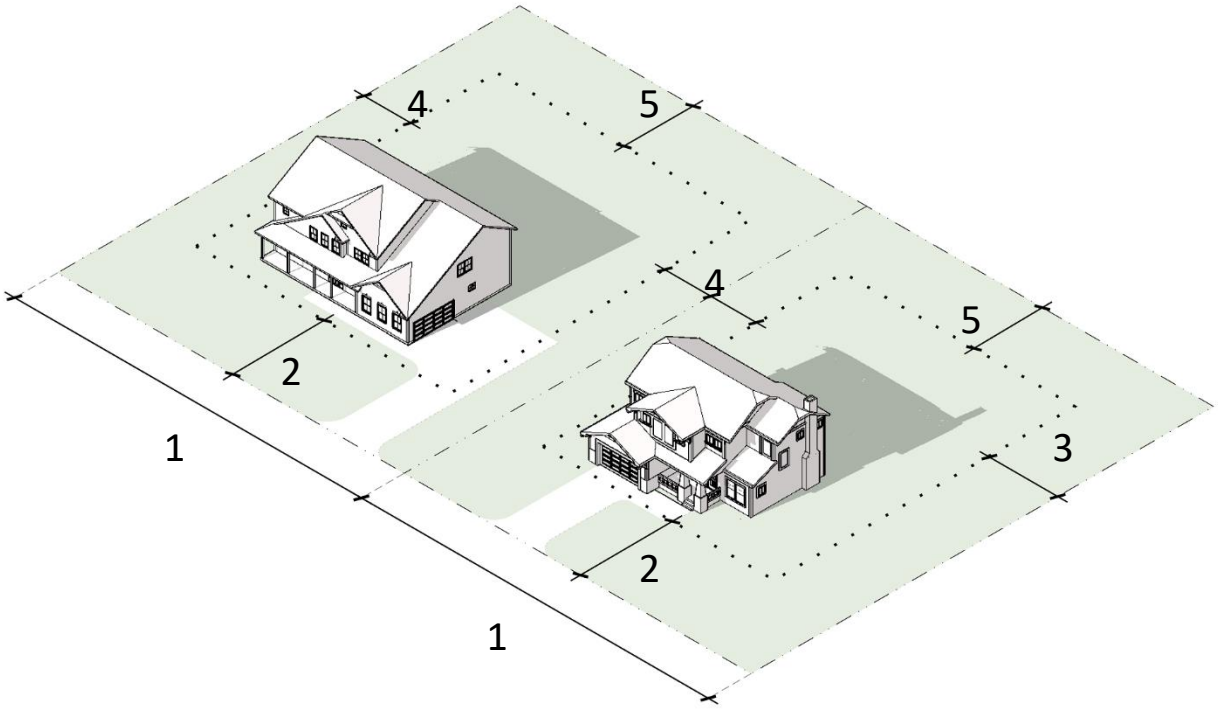
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards *[11-16-2020]*

| | Standard | All Uses |
|---|---|---|
| | Lot area, minimum (square feet)* | 30,000 |
| 1 | Lot width, minimum (feet)* | 115 |
| 2 | Front setback (feet)* | 40 |
| 3 | Side setback, street (feet)* | 30 |
| 4 | Side setback, interior (feet)* | 20 |
| 5 | Rear setback (feet)* | 30 |
| | Density, maximum (dwelling units/acre)** | 1 |
| | Building height, maximum (feet)*** | 40 |

* Does not apply to Performance Residential Developments (see Section 3.1.3.D).
** Applies only to Performance Residential Developments (see Section 3.1.3.D).
*** Structures elevated on open foundations consisting of piers, posts, columns or piles shall have a maximum height of 44 feet.




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.2.5. AIRPORT RESIDENTIAL (AR) DISTRICT

### A. Purpose

The Airport Residential (AR) District is established for the purpose of limiting the development of land within the vicinity of Wilmington International Airport to low density residential development. In promoting the general purpose of this district, its specific intent is to:

- Minimize airport hazards by limiting dense residential development;
- Prohibit the development of places of assembly such as schools, hospitals, rest homes or other uses that tend to concentrate large numbers of people;
- Promote the health, safety, and general welfare of County residents by preventing the establishment of hazards to airport activities by safeguarding the lives and property of both the users of the airport and nearby residents; and
- Prevent destruction or impairment of the utility of the airport and the public's investment in it.

### B. Concept

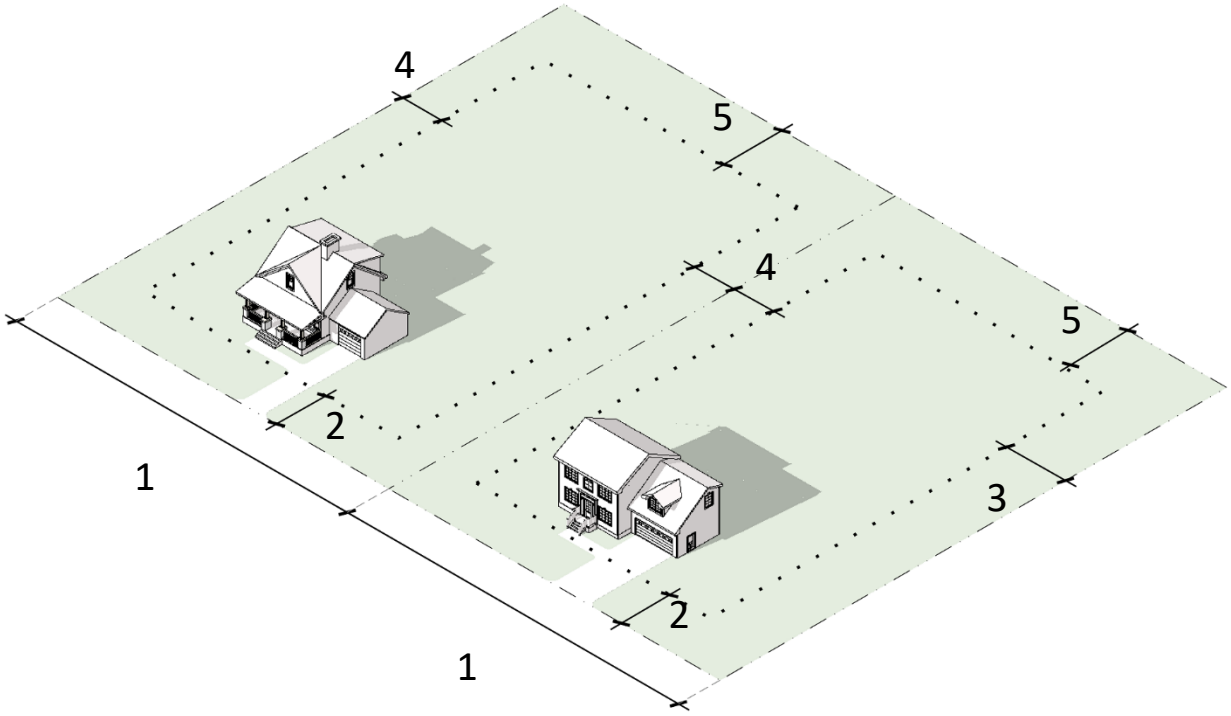
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards *[11-16-2020]*

| | Standard | All Uses |
|---|---|---|
| | Lot area, minimum (square feet) | 43,560 |
| 1 | Lot width, minimum (feet) | 100 |
| 2 | Front setback (feet) | 25 |
| 3 | Side setback, street (feet) | 30 |
| 4 | Side setback, interior (feet) | 20 |
| 5 | Rear setback (feet) | 30 |
| 6 | Building height, maximum (feet)* | 40 |

* Structures elevated on open foundations consisting of piers, posts, columns or piles shall have a maximum height of 44 feet. All structures are subject to the height limits specified in Section 5.10, Airport Height Restriction.




## E. Other District Standards

### 1. Lighting

**a.** Any pulsating, flashing, rotating, oscillating, or other type of light intended as an attention-getting device shall be expressly prohibited.

**b.** Flood lights, spot lights, or other lighting devices shall be arranged or shielded so as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the ground.

### 2. Radio and Electronic

**a.** Any radio or electronic device shall be permitted only in conjunction with a valid license or other authorization as may be issued by the Federal Communications Commission (FCC).

**b.** Any radio or electronic device, the operation of which would violate any rules or regulations of the FCC is prohibited.

### 3. Visual Hazards

Any operation or use that emits smoke, dust, or creates glare or other visual hazards is prohibited.

| F. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.2.6. RESIDENTIAL 20S (R-20S)

### A. Purpose

The purpose of the R-20S Residential (R-20S) District is provide lands to accommodate primarily very low density single-family development. The intent of the district regulations are to allow development that is compatible with the preservation of the district's very low density single-family character, while accommodating residential opportunities for those who desire an exurban, low-density lifestyle. District residents should be willing to assume the costs of providing many of their own services and amenities while maximizing the protection of resources and the conservation of open space.

### B. Concept

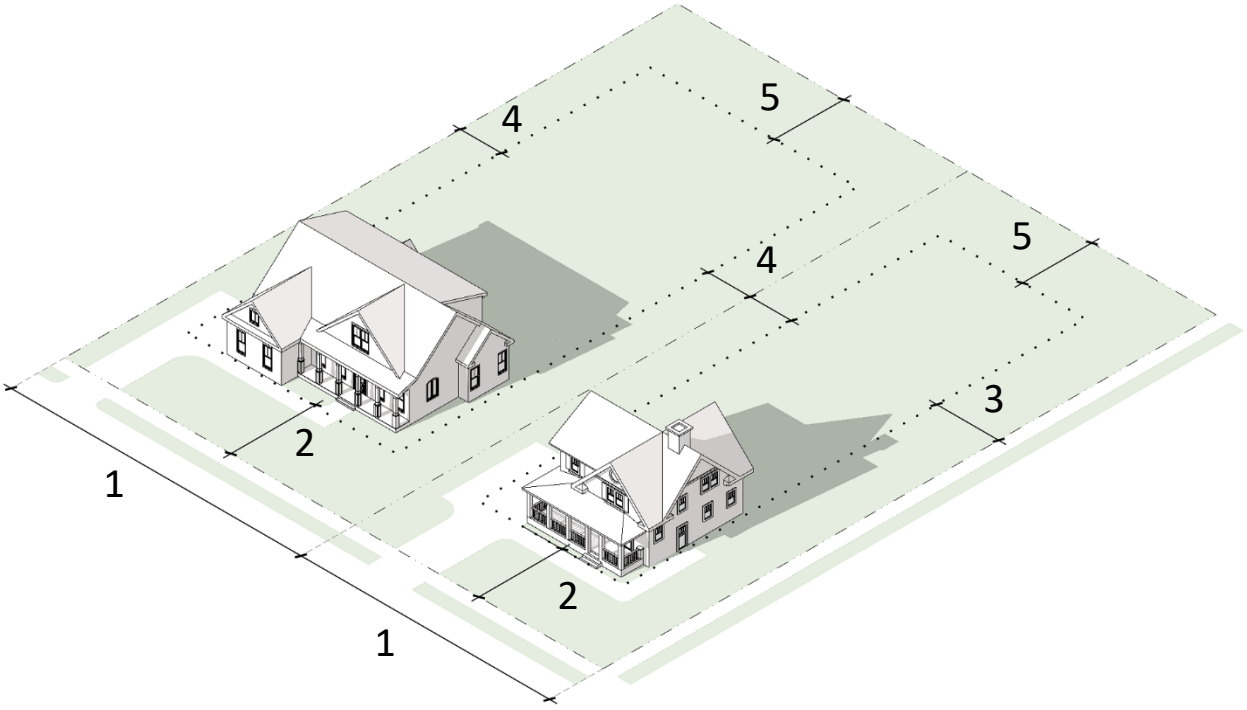
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards *[11-16-2020]*

| Standard | All Uses |
|---|---|
| Lot area, minimum (square feet) | 20,000 |
| **1** Lot width, minimum (feet) | 90 |
| **2** Front setback (feet) | 30 |
| **3** Side setback, street (feet) | 22.5 |
| **4** Side setback, interior (feet) | 15 |
| **5** Rear setback (feet) | 25 |
| Building height, maximum (feet)* | 40 |

* Structures elevated on open foundations consisting of piers, posts, columns or piles shall have a maximum height of 44 feet.




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.2.7. RESIDENTIAL 20 (R-20) DISTRICT

### A. Purpose

The purpose of the Residential-20 (R-20) District is provide lands that accommodate primarily very low density residential development and recreational uses. District regulations discourage development that substantially interferes with the quiet residential and recreational nature of the district.

### B. Concept

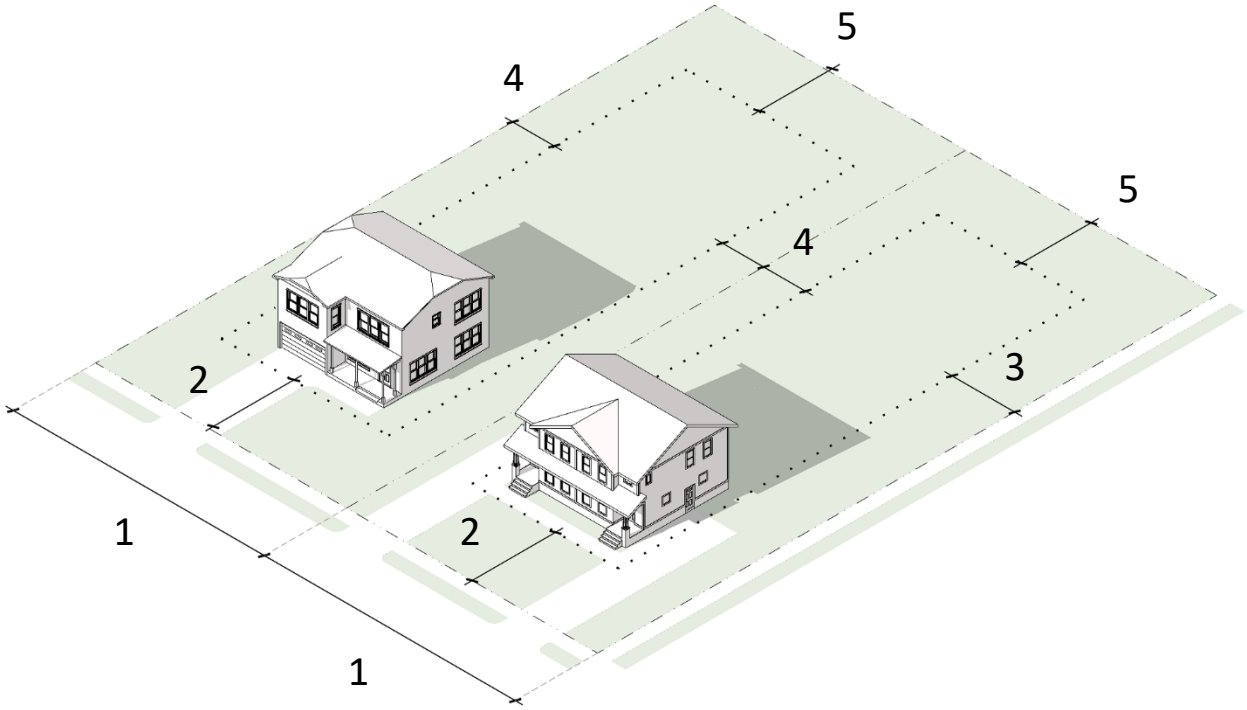
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards *[11-16-2020]*

| | Standard | Single Family Detached | Duplex |
|---|---|---|---|
| | Lot area, minimum (square feet)* | 20,000 | 20,000 |
| 1 | Lot width, minimum (feet)* | 90 | 90 |
| 2 | Front setback (feet)* | 30 | 30 |
| 3 | Side setback, street (feet)* | 22.5 | 22.5 |
| 4 | Side setback, interior (feet)* | 15 | 15 |
| 5 | Rear setback (feet)* | 25 | 25 |
| | Density, maximum (dwelling units/acre)** | 1.9 | |
| | Building height, maximum (feet)*** | 40 | |

* Does not apply to Performance Residential Developments (see Section 3.1.3.D).
** Applies only to Performance Residential Developments (see Section 3.1.3.D).
*** Structures elevated on open foundations consisting of piers, posts, columns or piles shall have a maximum height of 44 feet.




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.2.8. RESIDENTIAL 15 (R-15) DISTRICT

### A. Purpose

The purpose of the Residential-15 (R-15) District is established to provide lands that accommodate very low to low density residential development that can serve as a transition between very low density residential development patterns and smaller lot, more dense residential areas of the County. District regulations discourage development that substantially interferes with the quiet residential and recreational nature of the district.

### B. Concept

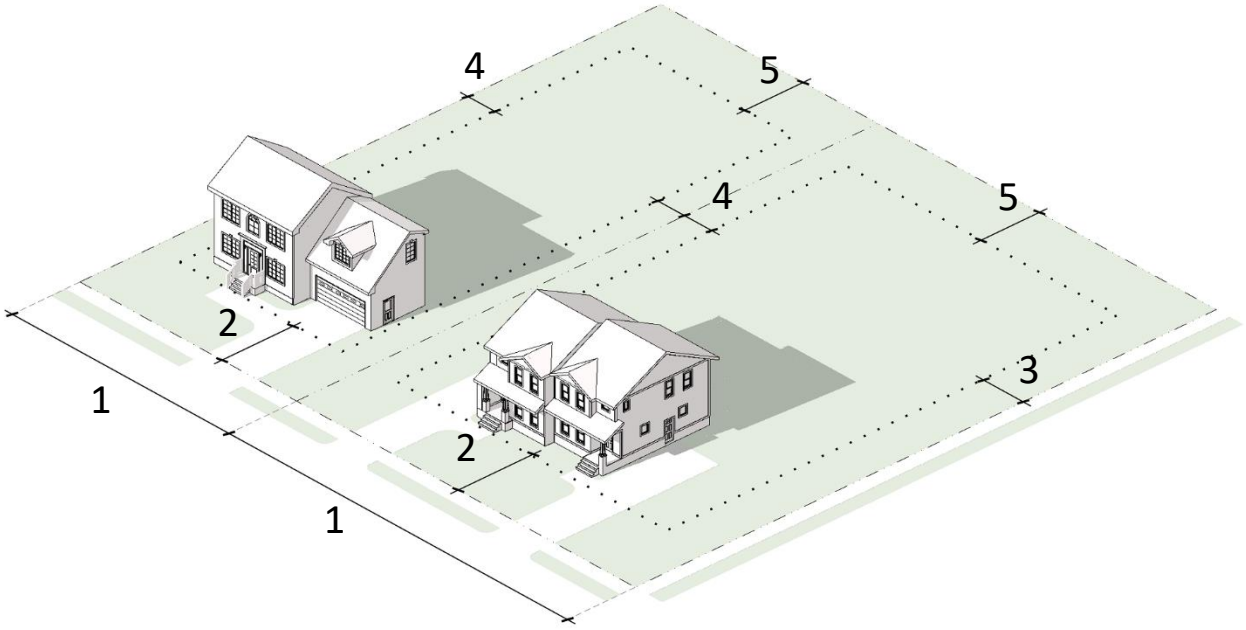
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards *[11-16-2020]*

| | Standard | Single Family Detached | Duplex |
|---|---|---|---|
| | Lot area, minimum (square feet)* | 15,000 | 25,000 |
| 1 | Lot width, minimum (feet)* | 80 | 80 |
| 2 | Front setback (feet)* | 25 | 25 |
| 3 | Side setback, street (feet)* | 15 | 15 |
| 4 | Side setback, interior (feet)* | 10 | 10 |
| 5 | Rear setback (feet)* | 20 | 20 |
| | Density, maximum (dwelling units/acre)** | 2.5 | |
| | Building height, maximum (feet)*** | 40 | |

* Does not apply to Performance Residential Developments (see Section 3.1.3.D).
** Applies only to Performance Residential Developments (see Section 3.1.3.D).
*** Structures elevated on open foundations consisting of piers, posts, columns or piles shall have a maximum height of 44 feet.




## E. Other District Standards

Any lot in any subdivision platted and recorded prior to May 3, 1976 shall not be more than ten percent less than the minimum lot area and minimum lot width established within the R-15 district, provided said lots are served by a community water system.

## F. Reference to Other Standards

| | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.2.9. RESIDENTIAL 10 (R-10) DISTRICT

### A. Purpose

The purpose of the Residential-10 (R-10) District is to provide lands that accommodate new residential neighborhoods and encourage the conservation of existing residential lots and neighborhoods. Neighborhoods in the R-10 District are relatively low density in character and include a limited mix of single family and duplex housing types. If public water is not available, the water system infrastructure must be installed in accordance with County standards and connected when a public supply becomes available. R-10 district lands may be established in proximity to neighborhood or community commercial districts to encourage the establishment of walkable development patterns.

### B. Concept

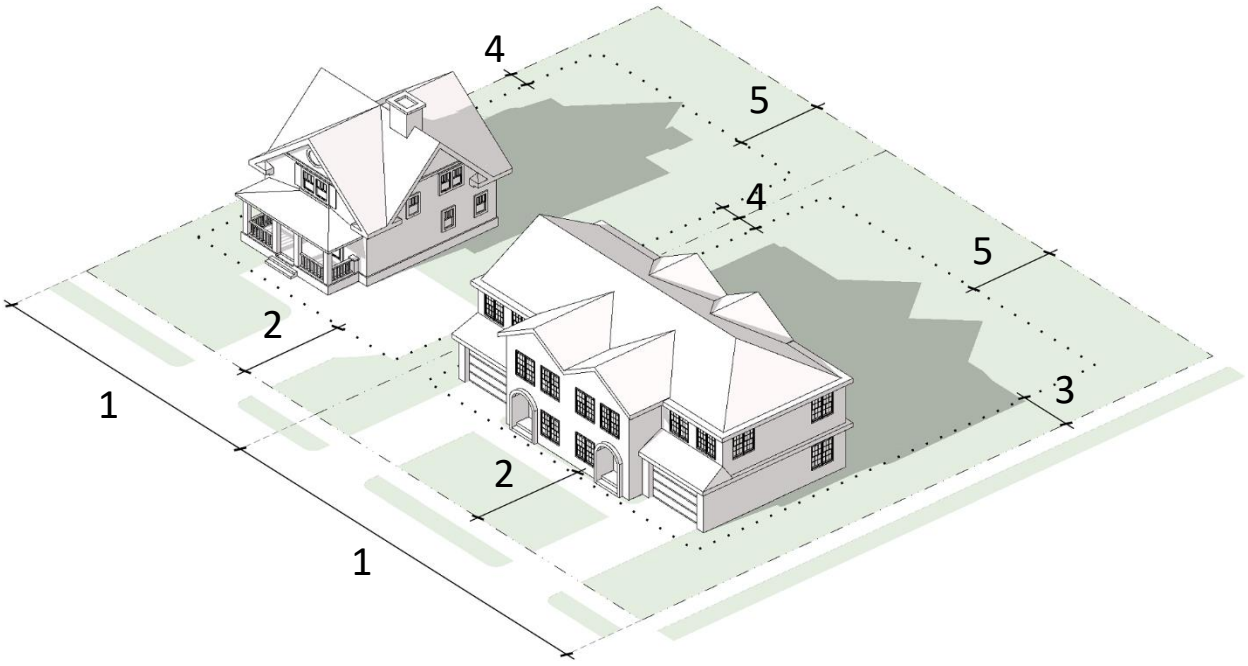
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards

| | Standard | Single Family Detached | Duplex |
|---|---|---|---|
| | Lot area, minimum (square feet)* | 10,000 | 15,000 |
| 1 | Lot width, minimum (feet)* | 70 | 70 |
| 2 | Front yard, minimum (feet)* | 25 | 25 |
| 3 | Street side yard, minimum (feet)* | 12.5 | 12.5 |
| 4 | Interior side yard, minimum (feet)* | 5 | 5 |
| 5 | Rear yard, minimum (feet)* | 20 | 20 |
| | Density, maximum (dwelling units/acre)** | 3.3 | |
| | Building height, maximum (feet)*** | 40 | |

* Does not apply to Performance Residential Developments (see Section 3.1.3.D).
** Applies only to Performance Residential Developments (see Section 3.1.3.D).
*** Structures elevated on open foundations consisting of piers, posts, columns or piles shall have a maximum height of 44 feet.




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.2.10. RESIDENTIAL 7 (R-7) DISTRICT

### A. Purpose

The purpose of the Residential-7 (R-7) District is to provide lands that accommodate moderate density residential development with a range of housing types (and income levels, including quality affordable housing), that are located walkable distances to jobs, shopping, and entertainment, and where appropriate, serve as a transition between more intensive and lower density areas. Residential development at the scale allowed in the district should support the efficient delivery of public services and increase residents' accessibility to employment, public transportation, and shopping.

### B. Concept

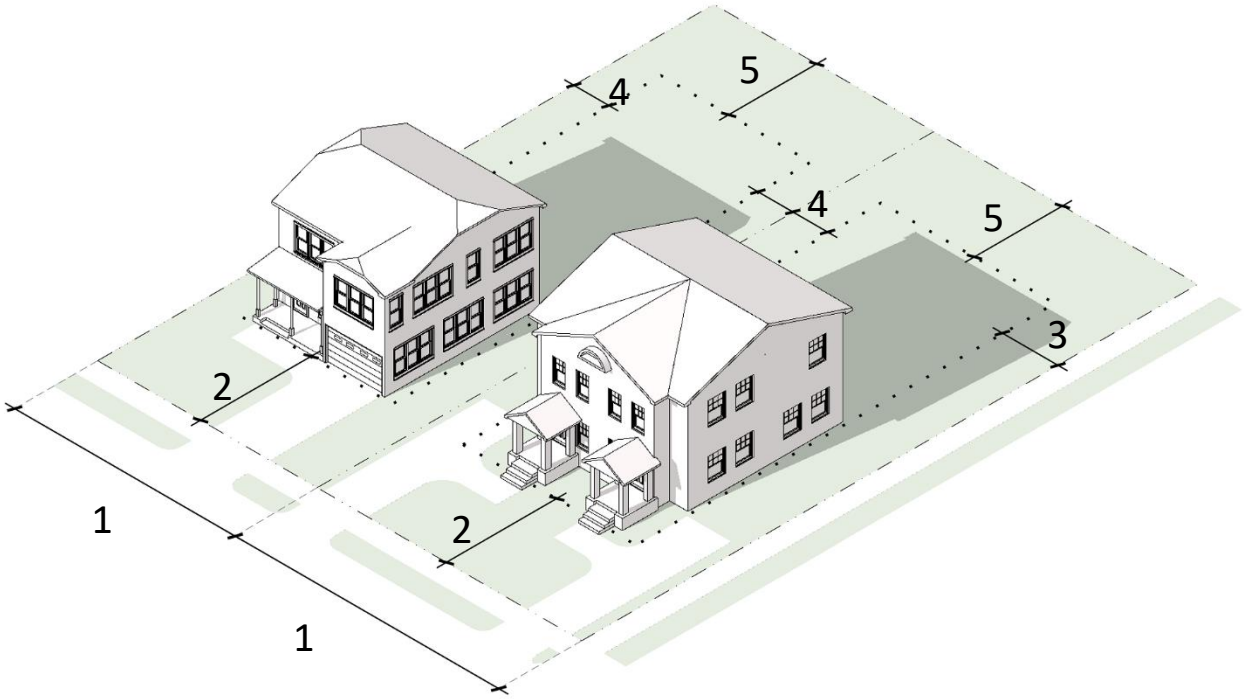
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards *[11-16-2020]*

| | Standard | All Uses |
|---|---|---|
| | Lot area, minimum (square feet)* | 7,000 |
| 1 | Lot width, minimum (feet)* | 50 |
| 2 | Front setback (feet)* | 25 |
| 3 | Side setback, street (feet)* | 12.5 |
| 4 | Side setback, interior (feet)* | 8 |
| 5 | Rear setback (feet)* | 20 |
| | Density, maximum (dwelling units/acre)** | 6 |
| | Building height, maximum (feet)*** | 40 |

* Does not apply to Performance Residential Developments (see Section 3.1.3.D).
** Applies only to Performance Residential Developments (see Section 3.1.3.D).
*** Structures elevated on open foundations consisting of piers, posts, columns or piles shall have a maximum height of 44 feet.




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.2.11. RESIDENTIAL MODERATE-HIGH DENSITY (R-5) DISTRICT

### A. Purpose

The purpose of the Residential Moderate-High Density (R-5) District is to provide lands that accommodate moderate to high density residential development on smaller lots with a compact and walkable development pattern. The R-5 district allows a range of housing types and can be developed in conjunction with a non-residential district to create a vertical mixed-use development pattern as well as serve as a transition between mixed-use or commercial development and low to moderate density residential development.

### B. Concept

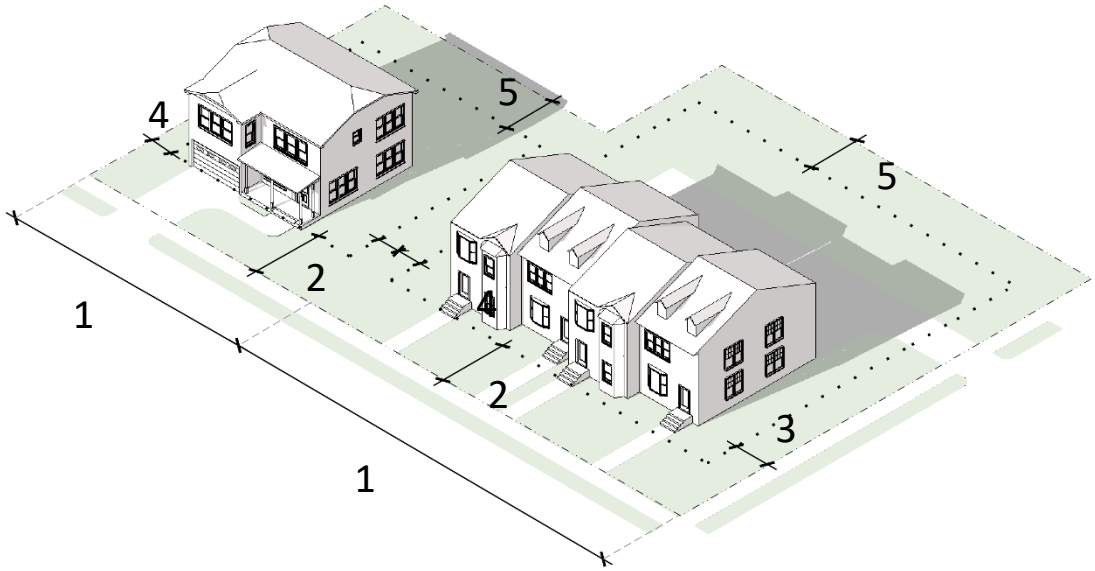
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards *[11-16-2020]*

| | Standard | Single Family Detached | Duplex | Triplex | Quadraplex |
|---|---|---|---|---|---|
| | Lot area, minimum (square feet)* | 5,000 | 7,500 | 12,500 | 17,500 |
| 1 | Lot width, minimum (feet)* | 50 | | | |
| 2 | Front setback (feet)* | 20 | | | |
| 3 | Side setback, street (feet)* | 10.5 | | | |
| 4 | Side setback, interior (feet)* | 7 | | | |
| 5 | Rear setback (feet)* | 15 | | | |
| | Density, maximum (dwelling units/acre)** | 8 | | | |
| | Building height, maximum (feet)*** | 40 | | | |

* Does not apply to Performance Residential Developments (see Section 3.1.3.D).
** Applies only to Performance Residential Developments (see Section 3.1.3.D).
*** Structures elevated on open foundations consisting of piers, posts, columns or piles shall have a maximum height of 44 feet.




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.2.12. RESIDENTIAL MULTI-FAMILY LOW DENSITY (RMF-L) DISTRICT

### A. Purpose

The purpose of the Residential-Multi-Family Low Density (RMF-L) District is provide lands that accommodate moderate density single family and low density multi-family development of varying types and designs. The intent is that the RMF-L district will provide options for alternative housing types near or in direct relationship to single-family detached development.

### B. Concept

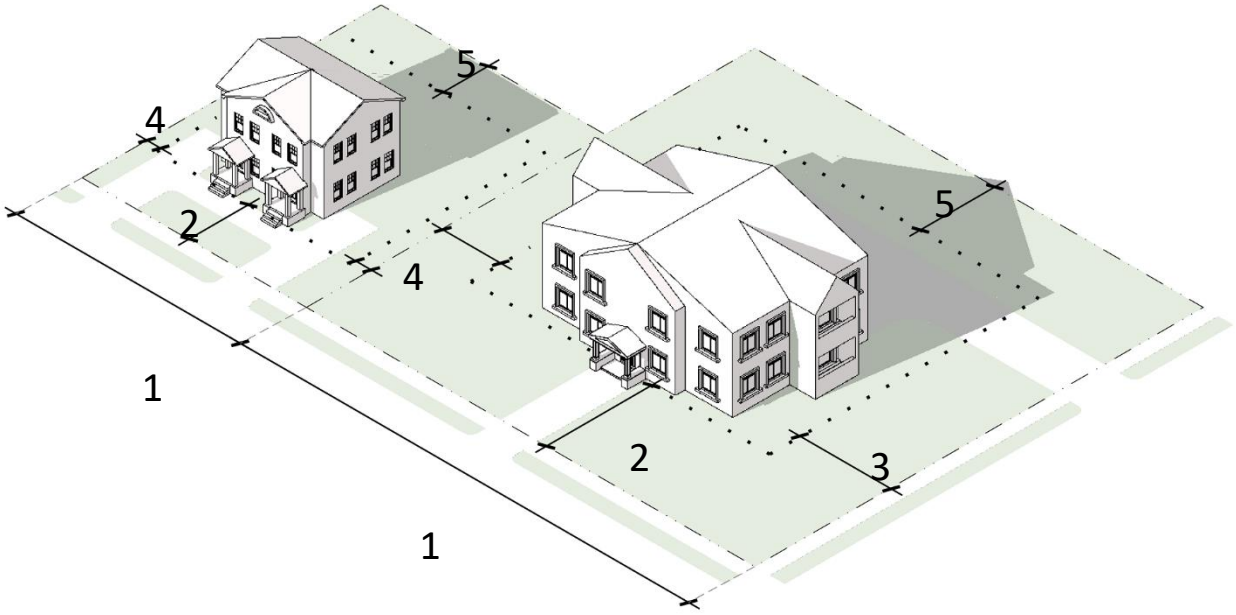
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards *[11-16-2020]*

| | Standard | Single Family Detached | Duplex | Triplex | Quadraplex | Multi-Family |
|---|---|---|---|---|---|---|
| | Lot area, minimum (square feet)* | 5,000 | 7,500 | 12,500 | 17,500 | 20,000 |
| 1 | Lot width, minimum (feet)* | 50 | | | | 100 |
| 2 | Front setback (feet)* | 20 | | | | 35 |
| 3 | Side setback, street (feet)* | 10 | | | | 30 |
| 4 | Side setback, interior (feet)* | 5 | | | | 20 |
| 5 | Rear setback (feet)* | 15 | | | | 25 |
| | Density, maximum (dwelling units/acre) | 10 | | | | |
| | Building height, maximum | 3 stories, with a maximum of 45 feet** | | | | |

* Does not apply to Performance Residential Developments (see Section 3.1.3.D).
** Heights over 35 feet subject to additional setback of 4 additional feet




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.2.13. RESIDENTIAL MULTI-FAMILY MODERATE DENSITY (RMF-M) DISTRICT

### A. Purpose

The purpose of the Residential Multi-Family Moderate Density (RMF-M) District is to provide lands that accommodate moderate density single-family and multi-family development. The intent of the RMF-M district is to function as a transitional district between intensive nonresidential development and higher density residential areas. The district is designed to provide a reasonable range of choice, type, and location of housing units.

### B. Concept

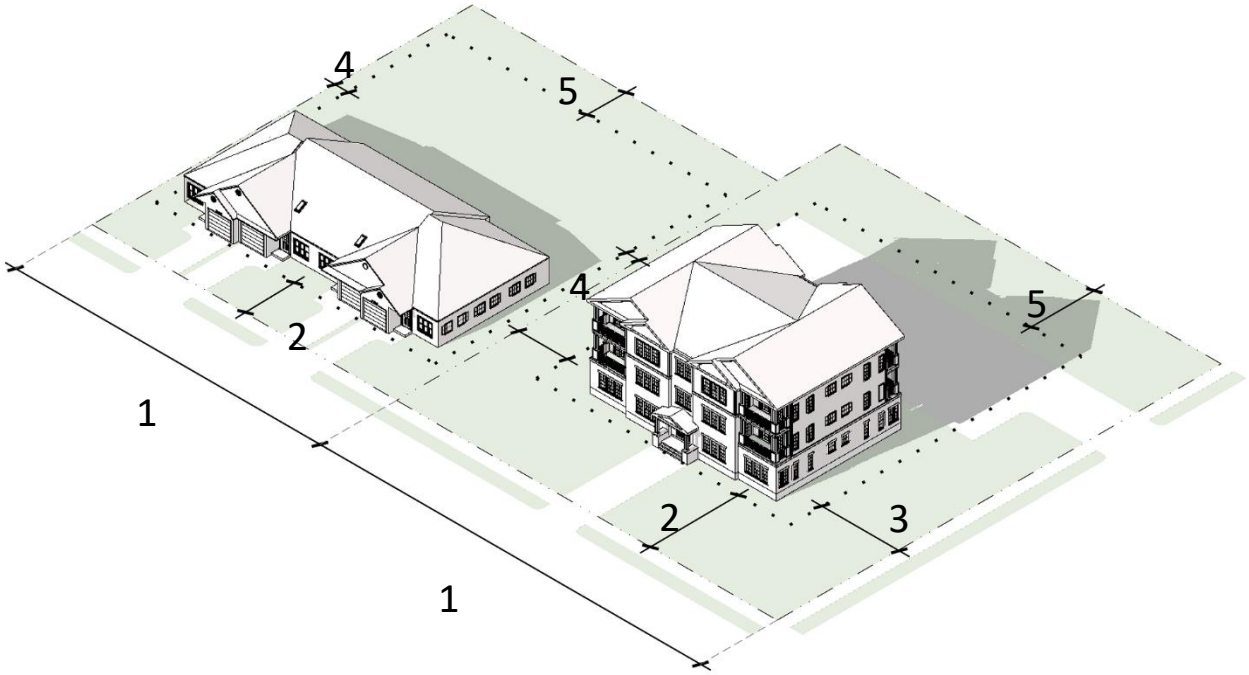
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards *[11-16-2020]*

| | Standard | Single Family Detached | Duplex | Triplex | Quadraplex | Multi-Family |
|---|---|---|---|---|---|---|
| | Lot area, minimum (square feet)* | 5,000 | 7,500 | 12,500 | 17,500 | 20,000 |
| 1 | Lot width, minimum (feet)* | 50 | | | | 100 |
| 2 | Front setback (feet)* | 20 | | | | 35 |
| 3 | Side setback, street (feet)* | 10 | | | | 30 |
| 4 | Side setback, interior (feet)* | 5 | | | | 20 |
| 5 | Rear setback (feet)* | 15 | | | | 25 |
| | Density, maximum (dwelling units/acre) | 17 | | | | |
| | Building height, maximum | 3 stories, with a maximum of 45 feet** | | | | |

* Does not apply to Performance Residential Developments (see Section 3.1.3.D).
** Heights over 35 feet subject to additional setback of 4 additional feet




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.2.14. RESIDENTIAL MULTI-FAMILY MEDIUM-HIGH DENSITY (RMF-MH) DISTRICT

### A. Purpose

The purpose of the Residential Multi-Family Medium High Density (RMF-MH) District is to accommodate lands for medium to high density residential development of varying types and designs, with emphasis on midrise structures, near suburban shopping centers and employment centers. The district is intended to function as a transition between intensive nonresidential development and lower density residential development.

### B. Concept

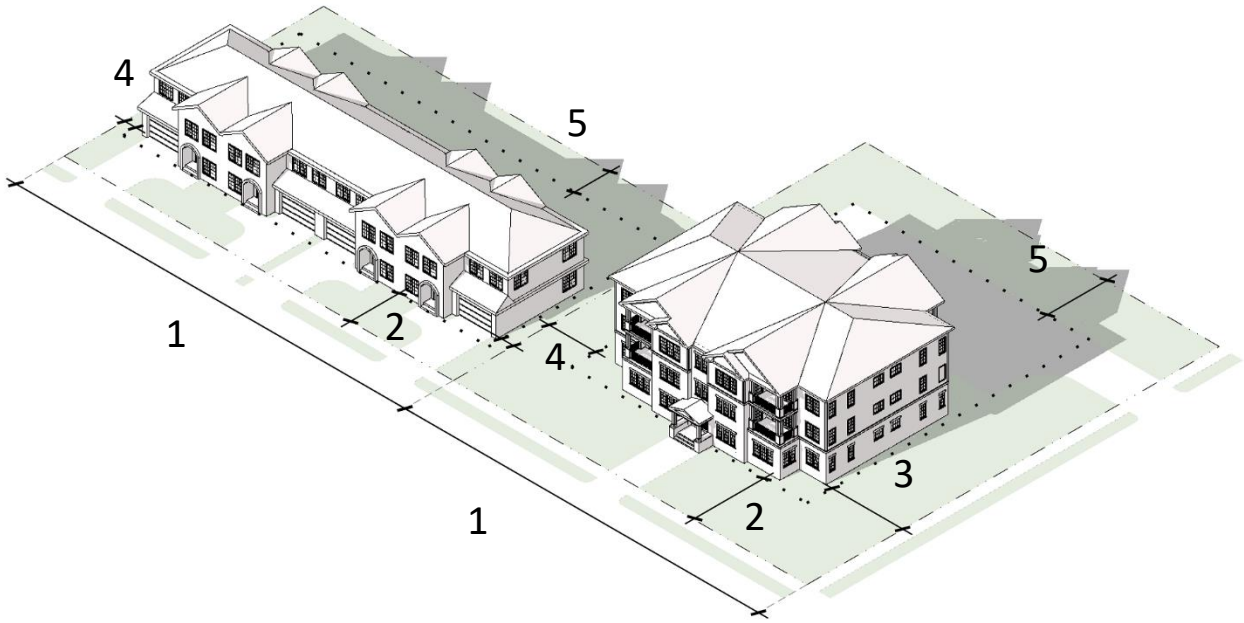
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards *[11-16-2020]*

| | Standard | Single Family Detached | Duplex | Triplex | Quadraplex | Multi-Family |
|---|---|---|---|---|---|---|
| | Lot area, minimum (square feet)* | 4,000 | 7,500 | 12,500 | 17,500 | 20,000 |
| 1 | Lot width, minimum (feet)* | 40 | | | | 90 |
| 2 | Front setback (feet)* | 15 | | | | 30 |
| 3 | Side setback, street (feet)* | 10 | | | | 30 |
| 4 | Side setback, interior (feet)* | 5 | | | | 20 |
| 5 | Rear setback (feet)* | 15 | | | | 25 |
| | Density, maximum (dwelling units/acre) | 25 | | | | |
| | Building height, maximum** | 4 stories, with a maximum of 50 feet *[09-08-2020]* | | | | |

* Does not apply to Performance Residential Developments (see Section 3.1.3.D).
** Heights over 35 feet subject to additional setback of 4 additional feet




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.2.15. RESIDENTIAL MULTI-FAMILY HIGH DENSITY (RMF-H) DISTRICT

### A. Purpose

The purpose of the Residential Multi-Family High Density (RMF-H) District is to provide lands for high density residential development of varying types and designs, with emphasis on midrise and high-rise structures. This district is designed to be located in close proximity to major population centers, areas identified for targeted growth, employment centers, and destination nodes.

### B. Concept

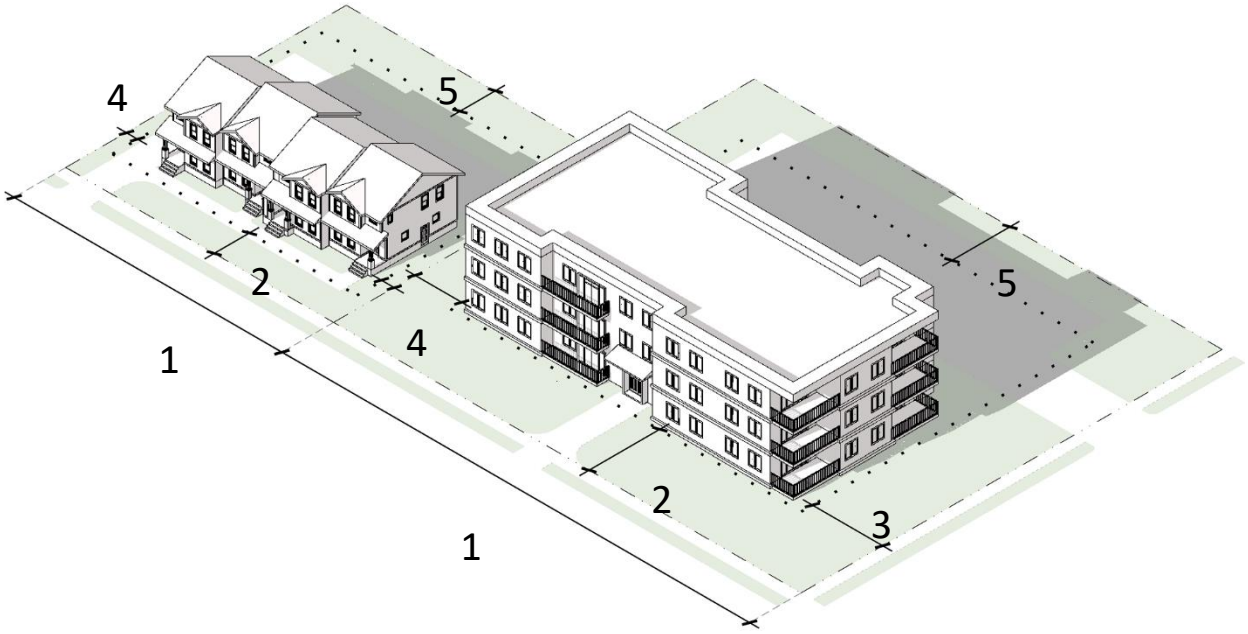
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards *[11-16-2020]*

| | Standard | Single Family Detached | Duplex | Triplex | Quadraplex | Multi-Family |
|---|---|---|---|---|---|---|
| | Lot area, minimum (square feet)* | 3,000 | 6,000 | 9,000 | 12,000 | 15,000 |
| 1 | Lot width, minimum (feet)* | 40 | | | | 80 |
| 2 | Front setback (feet)* | 15 | | | | 30 |
| 3 | Side setback, street (feet)* | 10 | | | | 30 |
| 4 | Side setback, interior (feet)* | 5 | | | | 20 |
| 5 | Rear setback (feet)* | 15 | | | | 25 |
| | Density (maximum dwelling units/acre) | 36 | | | | |
| | Building height, maximum** | 4 stories, with a maximum of 50 feet *[09-08-2020]* | | | | |

* Does not apply to Performance Residential Developments (see Section 3.1.3.D).
** Heights over 35 feet subject to additional setback of 4 additional feet




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

# Section 3.3. Mixed Use Zoning Districts

### 3.3.1. INTENT

The mixed use zoning districts are intended to:

**A.** Implement the range of mixed-use development patterns recommended in the New Hanover County Comprehensive Plan;

**B.** Concentrate higher intensity commercial and office employment growth efficiently in and around the centers of community activity, provide accessibility, and maximize public infrastructure investment;

**C.** Encourage mixed use redevelopment, conversion, and reuse of aging and underutilized areas and increase the efficient use of land in the unincorporated County;

**D.** Promote higher density residential development near and within traditional main street corridors and growth nodes identified for the unincorporated County;

**E.** Encourage the creation of public and civic spaces for the use and enjoyment of County residents and visitors; and

**F.** Support the development of complete communities where residents are able to conveniently access basic goods and services, civic and cultural resources, and recreational opportunities.

### 3.3.2. ESTABLISHED MIXED USE ZONING DISTRICTS

The mixed use zoning districts established by this UDO are identified in Table 3.4.2: Established Mixed Use Zoning Districts.

**Table 3.4.2: Mixed Use Zoning Districts**

| Category | District | Abbreviation |
|---|---|---|
| Mixed Use | Urban Mixed Use Zoning | UMXZ |
| | Riverfront Mixed Use Planned Development | RFMU |
| | Exceptional Design Planned Development | EDZD |
| | General Planned Development | PD |

### 3.3.3. GENERAL REQUIREMENTS FOR MIXED USE ZONING DISTRICTS

The requirements in this section (3.3.3) apply to all mixed use zoning districts.

#### A. MPD Master Plan

As set forth in Section 10.3.4, Master Planned Development, an MPD Master Plan is a required component in the establishment of a planned development district. The MPD Master Plan shall depict the general configuration and relationship of the principal elements of the proposed development, including uses, general building types, density/intensity, resource protection, pedestrian and vehicular circulation,

open space, public facilities, and phasing. Specific requirements for MPD Master Plans and any required accompanying information are set forth for each Mixed Use zoning district in the Administrative Manual.

### B. MPD Terms and Conditions Document

As set forth in Section 10.3.4, Master Planned Development, an MPD Terms and Conditions document is a required component in the establishment of a planned development district. The MPD Terms and Conditions document shall incorporate by reference or include, but not be limited to:

1. Conditions related to approval of the application for the planned development zoning district classification;
2. The MPD Master Plan, including any density/intensity standards, dimensional standards, and development standards established in the MPD Master Plan;
3. Conditions related to the approval of the MPD Master Plan, including any conditions related to the form and design of development shown in the MPD Master Plan;
4. Provisions addressing how transportation, potable water, wastewater, stormwater management, and other infrastructure will be provided to accommodate the proposed development;
5. Provisions related to environmental protection and monitoring; and
6. Any other provisions the Board of Commissioners determines are relevant and necessary to the development of the planned development in accordance with applicable standards and regulations.

## 3.3.4. URBAN MIXED USE ZONING (UMXZ)

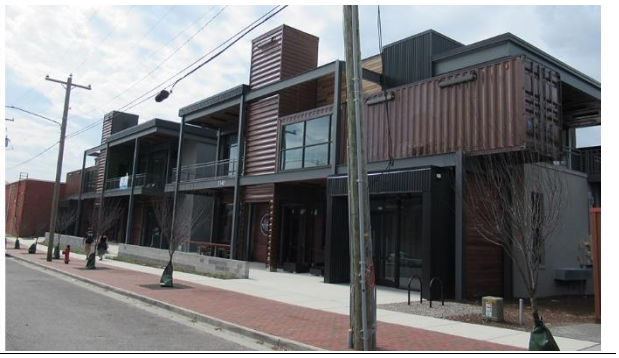
### A. Purpose

The Urban Mixed Use Zoning (UMXZ) District is established to meet the following five primary objectives in the areas of New Hanover County in proximity to the City of Wilmington and those intended for urban or community scale mixed use development:

- To encourage the efficient mixed use development pattern envisioned in the Comprehensive Plan;
- To result in quality design and a variety of built forms of lasting value that result in a pedestrian scale;
- To provide a mix of housing options;
- To promote and enhance transportation options, particularly those that are pedestrian-oriented, while reducing demand for automobile trips; and
- To encourage a mix of uses to foster a sense of community.

The district regulations include design elements intended to enhance the urban form, increase neighborhood safety, and add flexibility for small lots. Integrated mix of uses on development sites and within individual buildings is encouraged. UMXZ zoning is intended to promote mixed-use developments on sites large enough to create a mix of uses within the existing suburban environment. Typically, these developments will include creative development and redevelopment solutions.

### B. Concept

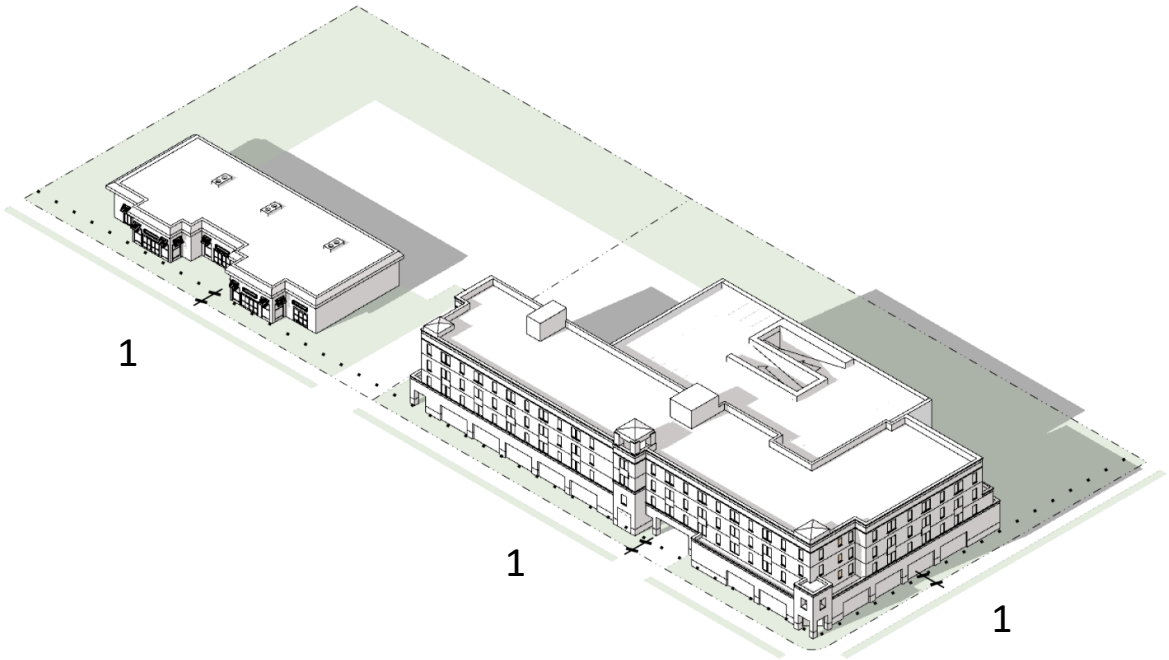


### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards. All UMXZ projects shall include a mix of both residential and nonresidential uses.

| D. District Dimensional Standards | | |
|---|---|---|
| | **Standard** | **All Uses** |
| | Minimum district size (acres) | 5 |
| | Setbacks | |
| | Minimum distance from single family residential zoning districts | 35 feet for buildings ≤ 35 feet in height<br>45 feet for buildings > 35 feet in height |
| **1** | Maximum distance from any street (feet) | 10* |
| | Maximum height along arterial streets | 4 stories or 45 feet by-right<br>75 feet with Additional Height Allowance special use permit |
| | Maximum height along residential & collector streets | 2 stories or 35 feet |
| | Maximum height along arterial & collector streets | 5 stories or 55 feet if structured parking is provided within project |
| | Maximum single family residential density (dwelling units/acre) | 15 |
| | Maximum multi-family residential density (dwelling units/acre) | 25 |
| | Maximum vertically integrated mixed-use building density (dwelling units/acre) | 36 |

*Front setbacks are not required along alleyways; TRC may waive strict adherence to requirement where an existing easement or significant natural feature exists.



## E. Reference to Other Standards

### 1. Utility and Equipment Screening

**a.** HVAC equipment, air conditioning window units, and other electrical equipment, and fire escapes shall not be located on facades with street frontage. All such equipment shall be placed in the interior yards or inset into the roof pitch, or behind a parapet wall in the case of a flat roof, of the building and screened from the right-of-way.

**b.** Through-wall mechanical units are permitted on any façade if they are incorporated into the design of the building, flush with the façade on which they are located, concealed by a vent cover, and have an internal drip system for condensation.

**c.** Utility meters, transformers, and fixed trash disposal receptacles that cannot be located out of sign shall be screened from the public right-of-way by plantings or opaque fencing.

**d.** The TRC may approve alterations to these standards in cases where they cannot be met due to design consideration of the structure and the intent of visual minimization of the feature is otherwise addressed.

### 2. Site Lighting

All site lighting shall be located, angled, shielded, and/or limited in intensity so as to case no direct light upon adjacent properties, shall minimize off-site backlighting glare, and up-lighting. Light posts shall be no taller than 12 feet.

### 3. Parking and Driveway Requirements

**a.** Parking shall be provided in accordance with the requirements of Section 5.1: Parking and Loading, though shared parking may be allowed upon submittal of a parking study showing how parking as provided will be sufficient for permitted uses.

**b.** Surface parking shall be located to the side or rear of buildings or in the interior of a block and shall be prohibited in front of buildings. Surface parking shall not be located along rights-of-way, except for alleys. The TRC may approve alterations to this standard in cases where locating parking to the side or rear is limited by existing site features, such as trees, or when this requirement is not consistent with the existing frontage pattern along the roadway.

**c.** Surface parking lots visible from the public right-of-way shall be screened by permanent walks, shrubbery, or hedges at least 3 feet in height. If hedges or shrubbery are used, they shall be at 3 feet in height at the time of planting and shall be maintained at 3-5 feet in height at all times.

**d.** Parking shall be accessed via alleyways wherever possible.

**e.** The design of all above-grade parking structures shall relate to the context of the area. Exterior walls of parking structures shall be designed with materials, colors, and architectural articulation in a

manner that provides a visual compatibility with adjacent buildings and environment.

**f.** Pervious pavement materials, vegetated bio-infiltration parking lot islands, or infiltration systems shall be used to minimize pollutant run-off from surface parking areas to the extent that soil permeability, depth to groundwater, or site constraints allow.

**4. Multi-Modal Transportation Opportunities**

**a.** Pedestrian circulation shall be clearly defined with paving, materials, and/or landscaping and shall connect all uses. Sidewalks and crosswalks shall be provided within new developments as necessary.

**b.** Bicycle and/or pedestrian connectivity to adjacent development or existing or funded bicycle and pedestrian facilities.

**c.** Where no sidewalks currently exist, sidewalks shall be installed within the right-of-way between the property line and the back of the curb. Sidewalk width shall be a minimum of 12 feet along arterial streets and 8 feet along residential/collector streets and may be reduced on internal private streets with TRC approval when context design constraints dictate or when project intensity and/or density indicate that 8 feet sidewalks will be sufficient to accommodate pedestrian traffic.

**d.** Sidewalks may be limited to a single side of rights-of-way or private streets or sidewalk width may be reduced when right-of-way or private street abuts streams, ponds, or wetlands or when contextual design constraints dictate, as determined by the TRC.

**e.** An internal grid street pattern is required. Block faces within the grid pattern shall not exceed 400 feet in length. The grid pattern may be supplemented with alleys. The TRC may waive strict adherence to the grid pattern when sites are constrained by topography, including wetlands, ponds, or other natural features, and where connections to arterial streets and connections and relationships to adjacent sites require flexibility.

**5. Street Trees**

Street tree plantings in below-grade planters or planting strips shall be included at the rate of one tree per 30 feet of frontage in all private rights-of-way and in public rights-of-way upon approval by NCDOT. The TRC may waive strict adherence to this requirement if an alley is utilized along all or portions of the street frontage.

**6. Buffers and Streetyards**

All development within the UMXZ district may be exempted from required buffers and streetyard requirements, as approved by the TRC when contextual design constraints dictate or when other design and/or landscaping features of the development serve to meet the needs of buffering and/or streetyard requirements. A minimum buffer of at least 20 feet in width is required adjacent to single-family residential zoning districts.

### 7. Trash Containment Screening

**a.** Trash containment areas shall be located within a building where possible.

**b.** If trash containment, including areas for holding recycling, cannot be accommodated within a building, it shall be placed on the rear or side of the building and shall be completely enclosed and screened from view of public rights-of-way with an opaque fence or wall and/or plant materials, as approved by the TRC. The enclosure shall be at least one foot taller than the highest point of the trash receptacle. Chain link and exposed concrete blocks are prohibited.

### 8. Fences and Walls

Open wire fencing, including chain link, hurricane fencing, and barbed wire, is prohibited. Within front yards, fence heights may not exceed 4 feet.

### 9. Building Design

**a.** Primary building entrances should be clearly distinctive from other entrances. Primary building entrances shall be oriented toward sidewalks along primary street frontages.

**b.** Large expanses of flat, unadorned walls are prohibited. Façades shall incorporate architectural details, particularly at the pedestrian level. Building façades along rights-of-way shall incorporate periodic transitions across the façade. Building façades exceeding 30 feet in width along rights-of-way shall be divided into distinct areas utilizing methods including, but not limited to, façade offsets, pilasters, changes in materials, or fenestration. Transitions shall be no further apart than 2/3 of the height of the building.

**c.** New buildings shall front onto sidewalks to reinforce pedestrian activity along streets and pedestrian ways. Exterior burglar bars, fixed "riot shutters," or similar security devices shall not be visible from the public right-of-way.

**d.** Exterior building materials for all new nonresidential or multifamily structures shall be of quality finish materials. Structural metal panels or unparged or non-architectural, non-decorative concrete block shall be prohibited on façades visible from the public right-of-way.

**F. Reference to Other Standards**

| | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.3.5. RIVERFRONT MIXED USE (RFMU) PLANNED DEVELOPMENT DISTRICT

### A. Purpose

The Cape Fear River is one of the County's and the region's most valuable natural resources and is the focal point of activity in downtown Wilmington. The purpose of the Riverfront Mixed Use (RFMU) District is to provide lands that:

- Enhance and preserve environmentally sensitive areas along the river;
- Protect public access to the river through the creation of quality public spaces;
- Preserve cultural and natural resources;
- Ensure quality design and a variety of built forms that result in a pedestrian scale as well as a compelling skyline;
- Promote and enhance transit options, particularly pedestrian and water-oriented transportation options;
- Provide an opportunity for intensive development consistent with the urban form; and
- Encourage a mix of uses that fosters a sense of community and create a destination for residents and visitors alike.

### B. Use Standards

**1. Mix of Uses**

**a.** All RFMU developments must contain uses from at least two of the following categories:

**1.** Residential;

**2.** Office;

**3.** Commercial;

**4.** Institutional, quasi-public, public; and

**5.** Entertainment and lodging.

**b.** The total floor area of any RFMU development shall constitute no less than five percent of non-residential uses.

**c.** Single-story structures shall not exceed 25 percent of the gross building footprint of all buildings within any RFMU development.

**d.** All buildings greater than 35 feet in height must incorporate more than one use.

**e.** All buildings with riverfront and right-of-way facing facades shall incorporate non-residential uses on no less than 50 percent of the ground floor. Parking shall not be used to satisfy any part of this requirement.

**f.** The requirements for mix of uses may be waived by the Technical Review Committee (TRC) for projects of exceptional design or merit.

**2. Principal Uses**

All uses in this list shall be considered permitted uses within the RFMU district. Ground floor non-residential uses should encourage a lively pedestrian experience by offering a diversity of uses which utilize multiple storefronts and engaging public spaces. Uses from the category of "adult establishments" are prohibited. Uses are categorized based on similar impacts and to ensure diversity of uses.

**a.** Residential category:

**1.** Family care homes;

**2.** Group home supportive; and

**3.** Single family dwelling, attached.

**b.** Office category:

**1.** Banking services, without drive-through;

**2.** Offices, Medical; and

**3.** Offices, Professional.

**c.** Commercial category:

**1.** Convenience food store, without gasoline sales;

**2.** Farmers' market;

**3.** Grocery store less than 40,000 square feet;

**4.** Marina, with or without fueling facilities;

**5.** Night club (night clubs shall not abut an existing place of worship or be within 1,500 feet of existing residential uses or districts;

**6.** The following personal service establishments are permitted:

**i.** Beauty salon;

**ii.** Barber shop;

**iii.** Clothing alterations; and

**iv.** Laundry, Laundromat services, and drop off dry cleaning only;

**7.** Photography studio;

**8.** Recreation facilities: private indoor or outdoor;

**9.** Restaurant without drive-through windows;

**10.** Retail sales establishment less than 40,000 square feet;

**11.** Ship chandler; and

**12.** Spas and health club.

**d.** Institutional, quasi-public use, or public use category. The following uses shall not be accessed from or face riverfront facades:

**1.** Adult day care and child day care center;

**2.** Clubs, lodges and recreation facilities;

3. Government facility, not to include correctional or operational facilities;
4. Nursing and personal care by special use permit;
5. Religious institution; and
6. Retirement center and life care community by special use permit.

**e.** Entertainment and lodging category:

1. Amphitheater, located within 1,320 feet of a facility that provides public parking with the capacity to accommodate 100 percent of required parking;
2. Aquarium, located within 1,320 feet of a facility that provides public parking with the capacity to accommodate 100 percent of required parking;
3. Art gallery/studio;
4. Cultural arts center including theaters;
5. Hotels and motels, except that hotels and motels do not satisfy the "non-residential" requirement;
6. Meeting and events centers;
7. Movie theaters; and
8. Museum.

### 3. Supporting Uses

The uses listed below are considered supporting uses to the required categories. While the following uses are allowed by right, they shall not count towards the minimum required mix of uses. Even though the development may contain one or more of the following uses, it must still include at least two of the five categories (residential, office, commercial, institutional/quasi-public/public, entertainment and lodging) listed above.

**a.** Accessory buildings;

**b.** Accessory and auxiliary uses;

**c.** Commercial parking facility, provided the requirements of 3.3.5.D.10, Parking, are met;

**d.** Helipads, rooftop only; and

**e.** Public park, playground and associated facilities.

**C. District Dimensional Standards**

| Standard | All Uses |
|---|---|
| Maximum lot coverage(percent) | 50 |
| Minimum residential unit size (square feet) | 750 |
| Distance from public rights-of-way and private streets (feet) | 16 |

**C. District Dimensional Standards**

| Standard | All Uses |
|---|---|
| Distance from Cape Fear River | Must be in compliance with NC Division of Coastal Management buffer rules |
| Minimum setback, for structures abutting residentially zoned land or lot with residential development (excluding those separated by public right-of-way) | For buildings less than 50 feet in height, equal to building height<br>For buildings 50 feet in height or greater, 50 feet |
| Building height, maximum (feet) | 150, not including up to 60 feet utilized for structured parking<br>75, within the height restriction overlay area directly across from the Wilmington Historic District |
| Building height performance bonus | Additional 30 feet in height allowed if dedication of private land area for public use is greater than the required 10% minimum<br>Additional 15 feet in height for every 5% of additional permanently designated open space |

**D. Other District Standards**

### 1. Riverfront Access

**a.** RFMU designation is available only to parcels of land fronting the Cape Fear and Northeast Cape Fear Rivers east of Highway 421 between the Holmes Bridge and Cape Fear Memorial Bridge in unincorporated New Hanover County.

**b.** All development shall have direct access to navigable waters.

**c.** Pedestrian access shall be provided in intervals of no greater than one access for every 200 linear feet of shoreline.

**d.** A minimum of one pedestrian access shall be provided.

**e.** Public access across the property, between the river's edge and the public right-of-way, private street, or a structure running parallel with the river's edge, shall be provided at a minimum width of 10 feet, and shall meet ADA Design Standards. The public access shall be established by an easement or other property interest approved by the County Attorney.

**f.** All development shall dedicate the land necessary to provide for the construction of a continuous and contiguous public riverwalk along the river's edge for a length defined by the development's boundaries adjacent to the riverfront.

**g.** A riverwalk should be intensively activated with ground level retail activities and landscaping, and be designed with a series of public spaces to accentuate the pedestrian experience.

**h.** Riverfront facilities shall provide multi-modal transportation opportunities, including public boating, walking, bicycling, and public bus or water taxi uses, and the facilities necessary for such uses.

**i.** Private dock space shall not restrict public access to the riverwalk.

**j.** The riverwalk shall be designed to accommodate future connections to adjacent parcels.

**2. Common Spaces**

**a.** Plazas, courtyards, riverwalks, and other areas are necessary to provide for public gathering and interaction.

**b.** Amenities are required, such as benches, planters, lighting, fountains, art, and landscaping that furthers the design theme of the project and encourage interaction.

**c.** Each development in the RFMU district shall contain a minimum of 10% functional public space, in addition to a riverwalk. Right-of-way, other than street sidewalks, may be included within the public space calculations only if the right-of-way serves a primarily pedestrian function.

**d.** Public spaces shall be pedestrian-oriented and shall shape the design and character of the project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. The pedestrian spaces shall include features such as landscaping, gardens, benches, artwork, sculpture, and water features to improve their appeal. These spaces shall also provide a pleasant gathering space for transit users. Public space areas shall provide adequate amenities for comfort and convenience such as seating, lighting, directional signage, bicycle racks, drinking fountains, shelters, trash receptacles, or public restrooms.

**e.** To ensure that public spaces are well used, they shall be visible, easily accessible by the public, and barrier free with multiple points of entry from public areas (streets, sidewalks, walkways, the riverwalk, and bike paths). Public spaces shall be oriented to maximize exposure to the water and scenic views. Streets perpendicular to the river shoreline shall be designated as landscaped corridors that terminate with pedestrian access to the river.

**f.** Public spaces may be either natural or recreational. “Natural” public spaces are intended to protect natural resources, protect water quality, and provide habitat for wildlife. “Recreational” public spaces are intended to provide active or passive recreation opportunities. Public spaces shall have linkages that reinforce pedestrian movement. Merchandise and eating areas shall be designed to be contiguous with public spaces and pedestrian ways.

**g.** Plants used in landscaping areas shall be native species of the highest quality, and be of sufficient quantity and scale to make a visual impact. Plantings shall be selected and located so that their functional and aesthetic qualities can be maximized. Public spaces shall provide areas shaded by trees and/or structures. Small-scale stormwater treatment shall be integrated into the landscaping, whenever possible, including recessed landscaped areas with curb openings or sloped curbs to serve as rain gardens or bio infiltration

areas. Restoration of wetland vegetation is encouraged along the riverfront.

**h.** Sites of historic interest or sites providing an opportunity and context for historical interpretation along the riverfront shall be incorporated into public space areas and appropriately commemorated and marked with interpretive signage.

**i.** Development in the district shall integrate artwork into public space settings wherever possible. Artwork may consist of free-standing pieces (e.g., sculptures and fountains) or may be integrated with surroundings (e.g., relief sculpture(s) embedded into pavement or wall, mosaics, murals, decorative fixtures, etc.) to create strong visual interest. Artwork should be context-appropriate and custom-made utilizing local artisans, reinforcing and complementing the character of the riverfront. Public spaces designed to accommodate live performing arts and public gatherings should be integrated into the development, whenever feasible.

**3. View Corridors**

**a.** View of the Cape Fear River shall not be significantly obstructed by buildings or other structures.

**b.** All development shall provide view corridors along streets connecting to the river.

**c.** Any street that terminates within 50 feet of the riverwalk shall provide a public space, park, or access area that is a clearly defined entry point to the required riverwalk.

**4. Building Form and Design**

**a.** All buildings exceeding 4 stories or 50 feet in height, whichever is less, must include the following design features:

**1.** The building base (the first 4 stories or 50 feet in height, whichever is less) must be delineated and distinguished architecturally from the upper floors of the building.

**2.** The building section above the building base must have its mass reduced according to the following calculation: (Proposed Height – Base Height) X (Footprint) * 0.25 = Minimum Building Mass Reduction Above Base Height

**b.** Primary building entrances shall be oriented toward public sidewalks along primary street or riverwalk frontages. Development along new or existing public streets should provide inviting facades and, through appropriate scale and quality materials, foster a walkable pedestrian environment.

**c.** Massing and development scale:

**1.** No visible façade shall be “blank” or without features or detail. For buildings greater than 33 feet in width, visible facades shall incorporate periodic transitions no further apart than 2/3 of the building height in order to create a vertical orientation. The

transition may be achieved by utilizing at least two methods including, but not limited to, the use of façade offsets, recesses, pilasters, or change in materials.

2. For buildings exceeding 4 stories or 50 feet, whichever is less, facades shall incorporate a visual transition to distinguish the building base from the upper floors of the building. This transition may be achieved by utilizing at least two methods including, but not limited to, the use of building façade offsets, cornices, belt courses, moldings, or other linear motifs.

3. For buildings greater than 50 feet in width, facades shall be expressed as two or more separate building facades no greater than 50 feet in width utilizing the aforementioned methods. The predominant orientation of fenestration within the façade shall also be vertical. Horizontal bands or "ribbons" of windows shall not be permitted within the first 4 stories or 50 feet of building height. At least 50% of the ground-level façade shall be constructed of transparent materials or otherwise designed to allow pedestrian view of inside activities.

4. The exterior expression of any building façade must be distinguished at a point not less than 13 ½ feet above the ground level at the front façade. This distinction may be accomplished by incorporating features including, but not limited to, horizontal architectural members such as molding, belt courses, or a change in materials or fenestration.

**5. Multi-Modal Transportation Opportunities**

a. Pedestrian accessibility and concentration of development (critical mass) shall be provided within a compact, walkable area. Pedestrian circulation shall be clearly defined with paving materials and/or landscaping and shall connect all uses.

b. Bicycle and/or pedestrian connectivity to adjacent or nearby developments is required, when feasible.

c. Sidewalks are required on each side of rights-of-way and private streets throughout the development and are to be installed along all building frontages.

d. Sidewalks shall maintain a minimum width of 12 feet. Sidewalk width may be reduced on internal private streets with TRC approval.

e. Sidewalks may be limited to a single side of rights-of-way or private streets or sidewalk width may be reduced when the right-of-way or private street abuts streams, ponds, or wetlands, or when contextual design constraints dictate, as determined by the TRC.

**6. Screening:**

All dumpsters, outside storage areas, and any ground level mechanical equipment shall be screened. Screening shall be a minimum of 6 feet in height and shall consist of living and non-living material as specified in Article 5: General Development Standards.

7. **Utilities:**

   All electric, cable television, telephone utilities, fire alarm conduits, streetlight wiring, and other wiring conduits and similar utilities shall be placed underground by the developer or the appropriate utility company for all new developments.

8. **Connection to the Surrounding Community**

   **a.** Developments shall be designed as an integral part of the surrounding community, and not as an isolated development.

   **b.** Developments shall not be gated and shall be interconnected to any surrounding developments with pedestrian and vehicular connections.

   **c.** Developments shall include plants for future pedestrian and vehicular connections to adjacent undeveloped properties.

9. **Landscaping**

   **a.** Shade trees are required along all streets. Shade trees shall be a minimum caliper of 3 inches DBH, shall be spaced at least every 50 feet on center, and must be single-stem canopy trees.

   **b.** Public spaces and common areas shall be planted with a minimum of 2 single stem canopy trees per every 1,000 square feet. Canopy trees shall be a minimum caliper of 3 inches DBH. Two canopy trees may be substituted with 3 understory trees per 1,000 square feet of public space or common area where overhead obstructions or other site limitations make canopy trees impractical.

   **c.** The TRC may permit alternatives to strict conformance with the required location of public space and common area landscaping under the following conditions. However, in all cases, developments shall provide at least the minimum square footage of landscaped area and number of trees required by this section.

      **1.** Preservation of natural stands of trees and existing vegetation: Preservation of natural stands of trees may be substituted for landscaping requirements, as long as the total square footage of interior landscaping meets the minimum required.

      **2.** Additional landscaping in key areas: Provision of at least 10% greater than the minimum landscaping area required in each of the following areas: along the waterfront, at project entrances, in public spaces.

      **3.** Provision of low impact development: Landscaping necessary to achieve low impact development standards as outlined in the County's Stormwater Management Ordinance shall be provided.

10. **Parking**

   **a.** Surface parking may not exceed 5 percent of the total parking area provided or 50 spaces, whichever is less, for each development. A parking structure is considered part of the building footprint when a common wall is shared between them.

**b.** Surface parking shall be located to the side or rear of buildings or in the interior of a block. Surface parking shall not be located on the riverfront side of buildings. Surface parking shall be reserved for non-residential uses including loading areas and emergency vehicle access and must be clearly designated as such.

**c.** There must be no minimum or maximum parking limit for residential uses.

**d.** On-street parking is permitted but shall not be counted toward required parking for commercial uses.

**e.** The design of all above-grade parking structures shall be visually compatible with surrounding structures and shall relate to the design context of the area.

**1.** Exterior walls of parking structures shall be designed with materials, colors, and architectural articulation in a manner that provides visual compatibility with adjacent buildings and the environment.

**2.** All parking structures shall be visually obscured from the river.

**3.** Non-residential uses shall be included along first-floor street frontages. Active uses are encouraged on the sidewalk level of parking structures. Ground floor structured parking does not satisfy non-residential use requirements.

**11. Signs**

**a.** Directional signs not exceeding 30 inches in height or 4 square feet in area which direct on-premises vehicular or pedestrian traffic and bearing no other identification or advertising matter shall not be limited in number.

**b.** A multi-family or nonresidential principal building may install signs on or hanging beneath canopies or awnings or hanging beneath overhangs on porch roofs provided:

**1.** There is no projecting sign on the principal building;

**2.** The combined total area of signs applied to canopies and awnings shall not exceed 20 percent of the aggregate area of the face of the canopy or awning; and

**3.** Signs that are attached below a canopy, awning, overhang, or porch roof shall not extend beyond the width of such canopy, awning, overhang or porch roof and shall have a clearance of not less than 9 feet above the pedestrian walkway and shall not exceed 3 square feet in area.

**c.** A multi-family or nonresidential principal building may install on-premises window signs provided:

**1.** The area of such signs shall not exceed an aggregate area equal to 10 percent of the total ground floor glassed window area of the building;

2. Such signs, if located inside the window, may be neon signs; and

3. Such signs shall not be located above the second floor.

**d.** A single-family residential premises may erect one on-premises and/or one special purpose sign subject to the following restrictions:

1. Such signs refer only to the name, home occupation, address, and/or special purpose of the occupant therein.

2. Such sign shall not exceed 4 square feet in area.

3. Such sign shall be setback a minimum of 5 feet from any property line.

4. Such sign shall not be located at a height above 6 feet.

**e.** A multi-family or nonresidential principal building may display incidental signs that are flat mounted against the building, window, or door and do not exceed a total area of 2 square feet.

**f.** A revolving sign, specifically that of a striped barber pole, is allowed only in conjunction with a barber shop.

**g.** External illumination, if used, shall not be blinking, fluctuating, or moving. Light rays shall shine only upon the property within the premises and shall not spill over the property lines in any direction, except by indirect reflection.

**h.** Any premises or principal building may erect one real estate or construction sign advertising specific property for sale, rent, lease, development, or construction, located on the premises, provided that sale, rent, or lease (real estate) signs do not exceed 6 square feet in area and development or construction signs do not exceed 35 square feet in area.

**i.** Any premises may display one on-premises freestanding sign that does not exceed 35 square feet in area or 10 feet in height.

**j.** Any principal building may display attached signs subject to the following restrictions:

1. Only one attached sign per each frontage shall be permitted;

2. Such sign is mounted parallel to the building to which it is attached and projects no more than 18 inches from that building;

3. Such signs shall not extend beyond the roofline of the building to which it is attached; and

4. The combined total area of such signs shall not exceed 20 percent of the total area of the wall to which the sign is attached, not to exceed 200 square feet in total area.

**k.** Attached signs may be displayed on the side or rear of a building adjacent to an off-street parking area if the off-street parking area is 33 feet or more in width. Such signs shall be subject to the same regulations as attached signs on the street side of the building. However, the side or rear of the building adjacent to the off-street

parking area shall not be included when calculating the area allowable to attached signs on the street side.

**l.** Any principal building may display one projecting sign subject to the following restrictions:

**1.** There is no detached sign on the premises;

**2.** Such sign may project horizontally a maximum of 6 feet but shall be set back at least 2 feet from the back face of the curb or outer edge of the pavement where there is no curb. Setback distances for projecting signs which front on state roads must be approved by the North Carolina Department of Transportation;

**3.** Such signs shall be erected at a height of not less than 9 feet above the sidewalk or other pedestrian passageway;

**4.** Such sign shall not exceed beyond the roof line of the building to which it is attached; and

**5.** Such sign shall not exceed 15 square feet in area.

**m.** Any premises or principal building may place sandwich board signs on the public sidewalk subject to the following restrictions:

**1.** Only one sandwich board sign is allowed per street frontage;

**2.** No sandwich board sign shall exceed 8 square feet per side in area. In addition, the width of the sign may not exceed 2 linear feet, with a maximum height of 4 feet. Within these specified maximum dimensions, creative shapes that reflect the theme of the business being advertised are encouraged (i.e., ice cream shop may display a sign in the shape of an ice cream cone);

**3.** Sandwich board signs shall be displayed only during operational hours of the business being advertised and shall not be lighted. These signs must be removed each day at the close of business. The hours of business operation shall be indicated on the inside surface of the sign board.

**4.** Sandwich board signs may be placed on the sidewalk directly in front of the associated use. Along streets with no parallel parking, sandwich board signs shall be placed on the sidewalk within 4 feet of the curb. Along streets with parallel parking, a 2-foot step-out zone shall be provided, and sandwich board signs shall be placed on the sidewalk at least 2 feet from the curb but not more than 4 feet from the curb. The location of any sandwich board sign shall be at least 20 feet from any intersection and at least 5 feet from any crosswalk or fire hydrant. No sandwich board sign may be placed where the unobstructed space for the passageway of pedestrians is reduced to less than 4 feet. Trees, poles, signs, hydrants, trash receptacles, tree grates, etc. are all considered obstructions.

**5.** The sign must be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign lettering should be professionally painted or applied; a “yard sale”

or “graffiti” look with hand painted or paint-stenciled letters is not acceptable; however, chalkboard signs shall be permitted. The written message on the board should be kept to the minimum necessary to communicate the name of a business or a special message of the business.

6. Any person erecting a sandwich board sign shall indemnify and hold harmless New Hanover County and its officers, agents, and employees from any claim arising out of the presence of the sign on County property or public rights-of-way. The person erecting a sandwich board sign shall sign an indemnification agreement, approved by the County Attorney, prior to the issuance of a sign permit. The indemnification agreement shall be accompanied by evidence of insurance covering the liability assumed in this subsection and the agreement.

7. Questions as to placement of sandwich board signs shall be determined by the Planning Director.

**n.** Freestanding signs, pole signs, and outdoor advertising signs shall not be permitted.

**o.** Project entrance signs shall be integrated into site entry, structural, and landscape features and meet the following standards:

1. The sign area shall not exceed 75 square feet and its vertical dimension shall not exceed 4 feet.

2. The maximum height of any entry structure shall not exceed 6 feet.

3. The sign and any structures shall be located so as to not obstruct the view of persons entering or leaving the development.

4. The main and secondary entrances shall be designated on the site plan.

5. Two monument signs are allowed at the main entrance way, one on each side of the road or driveway with a combined total area not to exceed 150 square feet and with a maximum vertical dimension of 4 feet.

6. Secondary entranceways shall be restricted to one monument sign, not to exceed 18 square feet in area and with a vertical dimension of 4 feet. However, if secondary entranceway signs are incorporated within an entry wall or other entry feature, 2 signs are allowed, one on each side of the access road, not to exceed a combined total surface area of 27 square feet and a vertical dimension of 4 feet.

7. The main entranceway sign text is limited to the development name and the name of one tenant. Sign area devoted to a tenant name is limited to 25 percent of any sign area.

8. Secondary entranceway text is limited to the development name only.

**p.** Internal illumination is prohibited except for kinetic signs, which may be allowed on buildings housing amphitheaters; cultural arts centers, including theaters; meeting and event centers; museums; and movie theaters (except drive-ins); provided that:

**1.** The kinetic sign shall be displayed on only one wall of the building;

**2.** The wall on which the kinetic sign is displayed shall not front any thoroughfare or arterial road;

**3.** The kinetic sign shall not strobe or flash or utilize graphics, letters, or text;

**4.** The area of the kinetic sign shall not exceed 1,200 square feet or 10 percent of the area of the building façade on which it is installed, whichever is less;

**5.** Between the hours of 11:00 PM and 7:00 AM, the kinetic sign color shall be stationary and restricted to one color; and

**6.** The kinetic sign shall be approved by the Riverfront Mixed Use development property owners' association and shall be consistent with the architectural guidelines of the development.

| **E. Reference to Other Standards** | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Article 6: Subdivision Design and Improvement |
| Section 5.3 Tree Retention | Article 7: Stormwater Management |
| Section 5.4 Landscaping and Buffering | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.3.6. EXCEPTIONAL DESIGN (EDZD) PLANNED DEVELOPMENT DISTRICT

### A. Purpose

The Exceptional Design Zoning District (EDZD) provides opportunities for mixed use and high density residential projects within the unincorporated areas of the County where appropriate urban features are in place to support such projects without the negative impacts of urban sprawl. Through the conservation of water bodies, wetlands, floodplains, and open space, it is intended that this district will prevent the degradation of water quality and foster the preservation of natural hydrology, habitat, and biodiversity. In addition, the district is intended to provide design flexibility to achieve public and private spaces that advance a sense of community in a well-integrated service area that diminishes the need for vehicular traffic and encourages bicycle and pedestrian movements. The EDZD shall be located with respect to public and private facilities existing or clearly available by the time they are required within the development.

### B. Applicability

1. EDZD projects must be located on sites suitable for development in the manner proposed without creating hazards to persons or property, on or off the district, and free from the probability of flooding, erosion, subsidence, or slipping of the soil or other dangers. Condition of soil, groundwater level, drainage and topography shall all be appropriate to both the kind and pattern of use intended. If appropriate to the form and function of development, lands to be included in EDZD districts may be divided by streets, alleys, rights-of-way, or easements but shall be located, dimensioned, and arranged as to permit unified planning and development and to meet all requirements in connection therewith, as well as to provide necessary protection against adverse relationships between uses in the district and uses in surrounding area.
2. Areas classified as Rural Residential place type, Conservation place type, AE or VE special flood hazard areas, or CAMA Estuarine Areas of Environmental Concern are not eligible for residential density greater than 2.5 units per acre, and such acreage, with the exception of area within the Rural Residential place type, must be subtracted from the acreage upon which density on other portions of the district is calculated. All other areas of the unincorporated planning jurisdiction for New Hanover County are eligible for the EDZD.
3. A district must include the entirety of the parcel or parcels being considered, and the applicant must be the owner or owners of all the property to be included in the district. The applicant must demonstrate that the property is jointly owned or be subject to a formal agreement for unified control. Authorization to construct shall not be issued until unified control is established.
4. A district may not extend across any major or minor arterial roadway having three or more lanes of vehicular traffic unless the district proposed multiple, unified development phases of mixed uses having safe, signalized vehicular, pedestrian and bicycle facilities to connect the projects, such as crosswalk signals, pedestrian overpasses, refuge islands, etc.

## C. Use Standards

The principal uses in an EDZD District shall be as set out and approved in the original approving action, unless otherwise amended by the Board of Commissioners. To be eligible for density or floor area ratio bonuses, a project must include a mix of uses (see Section 3.3.6.E.9, Exceptional Design Density Incentives). After the MPD Master Plan has been approved, changes in any principal use or accessory use shall constitute a change in the approved EDZD District and shall require approval by the Board of Commissioners.

## D. District Dimensional Standards

Development in the EDZD district shall conform to the standards outlined in Table 3.3.6.D: Exceptional Design Zoning District (EDZD) Density & Dimensional Standards.

**Table 3.3.6.D: Exceptional Design Zoning District (EDZD) Density & Dimensional Standards**

| | |
|---|---|
| **Residential Density (maximum)** | |
| Areas classified as Rural Residential place type, Conservation place type, AE or VE special flood hazard areas, or CAMA Estuarine Areas of Environmental Concern* | 2.5 dwelling units/acre |
| All other projects | 6 dwelling units/acre (unless awarded density bonuses in accordance with Section 3.3.6.E.9, Exceptional Design Density Incentives) |
| **Setbacks (minimum)** | |
| District Periphery | 20 feet (if proposed setback less than proposed height of buildings, the application must include an explanation of how the project reasonably addresses privacy, light, air, and safety impacts upon adjoining properties) |
| **Structure Size (maximum)** | |
| Height | 40 feet for any building within 200 ft. of any residentially zoned or used property |

* Such acreage, with the exception of area within the Rural Residential place type, must be subtracted from the acreage upon which density on other portions of the district is calculated.

## E. Other District Standards

### 1. Exceptional Design Standards

Projects must meet a minimum of one qualifying option for each of the standards outlined in Table 3.3.6.E.1: Exceptional Design Core Requirements, and must be eligible for a minimum of 12 points as outlined in Table 3.3.6.E.2: Exceptional Design Additional Requirements. The EDZD certification must be assured during the first phase of

development or prior to completion of more than 24 units. A progress report shall be submitted after each phase indicating the proposed timeline for completion of the EDZD elements.

| Table 3.3.6.E.1: Exceptional Design Core Requirements | |
|---|---|
| Smart Location | Option 1: Proposed project is located on an infill site or previously developed site, as defined in this Ordinance. |
| | Option 2: Proposed project is located so that 25% of the project boundary is adjacent to a previously developed property and connectivity of the site and adjacent land is at least 90 intersections/square mile as measured within a ½-mile distance of a continuous segment of the project boundary. In addition, the project is located and/or designed so that a through street and/or non-motorized right-of-way intersects the project boundary at least every 800 feet, connecting with an existing street and/or right-of-way outside the project. |
| | Option 3: Proposed project is located and/or designed so that at least 50% of dwelling units and business entrances within the project must be located within a ½-mile walk distance, as defined in this Ordinance, of existing or planned transit stops. For planned transit stops, the transit agency must certify that it has an approved budget that includes specifically allocated funds for the transit stop and that the stop will be constructed no later than the occupancy of 50% of the project's total building square footage. |
| | Option 4: Proposed project boundary must be within ¼-mile walk distance, as defined in this Ordinance, of at least 5 or within a ½-mile walk distances of at least 7 of the diverse uses listed in Table 3.3.6.E.8. Uses must include at least one use from each of the three diverse use categories with the following limitations:<br>• Uses may not be counted in two categories (i.e., a school may only be counted once even if it contains a daycare facility);<br>• A mixed use building containing several uses as distinctly operated enterprises with separate exterior entrances may count each as a separate use, but no more than half of the minimum number of diverse uses can be situated in a single building or under a common roof; and<br>• A single retail store of any type may only be counted once even if it sells products associated with multiple use types. |
| Proximity to Water and Wastewater Infrastructure | Option 1: Proposed project is located on a site served by existing water and wastewater infrastructure. Replacement of or other on-location improvements to existing infrastructure are considered existing for the purpose of achieving this option. |
| | Option 2: Proposed project is located within an area scheduled for water and sewer expansion where verifiable expansion plans can be provided and allocation of capacity can be confirmed with the Cape Fear Public Utility Authority. |
| Significant Species and Ecological Communities | Option 1: After consultation with the NC Natural Heritage Program map as found on the New Hanover County online mapping services, no species listed under the federal Endangered Species Act, NC endangered species list, or NC Natural Heritage Program as nationally, state, or regionally significant is present or likely to be present. |
| | Option 2: If initial consultation with the NC Natural Heritage Program map is inconclusive, then a qualified biological scientist performs biological surveys to determine the presence of endangered or significant species or the applicant consults with the NC Natural Heritage Program in Raleigh to receive a state determination, and none of the above species is present or likely to be present. |
| | Option 3: If endangered or significant species are found, the project complies with an approved Habitat Conservation Plan (HCP) under the Endangered Species Act for each |

| Table 3.3.6.E.1: Exceptional Design Core Requirements | |
|---|---|
| | species or an approved mitigation plan received from the NC Natural Heritage Program. |
| | Option 4: If endangered or significant species are found an no approved HCP or approved mitigation plan exists, the applicant must work with an appropriate authority to create and develop one, and the project shall be designed to comply with it. |
| Wetland and Water Body Conservation and Preservation | Option 1: The project is located on a site that includes no jurisdictional wetlands, water bodies (including but not limited to intermittent and perennial streams) or land within 100 feet of these areas. |
| | Option 2: The project is located such that pre-project jurisdictional wetlands, water bodies (including but not limited to intermittent and perennial streams), and land within 100 feet of such areas shall not experience significant destruction or lasting detrimental effects to water quality or other protected natural resources as a result of new development. Significant destruction shall include the construction, excavation, or deposition of materials in, over, or on such land or any work that would affect the course, location, condition, or capacity of the receiving water body. A long-term management plan, as defined by this Ordinance, for on-site water bodies and wetlands and their buffers, along with a guaranteed funding source for management, shall be required. |
| Floodplain Avoidance | Option 1: The project is located on a site that does not contain any land within a 100-year floodplain. |
| | Option 2: The project is located on an infill site or a previously developed site, as defined by this Ordinance, and complies with the NFIP requirements for developing portions of the site that lie within the floodplain. |
| | Option 3: Development is limited to portions of the site that are not in a floodplain or portions of the site that have been previously developed. |

| Table 3.3.6.E.2: Exceptional Design Additional Requirements | |
|---|---|
| Mix of Uses<br>(2 points) | • The project includes a residential component that constitutes at least 25% of the project's total building square footage; and<br>• The project is located and/or designed so that at least 50% of the dwelling u nits are within ½-mile walk distance of at least 3 of the diverse uses listed in Section 3.3.6.E.9, Exceptional Design Density Incentives. At least one use from two of the three diverse use categories is required. |
| Bicycle and Pedestrian Access<br>(Option 1: 2 points; Option 2: 4 points; 4 points maximum) | • The project includes an internal bicycle and pedestrian network with a pedestrian or bicycle through-connection in at least 90% of any new cul-de-sacs, except where prohibited by topographical conditions;<br>• Bicycle parking and storage in the form of secure on-site bicycle racks is provided for any multifamily, retail, and commercial development in accordance with the following standards:<br>  ○ Multifamily: 1 space per 10 dwelling units with a minimum of 4 spaces per project site;<br>  ○ Retail: 1 space per 5,000 square feet of retail space with a minimum of 1 space per business or 4 per project site, whichever is greater;<br>  ○ Commercial non-retail: 1 space per 10,000 square feet of commercial non-retail space with a minimum of 4 spaces per building; and<br>• The project is designed to meet at least one of the following options:<br>  ○ *Option 1:* A planned bicycle network, as defined by this Ordinance, of at least 5 continuous miles in length is within ¼-mile bicycling distance of the project boundary. For planned bicycle networks, the network must be listed in a plan adopted by the New Hanover County Board of Commissioners.<br>  ○ *Option 2:* An existing bicycle network, as defined by this Ordinance, of at least 5 continuous miles in length is within ¼-mile bicycling distance of the project boundary and connects to either a school, employment center, or commercial center that contains at least 7 of the diverse uses listed in Section 3.3.6.E.9, Exceptional Design Density Incentives. |
| Housing and Jobs/ Commercial Opportunity Proximity<br>(2 points) | • *Option 1:* The project includes a residential component equaling at least 30% of the project's total building square footage and is located and/or designed so that the geographic center of the project is within a ½-mile walk distance of pre-project full-time equivalent jobs equal to or greater than the number of dwelling units in the project.<br>• *Option 2:* The project includes a non-residential component equaling at least 30% of the project's total building square footage. |
| Transit Facilities<br>(4 points) | • The project is located within ½-mile of an existing or planned transit route. The transit agency must certify that it has an approved budget that includes specifically allocated funds sufficient to provide the planned service and that service will commence no later than occupancy of 50% of the project's total building square footage; and<br>• The development plans shall include or identify covered and at least partially enclosed shelters, adequate to buffer wind and rain, with at least one bench, at each transit stop within the development; and<br>• The development plans shall include kiosks, bulletin boards, and/or signs devoted to providing local public transit information as part of the project, including basic schedule and route information at each public transit stop within or bordering the project. |

| Table 3.3.6.E.2: Exceptional Design Additional Requirements | |
|---|---|
| Certified Green Building (2 points) | A minimum of one whole residential or non-residential building is designed, constructed, or retrofitted and certified through LEED, NAHB Green Building Standards, North Carolina Healthy Built Homes, or Green Globes. |
| Minimum Building Energy Efficiency (2 points) | • New multi-family residential (4+ stories), non-residential, and mixed use buildings meet at least three of the additional requirements listed in the N.C. Energy Conservation Code for Commercial buildings; and<br>• Ninety percent of new multifamily residential (3 stories or less) and single-family residential buildings meet the HERO option listed within the Energy Conservation Code of the N.C. State Building Code. |
| On-Site Renewable Energy Sources (2 points) | The project incorporates on-site nonpolluting renewable energy generation, such as solar and geothermal energy, with production capacity of at least 5% of the project's annual electrical and thermal energy cost (exclusive of existing buildings), as established through an accepted building energy performance simulation tool. |
| Water Efficient Landscaping (2 points) | The project reduces potable water consumption for outdoor landscape irrigation by limiting turf to 25% or less, incorporating rainwater catchment system(s) such as rain barrels or cisterns into the project, installing drip irrigation, and utilizing stormwater for landscape irrigation. |
| Native Landscapes (2 points) | • A comprehensive inventory of existing trees and vegetation identifies native, nonnative, and invasive vegetation is conducted on the project site; and<br>• A landscape plan that preserves and enhances native landscapes and eradicates or prevents the spread of nonnative and invasive species is incorporated into the project; and<br>• All noninvasive significant trees in good or excellent condition shall be maintained as part of this plan. |
| Building Orientation (2 points) | The project is designed so that a minimum of 75% of the building sites are constructed with the longer dimension of the structure facing 0-30 degrees of south. |
| Affordable Housing (4 points) | A minimum of 15% of rental and/or for-sale dwellings are prices for households earning below area median income (AMI). Rental units must be priced for households earning 60% of AMI as calculated annually based on the HUD Standard Income and Rent Limits table. For-sale unit affordability is based on sale price limits established by the North Carolina Housing Finance Agency First-Time Home Buyer Mortgage and Down Payment Assistance Program. |

### 2. Parking

Off-street parking shall be provided as required in Section 5.1, Parking and Loading, except that projects that meet the Mix of Uses, Bicycle and Pedestrian Access, and Housing and Jobs/Commercial Opportunity Proximity requirements in Table 3.3.6.E.2: Exceptional Design Additional Requirements, may reduce the minimum parking requirements by ten percent within the commercial component of the project.

### 3. Connectivity

In order to promote projects that have high levels of internal connectivity and are well connected to the community at large, gates or other obstructions may not be utilized on roads entering, exiting, or within the development.

**4. Buffering Allowance**

Landscaping and buffering shall be provided in accordance with Section 5.4, Landscaping and Buffering, except that required buffers may be allowed within electric utility easements greater than 30 feet with the permission of the appropriate utility company. A memorandum of agreement must be in place stating that the buffer will be maintained in perpetuity in accordance with the standards for size, opacity, and location.

**5. Street Lights**

Street lights shall be included at the rate of one fixture per 500 linear feet or less or roadway.

**6. Open Space**
*[11-16-2020]*

A minimum 35 percent of the gross area of each EDZD district established shall be set aside as open space in accordance with the standards in Section 5.8, Open Space Requirements.

**a.** To prevent bacterial contamination of surface water, pet waste stations shall be installed within required open spaces, and a maintenance schedule for the pet waste stations shall be implemented.

**7. Stormwater Management**

A comprehensive stormwater management plan that infiltrates and reuses stormwater runoff shall be developed and implemented for the project. Stormwater shall be managed following the principles prescribed in the New Hanover County-City of Wilmington Joint Low Impact Development Manual and will enable a project to use the LID-EZ Spreadsheet Tool.

**8. Homeowners Association**

EDZD developments shall be required to comply with the homeowners association standards for Performance Residential Subdivisions, as found in Section 3.2.D.7: Homeowners Association.

**9. Exceptional Design Density Incentives**

**a.** Only projects complying with the Mix of Uses additional requirements as outlined in Table 3.3.6.E.2: Exceptional Design Additional Requirements, are eligible for density or floor area ratio bonuses.

**b.** Compliance with Mix of Uses additional requirements shall be determined in accordance with Table 3.3.6.E.9: Diversity of Uses.

| Table 3.3.6.E.9: Diversity of Uses | |
|---|---|
| **Use Type 1: Retail** | **Convenience Store**<br>**Florist**<br>**Hardware Store**<br>**Pharmacy**<br>**Grocery Store**<br>**Miscellaneous Retail** |
| **Use Type 2: Services** | **Bank**<br>**Coffee Shop**<br>**Hair Care**<br>**Laundry/Dry Cleaner**<br>**Medical/Dental Office**<br>**Restaurant**<br>**Office for private business and/or professional activities** |
| **Use Type 3: Civic/Community Facilities** | **Child Care (licensed)**<br>**Civic/Community Center**<br>**Place of Worship (in a building)**<br>**Police/Fire Station**<br>**Post Office**<br>**Public Library**<br>**Public Park**<br>**School**<br>**Senior Care**<br>**Social Services Facility** |

**c.** Any points an eligible project is awarded beyond the 12-point minimum, as outlined in Table 3.3.6.E.2: Exceptional Design Additional Requirements, may be applied toward the density or floor area ratio bonuses at a rate of 1 additional dwelling unit OR 1/10 additional FAR per additional design point accrued.

**F. Reference to Other Standards**

| | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Article 6: Subdivision Design and Improvement |
| Section 5.3 Tree Retention | Article 7: Stormwater Management |
| Section 5.4 Landscaping and Buffering | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.3.7. PLANNED DEVELOPMENT (PD) DISTRICT

*[09-08-2020]*

### A. Purpose

The Planned Development (PD) District is established to encourage innovative, integrated, and efficient land planning and site design concepts that achieve a high quality of development, environmental sensitivity, and adequate public facilities and services, and that provide community benefits, by:

- Reducing the inflexibility of zoning district standards that sometimes result from strict application of the base district, and development standards;
- Allowing greater flexibility in selecting: the form and design of development, the ways by which pedestrians and traffic circulate, how the development is located and designed to respect the natural features of the land and protect the environment, the location, and integration of open space and civic space into the development, and design amenities;
- Encouraging a greater mix of land uses within the same development;
- Allowing more efficient use of land, with smaller networks of streets and utilities;
- Providing pedestrian connections within the site and to the public right-of-way; and
- Promoting development forms and patterns that respect the character of established surrounding neighborhoods and other types of land uses.

### B. Concept

### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are identified in Article 4: Uses and Use-Specific Standards. The allowed uses are only permitted for development if they are included in the MPD Master Plan that is approved as part of the PD district in accordance with Section 3.3.3.A, MDP Master Plan.

**D. District Dimensional and Density Standards** *[09-08-2020]*

| Standard | Residential Uses | Commercial Uses | Industrial Uses |
|---|---|---|---|
| Minimum district size, under common ownership or joint petition: 10 acres | | | |
| Building setback from PD District boundary (feet) | 20 | CB Setback Requirements | I-1 Setback Requirements |
| Building setback from pedestrian and bicycle paths (feet) | 10 | | |
| Front setback (feet) | Established in MPD Master Plan in accordance with Section 3.3.3.A, MPD Master Plan | | |
| Side setback, street (feet) | | | |
| Side setback, interior (feet) | | | |
| Rear setback (feet) | | | |
| Density, maximum (du/acre) | * | | |
| Intensity, maximum | Established in MPD Master Plan in accordance with Section 3.3.3.A, MPD Master Plan | | |
| Building height, maximum (feet) | 40** | | |

* Maximum density in Urban Mixed Use areas identified on the New Hanover County Future Land Use Map shall be established in the MPD Master Plan. Maximum Density in areas outside of the Urban Mixed Use areas shall also be established in the MPD Master Plan but shall not exceed 17 dwelling units per acre.

** There is no maximum building height for Agricultural or Industrial uses. The maximum building height is 80 feet for buildings located within the Urban Mixed Use, Community Mixed Use, or Employment Center areas identified on the New Hanover County Future Land Use Map and fronting along a collector, minor arterial, or principal arterial as indicated on the Wilmington Urban Area MPO functional classification map.

**E. Other District Standards**

### 1. Compensating Community Benefits

Compensating community benefits shall be identified in the MPD Master Plan. These benefits shall be in addition to what is otherwise required to meet the minimum standards of this UDO and other County, state, and federal regulations. They may include, but are not limited to:

#### a. Improved Design

The use of architectural design that exceeds any minimum standards established in this UDO or any other County regulation, or the use of site design incorporating principals of walkable urbanism and traditional neighborhood development, compatible with the comprehensive plan and other adopted County plans.

#### b. Natural Preservation

The preservation of sensitive lands such as natural habitats, natural features, or trees that exceed the requirements of this UDO, when they are located on the site.

### c. Improved Connectivity for Pedestrians and/or Vehicles

Additional connections to existing roads, bicycle facilities, and pedestrian facilities that provide additional connectivity to and from the development and existing residential and commercial development in the County, beyond the requirements of Section 5.2, Traffic, Access, and Connectivity.

### d. Mixed-Use Development

The approval of a significant amount of mixed-use development on the site, by ensuring that a minimum of 35 percent of the total gross square feet in the development (and 25 percent of the land area) will be developed in an integrated mixed-use form (residential and nonresidential), with sidewalks on both sides of the street, and street trees spaced appropriately along the street.

### e. Green Building Practices

The inclusion of green building practices that may include but not be limited to: LEED buildings (or a comparable); the integration of low-impact development techniques; the use of alternative energy to generate power (solar or wind); energy conservation practices; water conservation practices; tree conservation (exceeding the requirements of this UDO); recycling; and similar practices.

### f. Dedication of Land or Facilities or In-Lieu Fee Contribution

#### 1. Parks, Recreation, and Open Space

The dedication of land, construction of facilities, or contribution of in-lieu fee for public parks, trails and trail linkages, greenways, waterfront access, recreation facilities, or open space identified in the comprehensive plan or other adopted County plans, beyond the requirements of Section 5.5, Open Space Set-Aside Standards.

#### 2. Transportation Facilities

The dedication of land, construction of facilities, or contribution of in-lieu fees for off-site transportation facilities that exceed the mitigation requirements of Section 5.2.4, Traffic Impact Worksheet.

#### 3. Community Facilities

The dedication of land or construction of facilities for community facilities (e.g., cultural arts center, public plaza, and public art) identified in the comprehensive plan or other adopted County plans.

#### 4. Workforce Housing

The construction of workforce dwelling units.

5. **Other**

   Any other community benefit that would provide benefits to the development site and the citizens of the County, generally.

**2. Development Standards Subject to Modification**

Except as required in subsections 3 through 5 below, development in a PD district shall comply with the standards in Article 5: General Development Standards, Article 6: Subdivision Design and Improvements, Article 7: Stormwater Management, Article 8: Erosion and Sedimentation Control, and Article 9: Flood Damage Prevention, unless they are modified as allowed by Table 3.3.7.E.2: PD District Development Standards Subject to Modification, and accompanied by documentation providing a clear basis for why the change is needed, how it supports the purposes of the district, and how it supports high-quality development.

**Table 3.3.7.E.2: PD District Development Standards Subject to Modification**

| Standard | Means to Modify |
|---|---|
| **Article 5: General Development Standards** | |
| **Section 5.1 Parking and Loading** | MPD Master Plan |
| **Section 5.2 Traffic, Access, and Connectivity** | MPD Master Plan |
| **Section 5.3 Tree Retention** | No modification |
| **Section 5.4 Landscaping and Buffering** | No modification |
| **Section 5.5 Exterior Lighting** | MPD Master Plan |
| **Section 5.6 Signs** | MPD Master Plan |
| **Section 5.7 Conservation Resources** | No modification |
| **Section 5.8 Open Space Requirements** | MPD Master Plan |
| **Section 5.9 Fire Hydrants** | No modification |
| **Section 5.10 Airport Height Restriction** | No modification |
| **Article 6: Subdivision Design and Improvements** | |
| **Section 6.1 General Purpose** | No modification |
| **Section 6.2 Design Standards** | MPD Master Plan |
| **Section 6.3 Improvements** | MPD Master Plan |
| **Article 7: Stormwater Management** | (reserved) |
| **Article 8: Erosion and Sedimentation Control** | No modification *[11-16-2020]* |
| **Article 9: Flood Damage Prevention** | No modification |

**3. Minimum Infrastructure Improvements**

The following minimum improvements and public services shall be provided in accordance with all standards set by the County or appropriate local or State agency:

**a.** Water supply and sewer facilities provided by the Cape Fear Public Utility Authority or an equivalent agency;

**b.** Fire hydrant and water supply systems that meet the standards specified in the National Fire Protection Association Standard as amended;

**c.** A drainage plan in accordance with Section 6.3.3.E, Surface Water Drainage, and the County's Stormwater Management Ordinance.

**d.** Street lights, at the rate of one fixture per 500 linear feet or less of roadway.

**e.** Audible fire alarm systems connected directly to a central dispatch system for all structures except single-family and two-family (duplex) residential.

**4. Building Separations Standards**

**a.** The project shall be designed so as to avoid encroachment into the path of any proposed transportation project included in the Wilmington MPO's Metropolitan Transportation Plan.

**b.** Multi-family dwelling units shall be spaced a minimum of 20 feet from any part of another dwelling unit. All other dwelling units shall be spaced a minimum of 10 feet from each other. *[11-16-2020]*

# Section 3.4. Commercial and Industrial Districts

### 3.4.1. INTENT

**A.** The commercial and industrial districts are intended to:

**B.** Help implement the adopted New Hanover County Comprehensive Plan by accommodating a full range of office, retail, commercial, service, and mixed uses needed by New Hanover County's residents, businesses, visitors, and workers;

**C.** Maintain and enhance the County's economic base and provide shopping, entertainment, and employment opportunities close to where people live and work;

**D.** Preserve, protect, and promote employment-generating uses;

**E.** Create suitable environments for various types of commercial and industrial uses and protect them from the adverse effects of incompatible uses;

**F.** Allow flexibility to encourage redevelopment and positive improvements to existing businesses and residences;

**G.** Minimize potential negative impacts of heavy impact nonresidential development on adjacent residential areas;

**H.** Provide suitable locations for public and semipublic uses needed to complement nonresidential development; and

**I.** Encourage site planning, land use planning, and architectural design that create an interesting and pedestrian-friendly environment, where appropriate.

### 3.4.2. ESTABLISHED COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

The commercial and industrial zoning districts established by this UDO are identified in Table 3.5.2: Established Commercial and Industrial Base Zoning Districts

**Table 3.5.2: Established Commercial and Industrial Zoning Districts**

| Category | District | Abbreviation |
|---|---|---|
| Commercial & Industrial | Neighborhood Business | B-1 |
| | Community Business | CB |
| | Regional Business | B-2 |
| | Office and Institutional | O&I |
| | Shopping Center | SC |
| | Commercial Services | CS |
| | Airport Commerce | AC |
| | Light Industrial | I-1 |
| | Heavy Industrial | I-2 |

## 3.4.3. NEIGHBORHOOD BUSINESS (B-1) DISTRICT

### A. Purpose

The purpose of the Neighborhood Business (B-1) District is to provide lands that accommodate a range of small-scale, low-intensity, neighborhood-serving commercial development that provide goods and services to residents of adjacent neighborhoods. District regulations are intended to ensure uses, development intensities, and a development form that is consistent with a pedestrian-friendly, walkable, and neighborhood scale. Mixed use development is allowed that is consistent with district character.

### B. Concept

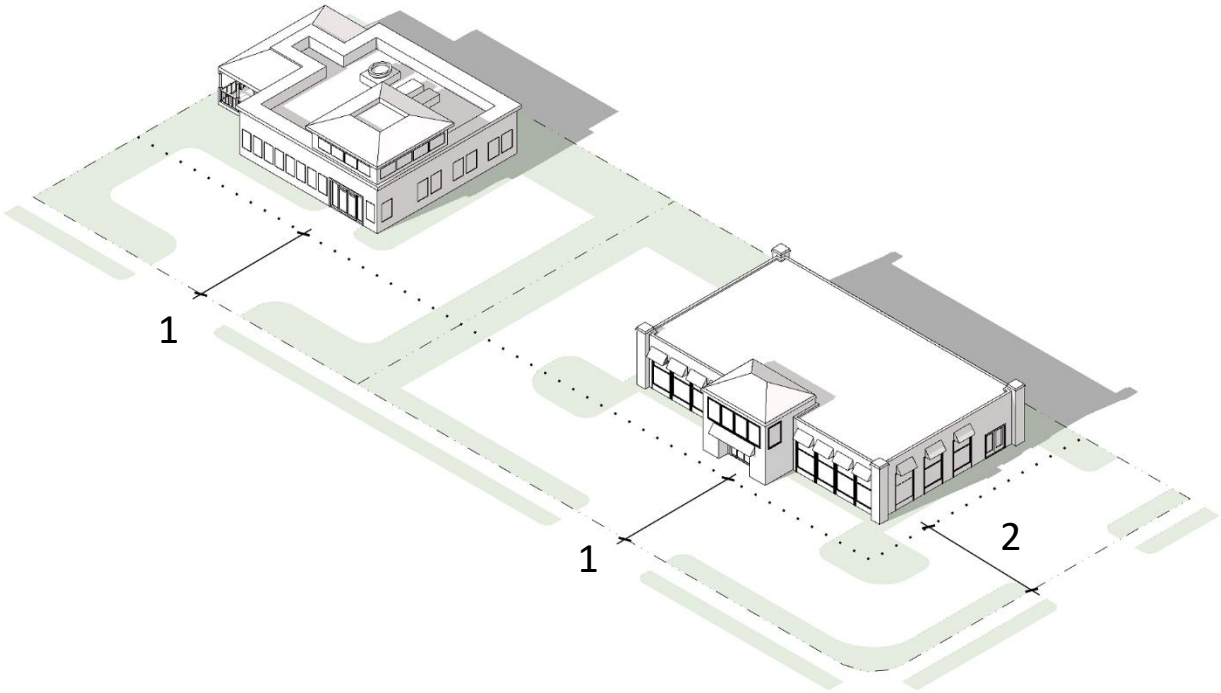
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards

| | Standard | All Uses |
|---|---|---|
| | Lot area, minimum (square feet) | None |
| | Lot width, minimum (feet) | None |
| 1 | Front setback (feet) | 50 along highways and major thoroughfares;<br>35 along all other public highways or streets |
| 2 | Side setback, street (feet) | 50 along highways and major thoroughfares;<br>35 along all other public highways or streets |
| | Side setback, interior | * |
| | Rear setback | * |
| | Building height, maximum (feet) | 35 |

* Determined in accordance with Section 3.1.3.C, Setback Requirements in Certain Commercial and Industrial Districts.




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.4.4. COMMUNITY BUSINESS (CB) DISTRICT

### A. Purpose

The purpose of the Community Business (CB) District is to provide lands that accommodate the development, growth, and continued operation of businesses that serve surrounding neighborhoods with goods and services needed for a variety of daily and long-term purposes. Development in the CB district should be designed in a form and at a scale that is both walkable and accessible to vehicles, and located at intersections and along streets that will allow multiple neighborhoods access to the district's businesses. CB district lands can serve as a buffer between higher density/intensity development and moderate or low density multi-family and single family neighborhoods.

### B. Concept

### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

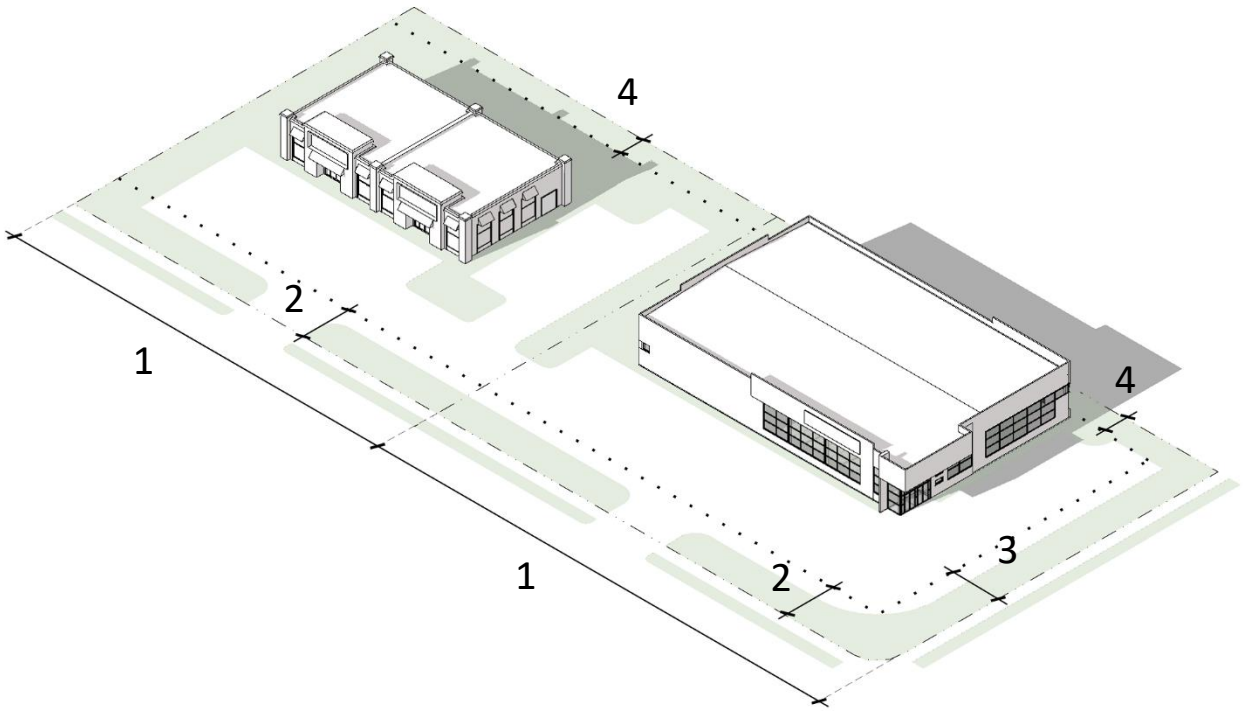
### D. District Dimensional Standards

| | Standard | All Uses |
|---|---|---|
| | Lot area, minimum (acres) | ½ |
| 1 | Lot width, minimum (feet) | 80 |
| 2 | Front setback (feet) | 20 |
| 3 | Side setback, street (feet) | 20 |
| | Side setback, interior (feet) | None* |
| 4 | Rear setback (feet) | 10** |
| | Building height, maximum | 3 stories, not to exceed 45 feet*** |
| | Floor area per development site, maximum (square feet) | 100,000 |

* Interior side setback is 20 feet from abutting residentially zoned land or lots on which there is residential development.

** Rear setback is 25 feet from abutting residentially zoned land or lots on which there is residential development.

*** Buildings with heights over 35 feet are subject to an additional setback requirement of 4 additional feet.




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.4.5. REGIONAL BUSINESS (B-2) DISTRICT

### A. Purpose

The intent of the Regional Business (B-2) District is to provide for the proper site layout and development of larger format or larger structure size business uses, including big box stores and automobile dealers. It is also designed to provide for the appropriate location and design of auto-oriented uses that meet the needs of the motoring public or that rely on pass-by traffic.

### B. Concept

### C. Use Standards

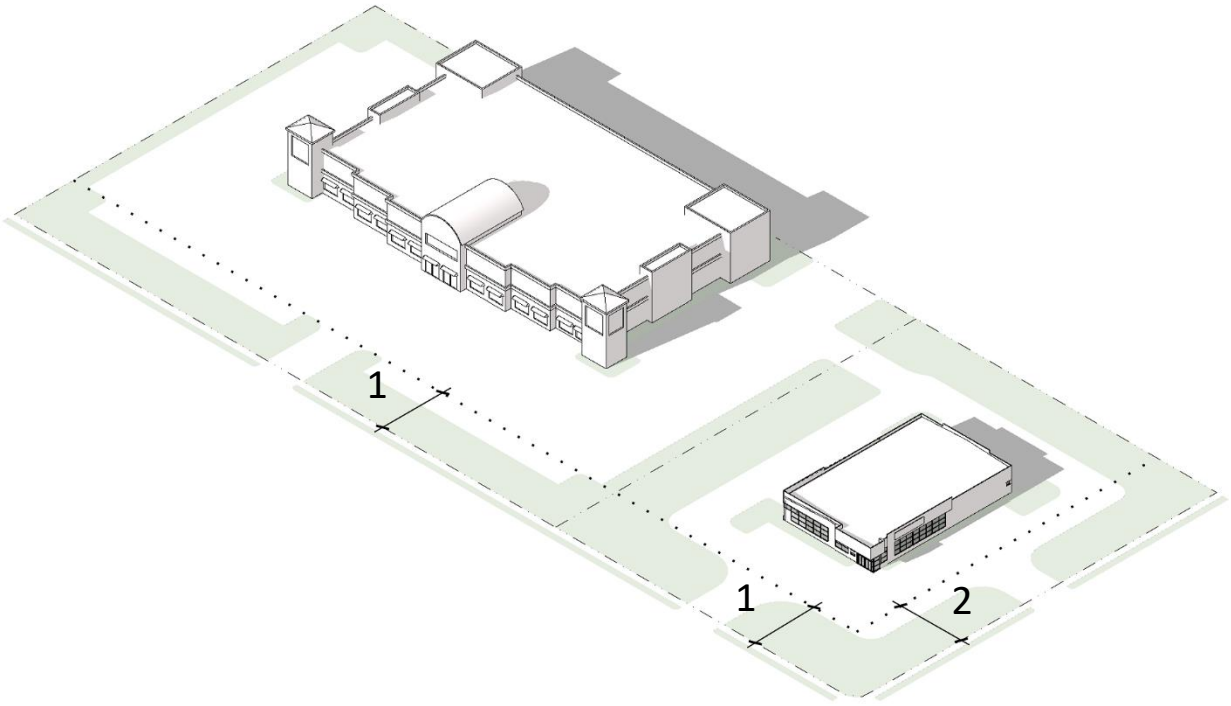
Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards

| | Standard | All Uses |
|---|---|---|
| | Lot area, minimum (square feet) | None |
| | Lot width, minimum (feet) | None |
| **1** | Front setback (feet) | 50 along highways and major thoroughfares;<br>35 along all other public highways or streets |
| **2** | Side setback, street (feet) | 50 along highways and major thoroughfares;<br>35 along all other public highways or streets |
| | Side setback, interior | * |
| | Rear setback | * |
| | Building height, maximum (feet) | 40** |

* Determined in accordance with Section 3.1.3.C, Setback Requirements in Certain Commercial and Industrial Districts.

** Buildings located within the Employment Center, Community Mixed Use, Urban Mixed Use, or Commerce Zone place types and fronting along a collector, Minor Arterial, or Principal Arterial as indicated on the Wilmington MPO Functional Classification Map, may exceed 40 feet in height provided their FAR does not exceed 1.0. The FAR may exceed 1.0, but shall not exceed 1.4 if (1) the ratio of the total building footprint to the total buildable site area does not exceed 40% and (2) the required parking (exclusive of off-loading and service parking) is included within the building footprint. If all surface parking (excluding visitor drop-off and pick-up) is within the building footprint, additional floor area can be added at the rate of one foot of floor per one foot of parking area. The total height of the parking structure shall be excluded from the height limit.




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.4.6. OFFICE AND INSTITUTIONAL (O&I) DISTRICT

### A. Purpose

The purpose of the Office and Institutional (O&I) District is to provide lands that accommodate institutional, professional office, and other compatible uses. The O&I district should be located in areas with more intense uses and higher density development patterns to support economic clusters in appropriate locations.

### B. Concept

### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

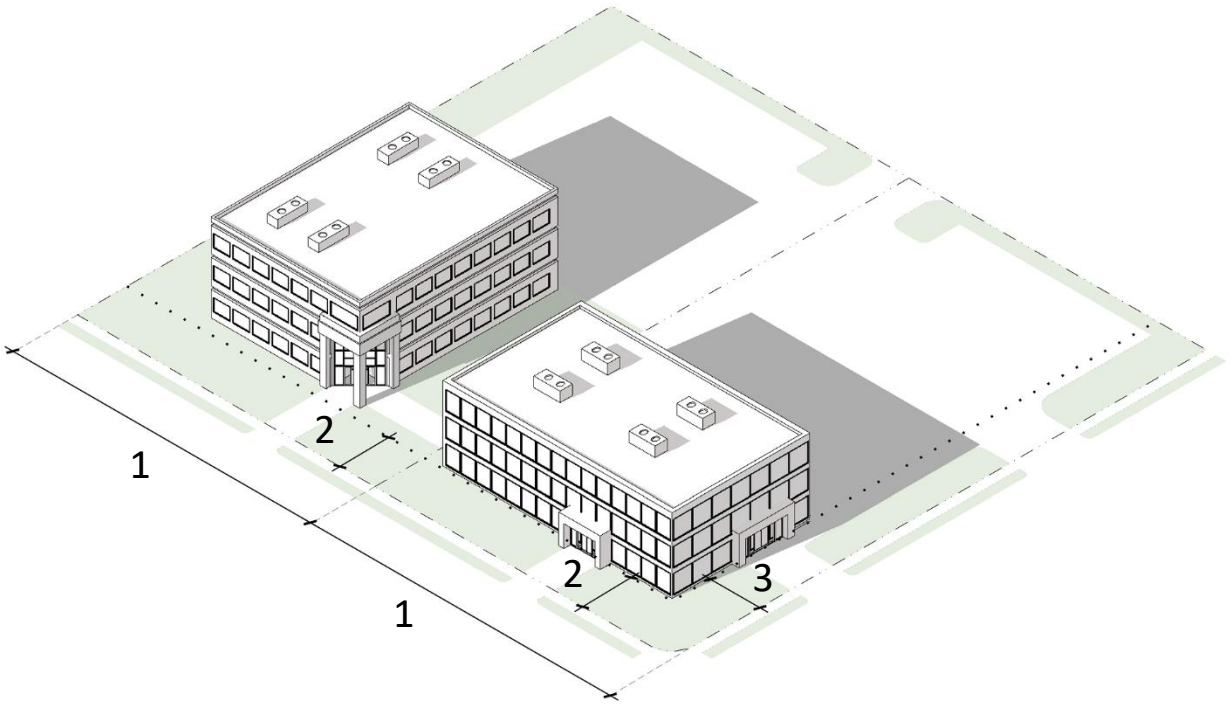
### D. District Dimensional Standards

| | Standard | Residential Uses | Nonresidential Uses and Mixed Use Structures |
|---|---|---|---|
| | Lot area, minimum (square feet)* | 15,000 | |
| 1 | Lot width, minimum (feet)* | 90 | |
| 2 | Front setback (feet)* | 25 | |
| 3 | Side setback, street (feet)* | 25 | |
| | Side setback, interior* | ** | |
| | Rear setback* | ** | |
| | Density, maximum (dwelling units/acre) | 2.5*** | |
| | Building height, maximum (feet) *[09-08-2020]* | 40 | 52 |

* Does not apply to Performance Residential Developments (see Section 3.1.3.D).

** Determined in accordance with Section 3.1.3.C, Setback Requirements in Certain Commercial and Industrial Districts.

*** Applies only to Performance Residential Developments (see Section 3.1.3.D).




## E. Other District Standards

1. **Signs**.
   - **i.** Properties located adjacent to minor or major arterials as identified on the WMPO Functional Classification Map shall be limited to total signage of 75 square feet in surface area.
   - **ii.** One sign of an advertising nature depicting the name or nature of a product, service, or business located on that premises shall be permitted on any property in the O&I District. Such signs shall be limited to 12 square feet in surface area and shall not exceed the height of the principal structure on the premises. Such signs, if illuminated, shall be indirectly illuminated with the source of light concealed from the view of any public street or residential lot.
   - **iii.** Signs or a directional nature shall be permitted; however, each such sign shall not exceed 2 square feet in surface area (one side) with no lighting and shall be limited to 7 feet in height.
2. **Lighting.** The source of any outdoor lighting in an O&I district shall be concealed so as not to be visible from any public street or any residential lot.

| F. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.4.7. SHOPPING CENTER (SC) DISTRICT

### A. Purpose

The purpose of the Shopping Center (SC) District is to provide lands allowing for the development of unified commercial projects as part of larger commercial clusters or as new neighborhood nodes located close to residential neighborhoods that allow for convenient access to basic goods and services. District regulations are designed to ensure compatibility with adjacent properties so the SC district can be used to create the types of mixed used development patterns outlined in the Comprehensive Plan.

### B. Concept

### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards

| Standard | All Uses |
|---|---|
| Minimum contiguous area: 7 acres* | |
| Setback from district border, minimum (feet) | 50 |
| Setback from district boundary, minimum (feet) | 25 |
| Building height, maximum | None |

* No zoning map amendment shall reduce the size of contiguous area classified SC to less than seven acres, unless the entire district is rezoned for other purposes.

### E. Other District Standards

1. No Shopping Center district may extend across any major highway.
2. The owner or owners of the entire area proposed to be amended to an SC district shall sign a petition for an Amendment to the Official Zoning Map and shall follow the procedures set out for a Conditional Zoning district (see Section 10.3.3: Conditional Zoning).

| F. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.4.8. COMMERCIAL SERVICES (CS) DISTRICT

### A. Purpose

The Commercial Services (CS) district is established to accommodate a mixture of light manufacturing, wholesale, storage, commercial service and repair, and distributive business type uses. It functions as a support district to nearby intensive industrial and commercial uses. The district is designed to act as a transitional land use between intensive industrial and commercial development and less intensive commercial, office, and institutional uses.

### B. Concept

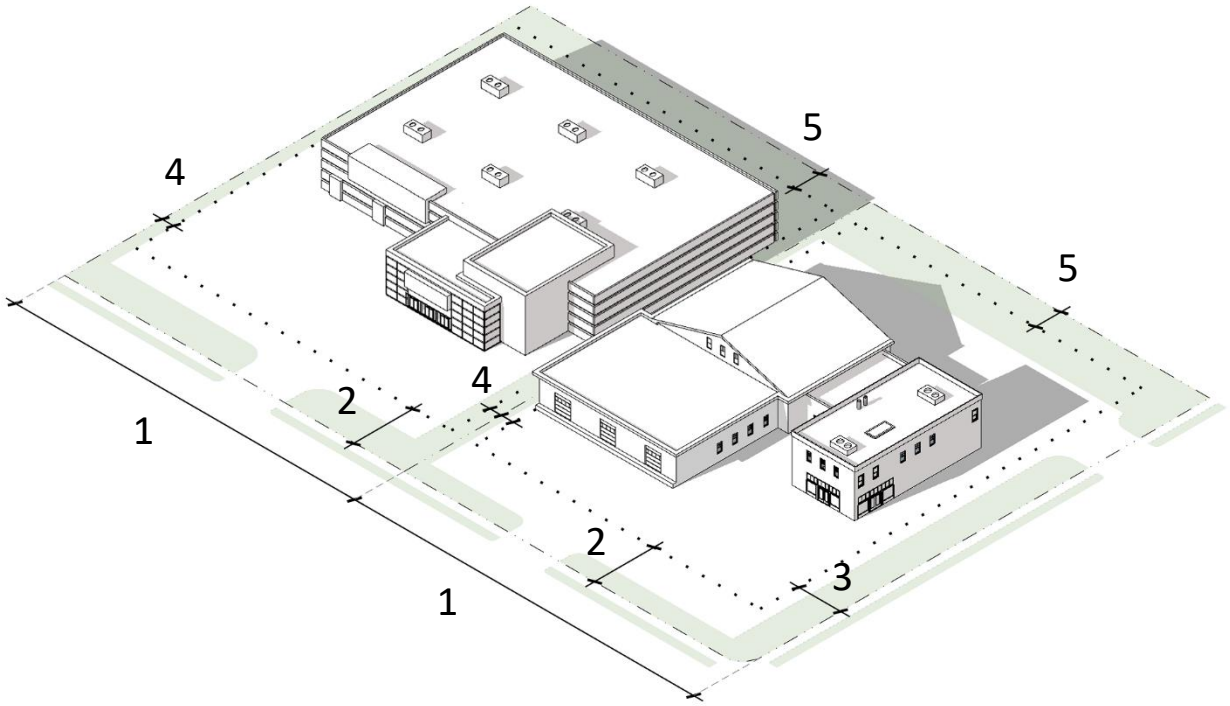
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards

| | Standard | All Uses |
|---|---|---|
| | Lot area, minimum (square feet) | 7,500 |
| 1 | Lot width, minimum (feet) | 65 |
| 2 | Front setback (feet) | 35 |
| 3 | Side setback, street (feet) | 25 along highways and major thoroughfares<br>17.5 along all other public highways or streets |
| 4 | Side setback, interior (feet) | 7* |
| 5 | Rear, generally (feet) | 15** |
| | Building height, maximum (feet) | 40*** |

* The interior side setback is 30 feet from abutting residentially zoned land.
** The rear setback is 35 feet from abutting residentially zoned land land.
*** Buildings having a height over 35 feet are subject to additional setbacks and bufferyards of 4 additional feet.




## E. Other District Standards

Lighting: All new construction where exterior site lighting is provided shall observe the following limitations as to height:

**a.** Unrestricted lighting: 10 feet

**b.** Ninety-degree cutoff lighting: 15 feet

In no case shall lighting for new construction be located or installed so as to shine directly onto residential premises.

## F. Reference to Other Standards

| | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.4.9. AIRPORT COMMERCE (AC) DISTRICT

### A. Purpose

The purpose of the Airport Commerce (AC) District is to provide lands to accommodate planned restricted business and industrial development in which the principal use of land is for indoor manufacturing, distribution, and other types of operations that are compatible with airport facilities and require sites near to railroads and/or major thoroughfares. The specific intent of the district is to:

- Encourage the types of development that are compatible with airport operations;
- Protect and promote the public utility of Wilmington International Airport;
- Promote the health, safety, and general welfare of the residents of New Hanover County by preventing the creation of hazards around the airport to protect the lives and property of both the users of the airport and nearby residents; and
- Prevent destruction or impairment of the utility of the airport and the public's investment.

### B. Concept

### C. Use Standards

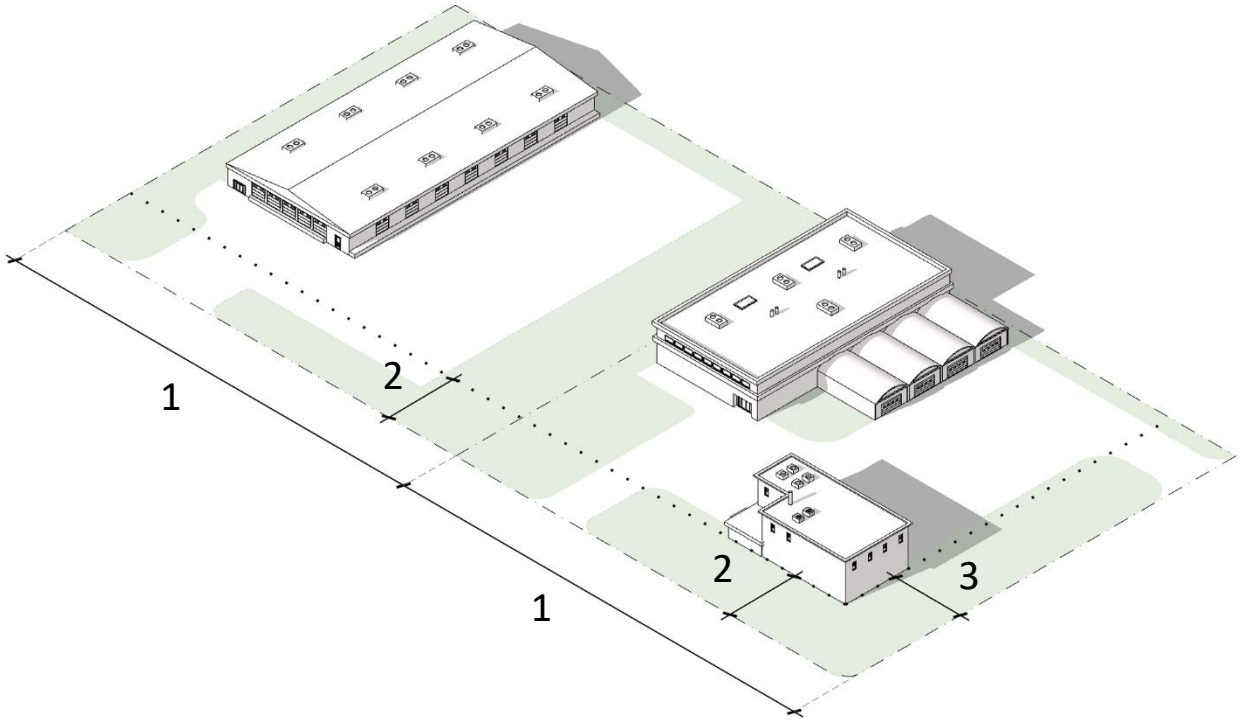
Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

| D. District Dimensional Standards | |
|---|---|
| **Standard** | **All Uses** |
| Lot area, minimum (square feet) | 43,560* |
| **1** Lot width, minimum (feet) | 150 |
| **2** Front setback (feet) | 50 |
| **3** Side setback, street (feet) | 50 |
| Side setback, interior | ** |
| Rear setback | ** |
| Building height, maximum (feet) | 35*** |

* Any property subdivided and recorded prior to June 1, 1981 may be less than the minimum lot area, provided such lots are located outside of an approach zone for Wilmington International Airport. Any such property located within an airport approach zone may be approved pursuant to a Special Use Permit issued in accordance with 10.3.5: Special Use Permit.

** Determined in accordance with Section 3.1.3.C, Setback Requirements in Certain Commercial and Industrial Districts.

*** Unless otherwise specified in Section 5.10, Airport Height Restriction.



## E. Other District Standards

### 1. Access

Any means of direct access to or from any development shall not be through any land in a Residential district or land on which there is residential development, or along any street or road in a residential subdivision.

### 2. Lighting

**a.** Any pulsating, flashing, rotating, oscillating, or other type of light intended as an attention-getting device is prohibited.

**b.** Flood lights, spot lights, or another lighting device shall be arranged or shielded so as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the ground.

### 3. Radio and Electronic Device

**a.** Any radio or electronic device is permitted only in conjunction with a valid license or other authorization as may be issued by the FCC.

**b.** Any radio or electronic device, the operation of which would violate any rules or regulations of the FCC is prohibited.

### 4. Visual Hazards

Any operation or use that emits smoke, dust, or creates glare or other visual hazards is prohibited.

## F. Reference to Other Standards

| | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.4.10. LIGHT INDUSTRIAL (I-1) DISTRICT

### A. Purpose

The purpose of the Light Industrial (I-1) District is to provide lands to accommodate light industrial development and associated operations, including assembly, fabrication, packaging, and transport, where operations are conducted primarily indoors and where suitable sites are served by rail, a waterway, and/or a highway transportation system as well as readily available utilities. I-1 districts are intended to support the development of commerce and employment clusters as recommended in the Comprehensive Plan. Heavy industrial uses in which raw materials are converted into products for subsequent assembly or fabrication or where uses create an excessive amount of noise, odor, smoke, dust, airborne debris, or other objectionable characteristics that might be detrimental to surrounding areas are not appropriate in the I-1 district.

### B. Concept

### C. Use Standards

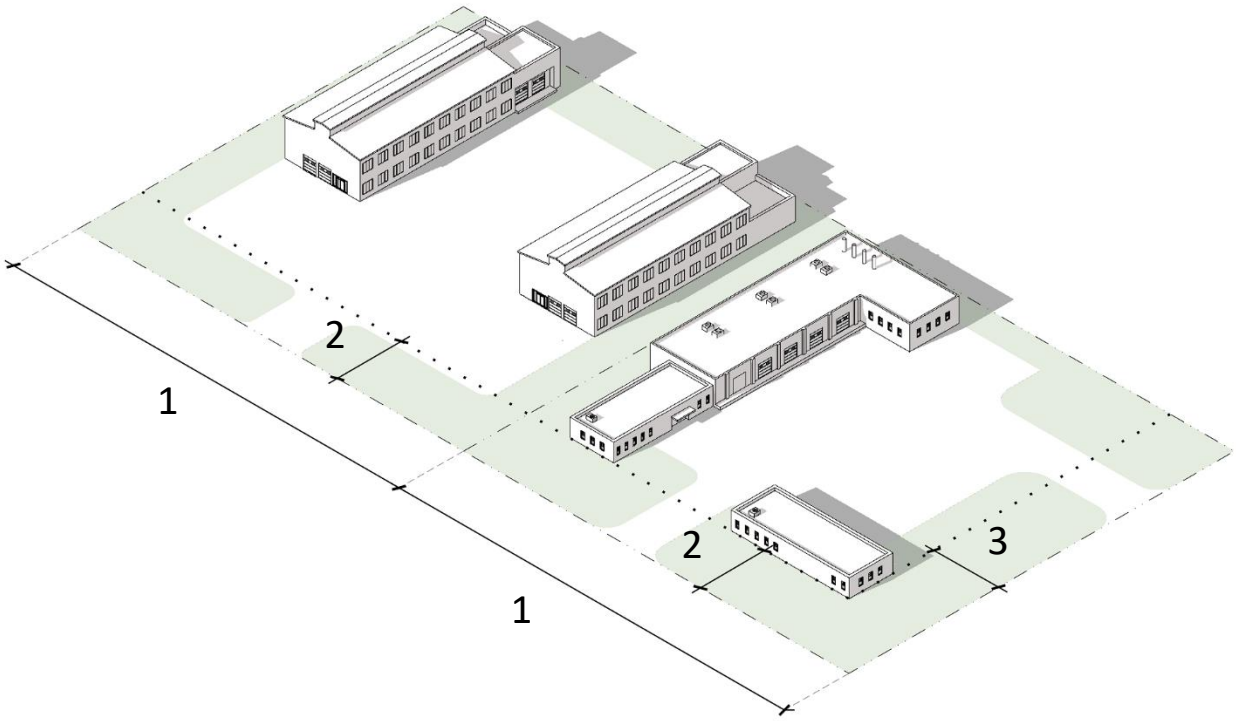
Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards

| | Standard | All Uses |
|---|---|---|
| | Lot area, minimum (square feet) | None |
| **1** | Lot width, minimum (feet) | None |
| **2** | Front setback (feet) | 50 |
| **3** | Side setback, street (feet) | 50 |
| | Side setback, interior | * |
| | Rear setback | * |
| | Building height, maximum (feet) *[09-08-2020]* | 45** |

* Determined in accordance with Section 3.1.3.C, Setback Requirements in Certain Commercial and Industrial Districts.

** Buildings located within the Employment Center or Commerce Zone place types and fronting along a Collector, Minor Arterial, or Principal Arterial as indicated on the Wilmington MPO Functional Classification Map, may exceed 45 feet in height provided their FAR does not exceed 1.0.




| E. Reference to Other Standards | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

## 3.4.11. HEAVY INDUSTRIAL (I-2) DISTRICT

### A. Purpose

The purpose of the Heavy Industrial (I-2) District is to provide lands that accommodate a full range of heavy industry uses to support the development and success of industrial and commerce clusters as identified in the Comprehensive Plan. Uses allowed in the district include manufacturing, fabrication, assembly, warehousing, distribution, and accessory outside storage uses associated with heavy industrial uses, where such heavy industry uses are served by rail, waterway, and/or highway transportation systems. District regulations are included to protect development situated outside the district and minimize environmental impacts caused by the uses within the district.

### B. Concept

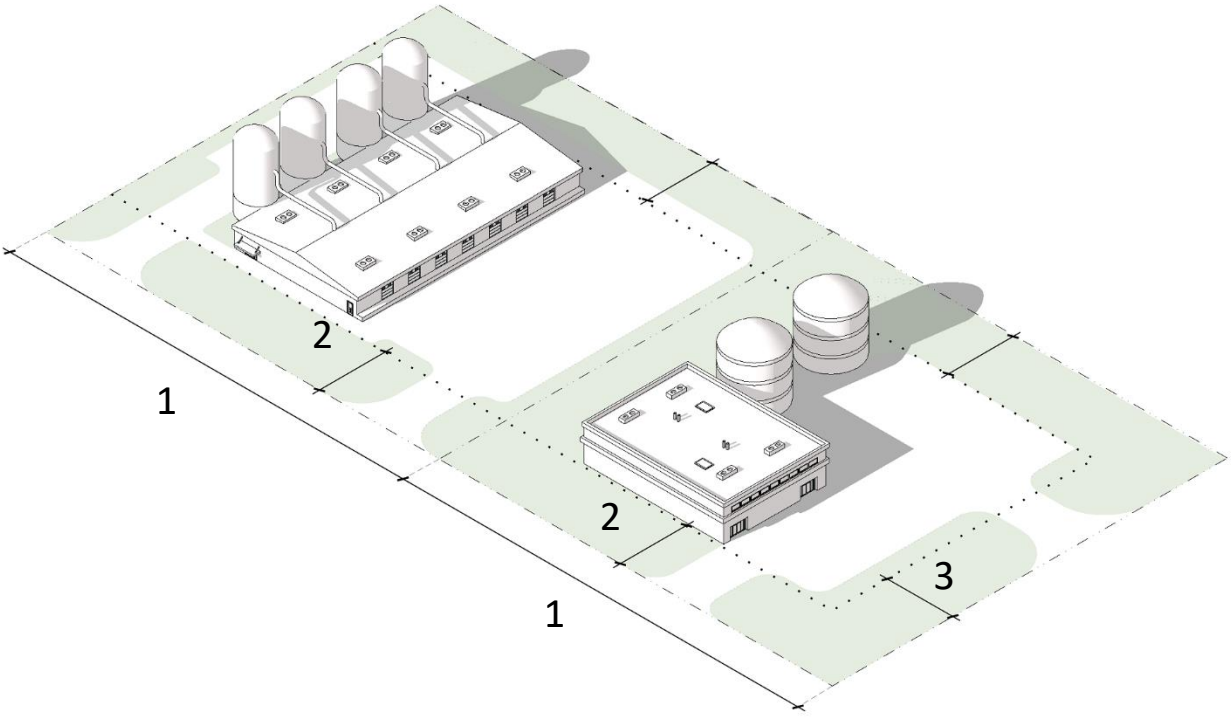
### C. Use Standards

Allowed uses and use-specific standards for principal, accessory, and temporary uses are established in Article 4: Uses and Use-Specific Standards.

### D. District Dimensional Standards

| | Standard | All Uses |
|---|---|---|
| | Lot area, minimum (square feet) | None |
| 1 | Lot width, minimum (feet) | None |
| 2 | Front setback (feet) | 50 |
| 3 | Side setback, street (feet) | 50 |
| | Side setback, interior | * |
| | Rear setback | * |
| | Building height, maximum | None |

* Determined in accordance with Section 3.1.3.C, Setback Requirements in Certain Commercial and Industrial Districts.




## E. Other District Standards

Buffers must be established between I-2 and adjacent, non-industrial uses, in accordance with 5.4.3: Transitional Buffer.

## F. Reference to Other Standards

| | |
|---|---|
| Article 2: Measurements and Definitions | Section 5.8 Open Space Requirements |
| Section 5.1 Parking and Loading | Section 5.9 Fire Hydrants |
| Section 5.2 Traffic, Access, and Connectivity | Section 5.10 Airport Height Restriction |
| Section 5.3 Tree Retention | Article 6: Subdivision Design and Improvement |
| Section 5.4 Landscaping and Buffering | Article 7: Stormwater Management |
| Section 5.5 Exterior Lighting | Article 8: Erosion and Sedimentation Control |
| Section 5.6 Signs | Article 9: Flood Damage Prevention |
| Section 5.7 Conservation Resources | Article 11: Nonconforming Situations |

# Section 3.5. Overlay and Special Purpose Districts

### 3.5.1. INTENT

The UDO established overlay and special purpose districts to:

**A.** Clearly designate areas within the unincorporated County with specific regulations in addition to those required by the general use district to assist in protecting resident safety and/or important community resources; and

**B.** Allow additional options for development of specific projects that are consistent with the goals of the Comprehensive Plan and the objectives of this UDO.

### 3.5.2. ESTABLISHED OVERLAY AND SPECIAL PURPOSE ZONING DISTRICTS

The overlay and special purpose zoning districts established by this UDO are identified in Table 3.6.2: Established Overlay and Special Purpose Zoning Districts

**Table 3.6.2: Established Overlay and Special Purpose Zoning Districts**

| Category | District | Abbreviation |
|---|---|---|
| Overlay Districts | Special Highway Overlay | SHOD |
| | Watershed Supply Watershed Overlay District | WSW |
| Special Purpose Districts | Conditional Zoning Districts | CZ |
| | Conditional Use Zoning Districts | CUD |

## 3.5.3. SPECIAL HIGHWAY OVERLAY (SHOD) DISTRICT

### A. Purpose

The purpose of the Special Highway Overlay (SHOD) District is to protect the natural beauty and scenic vista that exists along interstate highways and other specially designated roadways that serve as major accessways and gateways into unincorporated New Hanover County. Protection of these highways is important and necessary to maintain and preserve the natural woodlands and open spaces that characterize these roadways. The continued protection of these scenic highways is also a valuable asset to the County's tourism economy and enhances the attractiveness of the County for trade and investment.

### B. SHOD District Boundaries

The boundaries of the SHOD District are shown on the Official Zoning District Map.

### C. Applicability

1. The SHOD district regulations apply to the development of all land within the district, in addition to the regulations of the general use district in which the land is located. In the event there are conflicts between the SHOD district regulations and those of the underlying general district regulations, the SHOD district regulations shall control.
2. Except for access roads and utility (communications, gas, electrical, sanitary services) structures, all non-residential structures, buildings, and improvements to land located within the SHOD shall comply with the requirements of Section 3.5.3.D, SHOD District Standards.

### D. SHOD District Standards

#### 1. Setbacks

a. All non-residential buildings and their accessory uses shall be set back a minimum of 100 feet from the right-of-way of the designated highway.

b. No building shall be located less than 25 feet from any property line.

c. The setback may be reduced for those buildings, accessory uses, and off-street parking by a maximum of 25 percent if the development provides additional plantings along the right-of-way. At a minimum, these plantings shall consist of one deciduous or evergreen tree at least 2.5" caliper for every 40 feet of road frontage. These streetscape trees must be selected and planted in accordance with Section 5.4, Landscaping and Buffering, and must be located in the first 10 feet of land adjacent to and parallel to the right-of-way, except that plantings may be moved outside this area if it is determined that overhead power lines would interfere with the trees' natural growth.

#### 2. Enclosed Facilities

All manufacturing, storage, offices, wholesaling, retail sales or similar uses shall be conducted within an enclosed building.

3. **Outside Storage**

   **a.** Outside storage can be permitted if it is located directly to the rear of the principal building and is not visible from the designated highway.

   **b.** The outside storage area shall not occupy an area wider than the principal building or larger than one-half the area of the principal building.

   **c.** A 3-row screen shall be provided in accordance with the standards of Section 5.4, Landscaping and Buffering.

   **d.** No storage shall be permitted above the height of the screen.

   **e.** Junk yards and scrap processors are not permitted.

4. **Parking and Loading**

   **a.** Loading areas are permitted on the side or rear of the principal structure as viewed from the designated highway. If loading is performed on the side of the building, as viewed from the designated highway, a 3-row screen shall be provided in accordance with the standards in Section 5.4, Landscaping and Buffering.

   **b.** No vehicular or equipment parking, except automobile parking, shall be permitted in the yard area adjacent to the designated highway. All automobile parking shall be set back at least 100 feet from the right-of-way of the designated highway if such highway is an interstate or thoroughfare with controlled access. Other US and NC numbered highways shall require a 50-foot setback for automobile parking.

5. **Lot Coverage**

   The total ground area covered by principal buildings and all accessory buildings shall not exceed 50% of the site.

6. **Signs:**

   Signs shall comply with Section 5.6, Signs, except that only one freestanding ground sign that does not exceed 6 feet in height and a maximum surface area of 150 square feet is allowed within the 100-foot setback. No outdoor advertising signs are permitted.

7. Any parcel of land that is located in overlapping SHOD districts shall be subject to all of the setback requirements of this section for one of the two designated highways, except the setbacks from the right-of-way of the secondary highway frontage, as determined by the applicant, may be reduced by 50 percent.

### 3.5.4. WATER SUPPLY WATERSHED OVERLAY (WSW) DISTRICT

#### A. Purpose

The purpose of the Water Supply Watershed Overlay District is to preserve and protect the water quality of the County's surface water supplies from pollution as a result of activities from new construction as well as existing development. The preservation of these potable drinking water supplies is important to the orderly growth of the County and serves to ensure that primary and secondary sources of drinking water are available to serve existing and future populations. This ordinance is established as mandated by the Water Supply Watershed Protection Act, (NCGS 143-214.5).

#### B. Applicability

**1.** Unless exempted by subsection 3 below, the development and improvement of property, including the subdivision of land, that is located within the water supply watershed shall be subject to the standards in this section (3.5.4). Official maps of and information pertaining to the water supply watershed shall be maintained by, and shall be available for review at the County Planning and Land Use Department. These maps shall serve as the official source by which to identify the boundaries of the water supply watershed.

**2.** These WSW District regulations apply to the development of all land within the district, in addition to the regulations of the general use district in which the land is located. In the event there are conflicts between the WSW District regulations and those of the underlying general district regulations, the WSW district regulations shall control.

**3.** The following uses are exempt from the standards in this section (3.5.4):

**a.** The development of a single family home, one residential duplex, or the location of two or fewer mobile homes on a parcel or lot of record where permitted by the underlying zoning;

**b.** The installation and maintenance of water, sewer, electrical, and other utility systems where it can be demonstrated that the installation causes only minimal disturbance of the water supply;

**c.** Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990; and

**d.** Silviculture subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

**4.** Official maps of an information pertaining to the water supply watershed shall be maintained by and shall be available for review at the New Hanover County Planning and Land Use Department. These maps shall serve as the official source by which to identify the boundaries of the watershed.

## C. WSW District Standards

### 1. Stormwater Management

Approval of a drainage plan meeting the requirements of Section 6.3.3.E, Surface Water Drainage, is required for all development subject to this section (3.5.4). All structures shall be set back at least 100 feet from the mean high water line.

### 2. Agriculture

Existing or new agricultural activities conducted after January 1, 1994 shall maintain a minimum ten-foot vegetated buffer, or equivalent buffer as determined by the Soil Conservation Service, adjacent to the shoreline of the water supply.

### 3. Non-residential Uses

All non-residential activities shall be limited to a built-upon area not to exceed 24 percent of the site. Additionally, nonresidential uses that store toxic or hazardous wastes or other contaminants that are listed in SARA, Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances) in any amount are prohibited unless they provide a spill containment plan approved by the Director of Emergency Management. Such plans shall be updated every two years. Local response to spills shall be in accordance with the New Hanover County Emergency Operations Plan.

### 4. Residential Uses

The maximum allowed density for new subdivisions, including performance developments, shall not exceed that permitted by the RA Rural Agriculture Zoning District.

## 3.5.5. CONDITIONAL ZONING (CZ) DISTRICT

### A. Purpose

The Conditional Zoning (CZ) District option is established to address situations where a particular land use would be consistent with the Comprehensive Plan and the objectives of this Ordinance and only a specific use or multiple specific uses are proposed and appropriate for the development of a site. The district is primarily intended for use at transitions between zoning districts of dissimilar character where a particular use or uses, with restrictive conditions to safeguard adjacent land uses, can create a more orderly transition benefiting all affected parties and the community at-large. It is intended only for firm development proposals and should not be used for tentative projects without definitive plans.

### B. Applicability

CZ districts are intended only for voluntary proposals submitted in the names of the owners of all property included in the petition/application.

### C. Districts Established

The following conditional zoning districts, each bearing the designation "CZ", are hereby established:

1. The residential conditional zoning districts include: CZ-RA, CZ-AR, CZ-R20S, CZ-R-20, CZ-R15, CZ-R-10, CZ-R-7, CZ-R-5, CZ- RMF-L, CZ-RMF-M, CZ- RMF-MH, CZ-RMF-H.
2. The commercial and industrial conditional zoning districts include: CZ- B-1, CZ- CB, CZ-B-2, CZ- O&I, CZ-SC, CZ- CS, CZ-I-1, and CZ-I-2.

### D. District Requirements

#### 1. Eligible Uses

Only uses allowed by right in the corresponding general use district are eligible for CZ district consideration and any such use within a CZ district shall, as a minimum requirement, satisfy all the regulations of the corresponding general use district.

#### 2. Additional Conditions and Requirements

The approval for a specific CZ district shall specify all additional conditions and requirements that represent greater restrictions on development and use of the land than the corresponding general use district regulations or other limitations on land that may be regulated by state law or local ordinance. Such conditions and requirements shall not specify ownership status, race, religion, character, or other exclusionary characteristics of the occupant(s), shall be objective, specific, and detailed to the extent necessary to accomplish their purpose, and shall relate rationally to making the approval compatible with the Comprehensive Plan, other pertinent requirements of this Ordinance, and to securing the public health, safety, morals, and welfare.

### 3. Conceptual Plan

Applications for establishment of a CZ district shall include a conceptual development plan depicting the proposed development configuration that conforms to the application requirements for conditional zonings in the Administrative Manual and any other conditions of approval proposed by the applicant.

### 4. Relationship to Overlay District Standards

Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the CZ district. If the standards governing a CZ district expressly conflict with those governing an overlay district, the more restrictive standards shall control.

## 3.5.6. CONDITIONAL USE ZONING (CUD) DISTRICTS

### A. Purpose

The Conditional Use (CUD) Zoning District option is established to address situations where a particular land use or uses would be consistent with the Comprehensive Plan and the objectives of this Ordinance but none of the general zoning district classifications that would allow that use are acceptable. It is primarily intended for use with transitions between zoning districts of dissimilar character where a particular use or uses, with restrictive conditions to safeguard adjacent uses can create a more orderly transition benefiting all affected parties and the community at-large. It is not intended as a routine substitute for the general rezoning process or for frequent use because creating a large number of such specialized districts can lead to excessive administrative complexity and great difficulty in maintaining consistent and predictable land use policies. It is intended only for firm development proposals and should not be used for tentative projects without definitive plans.

### B. Applicability

CUD districts are intended only for voluntary proposals submitted in the names of the owners of all property included in the petition/application.

### C. Districts Established

The following conditional use zoning districts, each bearing the designation "CUD", are hereby established:

1. The residential conditional use zoning districts include: CUD-RA, CUD-AR, CUD-R20S, CUD-R-20, CUD-R15, CUD-R-10, CUD-R-7, CUD-R-5, CUD- RMF-L, CUD- RMF-M, CUD- RMF-MH, CUD-RMF-H.
2. The commercial and industrial conditional use zoning districts include: CUD- B-1, CUD- CB, CUD-B-2, CUD- O&I, CUD-SC, CUD- CS, CUD-I-1, and CUD-I-2.

### D. Other District Standards

#### 1. Eligible Uses

Only uses allowed by right of by special use permit in the corresponding general use district are eligible for consideration of approval of a CUD district. Any such use within a CUD district shall, as a minimum requirement, satisfy all the regulations of the corresponding general use district.

#### 2. Conditions and Requirements

**a.** Within a CUD district, no use is allowed except by special use permit. This permit may specify additional conditions and requirements that represent greater restrictions on development and use of the tract than the corresponding general use district regulations or other limitations on land that may be regulated by state law or local ordinance. Such conditions and requirements shall not specify ownership status, race, religion, character or other exclusionary

characteristics of occupants; shall be objective, specific, and detailed to the extent necessary to accomplish their purpose; and shall relate rationally to making the permit compatible with the Comprehensive Plan, the requirements for a special use permit, other pertinent requirements of this Ordinance, and to secure the public health, safety, morals, and welfare.

**b.** The special use permit application shall include a development plan if appropriate to illustrate conditions and requirements that are difficult to describe with text. The development plan shall be of sufficient detail to depict the conditions and requirements proposed by the applicant.

### 3. Relationship to Overlay District Standards

Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the CUD district. If the standards governing a CUD district expressly conflict with those governing an overlay district, the more restrictive standards shall control.

# Article 4: Uses and Use-Specific Standards

## Section 4.1. Categorization of Principal Uses

### 4.1.1. ORGANIZATION

**A.** For the purposes of this UDO, principal land uses and activities are classified into five general "use classifications," namely Agricultural, Residential, Civic & Institutional, Commercial, and Industrial, and then into specific "use categories" (e.g., Household Living within the Residential use classification) that are based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. Use categories may be further organized into "use types" (e.g., Townhouse Dwelling within the Household Living category) where there are a number of possible variations of a use category. An additional layer of organization is included in the Industry & Manufacturing use category to group use types under three-digit NAICS codes for ease of reference. The organization and classification of principal uses in this UDO provides a systematic basis for assigning present and future land uses into appropriate zoning districts.

**B.** The principal use of a parcel of land or structure is the primary or predominant purpose to which it is devoted and may include customary and ancillary uses that are associated with or support the principal use. A parcel of land may contain more than one principal building or structure.

### 4.1.2. APPLICATION AND INTERPRETATION

#### A. Permitted Uses and Approval Process

**1.** If a use is specifically listed and the applicant demonstrates that the use complies with the requirements of this UDO, including any applicable use-specific standards, that use and only that specific use may be authorized in accordance with the procedures and standards in Article 10: Administrative Procedures. No other uses may be substituted for the use requested.

**2.** Multiple uses may be permitted on a parcel where the site layout can be achieved in compliance with applicable zoning district standards, use standards, and development standards. Each use must be approved in accordance with the procedures and standards in Article 10: Administrative Procedures.

#### B. Interpretation of Uses

**1.** New or unlisted uses may be interpreted into the Table 4.2.1: Principal Use Table, though the process outlined in Section 4.1.3: Classification of New or Unlisted Uses.

**2.** If a use is identified in a specific use category in Table 4.2.1: Principal Use Table, it may not be interpreted into a different use category even though it may broadly fit within the use category.

### 4.1.3. CLASSIFICATION OF NEW OR UNLISTED USES

#### A. Interpretation Process

The County recognizes that new types of land uses will develop, and applicants may seek to locate land uses not anticipated in this UDO. When a use category or use type is proposed that is not specifically listed, the Planning Director shall make a determination as to the appropriate classification of any new or unlisted form of land use based on the criteria listed in subsection B below.

#### B. Interpretation Criteria

**1.** The Planning Director is authorized to classify uses on the basis of the use category, subcategory, or use type, or if the use appears to fit into multiple categories, subcategories, or use types; the Planning Director is authorized to determine the most similar, and thus most appropriate, use category, subcategory, or use type based on the actual or projected characteristics of the principal use or activity in relationship to the use category, subcategory, and use type descriptions provided in this Ordinance. In making such determination, the Planning Director shall consider:

**a.** The types of activities that will occur in conjunction with the use;

**b.** The types of equipment and processes to be used;

**c.** The existence, number, and frequency of residents, customers, or employees;

**d.** Parking demands associated with the use;

**e.** Any special public utility requirements for serving the proposed use type, including but not limited to electricity, water supply, wastewater output, pretreatment of wastes and emissions required or recommended, and any significant power structures or infrastructure and communications towers and facilities;

**f.** The impact on adjacent structures, uses, or lands created by the proposed use type, which should not be greater than that of other use types in the zone district; and

**g.** Other factors deemed relevant to a use determination.

**2.** If a use can reasonably be classified in multiple categories, subcategories or specific use types, the Planning Director shall categorize the use in the category, subcategory, or use type that most closely matches the number of factors met and identify the key reasons for that determination.

### 4.1.4. USE CLASSIFICATIONS

#### A. Agricultural Uses

This is a classification of uses characterized by active and ongoing agricultural and forestry uses, activities, and related uses. An agricultural use, in general, means the use of and for the growing and production of field crops, trees and plants, livestock, aquatic, and animal products for the production of income. Other

agricultural uses might include fruit and vegetable stands, livestock sales, wholesale nurseries, and stables.

**B. Residential Uses**

This is a classification of uses made up of structures intended for ongoing and continuous human habitation.

**C. Civic & Institutional Uses**

This classification of uses encompasses public, quasi-public, and private uses that provide services of benefit to the public at-large.

**D. Commercial Uses**

This is a classification of uses that includes any retail, consumer service, or office use.

**E. Industrial Uses**

This classification of uses primarily involves the processing of raw materials and manufacture of goods but also includes the storage or shipment of goods and treatment of waste, large-scale power generation, and processing and disposal of waste and other materials.

# Section 4.2. Allocation of Principal Uses

### 4.2.1. PRINCIPAL USE PERMISSIONS

Table 4.2.1: Principal Use Table, identifies which uses are permitted by right, permitted subject to approval of a special use permit, and prohibited in each zoning district. Permissions for the RFMU and EDZD districts are outlined in Article 3: Zoning Districts. The meanings of abbreviations in Table 4.2.1 are set forth in subsections A through D below.

**A.** A “P” in a cell indicates the use is permitted by right in the zoning district. Permitted uses, except for exempt bona fide farm uses, are subject to all other applicable standards of this UDO.

**B.** An “S” in a cell indicates that the use is allowed only if reviewed and approved as a special use in accordance with Section 10.3.5, Special Use Permit. Special uses are subject to all other applicable standards of this UDO.

**C.** An asterisk (“*”) beside a “P” or an “S” in a cell indicates that the use is subject to use-specific standards, as outlined in Section 4.3, Standards for Specified Principal Uses, in the respective zoning district.

**D.** A blank cell indicates that the use is not allowed in the respective zoning district.

## Table 4.2.1: Principal Use Table

Key: P = Permitted by Right S = Special Use Permit Required * = Specific Use Standards Apply in District *blank cell* = not allowed

| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| **Agricultural uses** | | | | | | | | | | | | | | | | | | | | | | | | |
| Agricultural and Forestry Uses, General *[11-16-2020]* | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Livestock Sales | | | | | | | | | | | | | | | | | | | | | | | P | |
| Stable *[11-16-2020]* | P | P* | P* | P* | P* | | | | | | | | P | | | | P | | | | | P | P | 4.3.1 |
| Wholesale Nursery | P | P | P | P | P | P | | | | | | | P | P | P | P | P | P | P | P | P | P | P | |
| **Residential uses** | | | | | | | | | | | | | | | | | | | | | | | | |
| Household Living | | | | | | | | | | | | | | | | | | | | | | | | |
| Dwelling, Dual-Unit Attached | | | | P* | P* | P* | P* | P | P | P | P | P | P | P | S* | | S* | P | | | | | | 4.3.2 |
| Dwelling, Multi-Family | | | | P* | P* | P* | P* | | P | P | P | P | P | P | S* | | S* | P | | | | | | 4.3.2 |
| Dwelling, Quadraplex | | | | P* | P* | P* | P* | P | P | P | P | P | P | P | S* | | S* | P | | | | | | 4.3.2 |
| Dwelling, Single-Family Detached | P | P | P | P | P | P | P | P | P | P | P | P | P | P | S* | | S* | P | | | P | | | 4.3.2 |
| Dwelling, Triplex | | | | P* | P* | P* | P* | P | P | P | P | P | P | P | S* | | S* | P | | | | | | 4.3.2 |
| Dwelling, Row-Style | | | | P* | P* | P* | P* | P | P | P | P | P | P | P | S* | | S* | P | | | | | | 4.3.2 |
| Dwelling, Two-Family (Duplex) | | | | S | P | S | P | P | P | P | P | P | P | P | | | S* | | | | | | | 4.3.2 |
| Live/Work or Caretaker Unit | | | | | | | | | | | | | P* | P* | S* | S* | S* | | | P* | S* | S* | S* | 4.3.2 |
| Mobile Home | S | P | | S | P | P | P | | | | | | | | | | | | | | | S* | S* | 4.3.2 |
| Mobile Home, Doublewide | P* | P* | | P* | P* | P* | P* | | | | | | P* | | | | | | | | | S* | S* | 4.3.2 |
| Mobile Home Park | S* | | | | S* | S* | S* | | | | | | P | | | | | | | | | | | 4.3.2 |
| Mobile Home Subdivision | S | S | | S | S | S | S | | | | | | | | | | | | | | | | | |
| Senior Living: Independent Living Retirement Community *[11-16-2020]* | S | | S | S | S | S | | P | P | P | P | P | P | P | | | | S | | | | | | |
| Group Living | | | | | | | | | | | | | | | | | | | | | | | | |
| Family Care Home | P* | P* | P* | P* | P* | P* | S* | P* | P* | P* | P* | P* | P* | P* | | | | P | | | | | | 4.3.2 |

## Table 4.2.1: Principal Use Table

Key: P = Permitted by Right S = Special Use Permit Required * = Specific Use Standards Apply in District *blank cell* = not allowed

| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Fraternity/Sorority Residence | | | | | | | | | S* | S* | S* | S* | | P* | P* | | P* | P* | | | | | | 4.3.2 |
| Group Home | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | | S* | | | | S* | | | | 4.3.2 |
| Senior Living: Assisted Living Facility *[11-16-2020]* | S* | | S* | S* | S* | S* | | | S* | S* | S* | S* | P* | P* | | S* | | S* | | | | | | 4.3.2 |
| Senior Living: Continuing Care Retirement Community *[11-16-2020]* | S* | | S* | S* | S* | S* | | | S* | S* | S* | S* | P* | P* | S* | | | S* | | | | | | 4.3.2 |
| **Civic and Institutional** | | | | | | | | | | | | | | | | | | | | | | | | |
| **Child and Adult Care** | | | | | | | | | | | | | | | | | | | | | | | | |
| Adult Day Care | S* | | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | P* | P* | | P* | | P* | | | | | | 4.3.3 |
| Child Care Center | S | | S | S | S | S | S | S | S | S | S | S | P | P | P | P | P | P | P | | | S | S | |
| Family Child Care Home | P* | | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P | P | S | S | S | | | | | | | 4.3.3 |
| **Civic** | | | | | | | | | | | | | | | | | | | | | | | | |
| Animal Shelter *[11-16-2020]* | S* | | S* | S* | S* | | | | | | | | P | P | P | P | P | S | | P | P | P | P | 4.3.3 |
| Community Center *[11-16-2020]* | S | S | S | S | S | S | S | S | S | S | S | S | P | P | P | P | P | P | | P | | | | |
| Food Pantry *[11-16-2020]* | | | | | | | | | | | | | | | | | P* | | | P* | | | | 4.3.3 |
| Library | P | P | P | P | P | P | S | P | P | P | P | P | P | P | P | P | P | P | P | | | | | |
| Lodges, Fraternal, & Social Organizations *[11-16-2020]* | S* | S* | S* | S* | S* | S* | S* | | | | | | P | P | P | P | P | P | | P | | | | 4.3.3 |
| Museum | | | | | | | | | | | | | P | P | P | P | P | P | P | | P | | | |
| Religious Assembly *[11-16-2020]* | P | P | P | P | P | P | P* | P* | P* | P* | P* | P* | P | P | P* | P* | P | P | P | P* | P | P | P | 4.3.3 |
| **Communication and Information Facilities** | | | | | | | | | | | | | | | | | | | | | | | | |
| Amateur Radio Antennas (up to 90 ft.) | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | 4.3.3 |

## Table 4.2.1: Principal Use Table

Key: P = Permitted by Right S = Special Use Permit Required * = Specific Use Standards Apply in District *blank cell* = not allowed

| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Antenna & Towers less than 70 ft. in Height & Ancillary to the Principal Use | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | 4.3.3 |
| Collocation, Wireless *[09-08-2020]* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | 4.3.3 |
| Non-Substantial Modification *[09-08-2020]* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | 4.3.3 |
| Other Wireless Communication Facilities including Wireless Support Structures & Substantial Modifications *[09-08-2020]* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | P* | P* | 4.3.3 |
| **Educational Services** | | | | | | | | | | | | | | | | | | | | | | | | |
| Colleges, Universities, and Professional Schools | S | | S | S | S | S | S | | | | | | P | P | | | | P | | P | P | | | |
| Elementary and Secondary Schools | P | | P | P | P | P | S | S | S | S | S | S | P | P | | | | P | | | | | | |
| Vocation or Trade School | S | | S | S | S | S | S | | | | | | P | P | | | | P | | P | P | | | |
| **Government Services** | | | | | | | | | | | | | | | | | | | | | | | | |
| Emergency Services Facility *[11-16-2020]* | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Government Offices and Buildings | S | P | S | S | S | S | S | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Post Office *[11-16-2020]* | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | P | |
| **Health Care Facilities** | | | | | | | | | | | | | | | | | | | | | | | | |
| Hospice *[11-16-2020]* | S | | S | S | S | S | | | P | P | P | P | P | P | | P | P | P | | | | | | |
| Hospital | S | | S | S* | S* | S* | S | | | | | | P | P | | | | P | | | P | | | 4.3.3 |

## Table 4.2.1: Principal Use Table

Key: P = Permitted by Right S = Special Use Permit Required * = Specific Use Standards Apply in District *blank cell* = not allowed

| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Medical and Dental Office and Clinic | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | P | |
| Nursing and Rehabilitation Center | S* | | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | P | P | S* | | | P | | | P | | | 4.3.3 |
| Urgent Care Facility *[11-16-2020]* | | | | | | | | | | | | | P* | P* | | | P* | P* | | P* | | P* | | 4.3.3 |
| Recreation, Parks, and Open Space | | | | | | | | | | | | | | | | | | | | | | | | |
| Boating Facility, Community | S* | | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | | | | | | | | | 4.3.3 |
| Boating Facility, Private Residential | P* | | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P | P* | P* | | | | | | | | | 4.3.3 |
| Cemetery | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | | | | | | | | | | 4.3.3 |
| Community Garden *[11-16-2020]* | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Golf Course | P | | P | P | P | P | P | P | P | P | P | P | P | P | | | | | | | | | | |
| Park and Recreation Area | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Transportation | | | | | | | | | | | | | | | | | | | | | | | | |
| Airport and Terminal | | | | | | | | | | | | | P | P | | | | | | | P | P | P | |
| Bus and Taxi Terminal *[11-16-2020]* | | | | | | | | | | | | | P | P | | | P | | | P | P | P | P | |
| Heliport | | | | | | | | | | | | | P | P | | | | | | | P | P | P | |
| Marina, Commercial | S* | | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | P | P | S* | P | P | | | P | | P | P | 4.3.3 |
| Marina, Commercial with Floating Structures *[11-16-2020]* | S* | | S* | S* | S* | | | | | | | | S* | | S* | | S* | | | | | S* | S* | 4.3.3 |
| Railroad Freight Depot | | | | | | | | | | | | | | P | | | | | | P | | | P | |
| Railroad Passenger Terminal | | | | | | | | | | | | | | P | | | | | | P | | | P | |
| Water Transportation Facilities | | | | | | | | | | | | | P | P | | | P | | | P | | P | P | |
| Utilities | | | | | | | | | | | | | | | | | | | | | | | | |
| Electric Substation | S | S | | S | S | S | S | S* | S* | S* | S* | S* | P | P | P | P | P | P | P | P | P | P | P | 4.3.3 |

## Table 4.2.1: Principal Use Table

Key: P = Permitted by Right S = Special Use Permit Required * = Specific Use Standards Apply in District *blank cell* = not allowed

| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Solar Energy Collection Facility | | | | | | | | | | | | | | | | | | | | | S | P | P | |
| Utility Lines, Structures, and/or Facilities; General | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | 4.3.3 |
| **Commercial Uses** | | | | | | | | | | | | | | | | | | | | | | | | |
| **Amusement & Entertainment Uses** | | | | | | | | | | | | | | | | | | | | | | | | |
| Adult Entertainment Establishment | | | | | | | | | | | | | | | | | | | | | | S* | | 4.3.4 |
| Bar/Nightclub | | | | | | | | | | | | | P | | P | | P | | P | P | P | | | |
| Electronic Gaming Operation | | | | | | | | | | | | | | | | P* | S* | | | P* | | S* | | 4.3.4 |
| Event Center *[11-16-2020]* | | | | | | | | | | | | | P | P | P* | P* | P | | | P | | | | 4.3.4 |
| Indoor Recreation Establishment | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | P | P | P | P | P | S* | P | P | P | P | P | 4.3.4 |
| Outdoor Recreation Establishment | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | S* | P | P | P | P | P | S* | P | P | S | P | P | 4.3.4 |
| Outdoor Shooting Range | | | | | | | | | | | | | | | | | | | | | S* | | S* | 4.3.4 |
| **Animal Services** | | | | | | | | | | | | | | | | | | | | | | | | |
| Animal Grooming Service *[11-16-2020]* | | | | | | | | | | | | | P | P | P* | P* | P | P* | P | P | P | P | | 4.3.4 |
| Equestrian Facility *[11-16-2020]* | P | P* | P* | P* | P* | | | | | | | | P | | | | P | | | | | P | P | 4.3.4 |
| Kennel *[11-16-2020]* | S | | S* | S* | S* | | | | | | | | P | P | P | P | P | S | | P | P | P | P | 4.3.4 |
| Veterinary Service *[11-16-2020]* | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | | |
| **Commercial Services** | | | | | | | | | | | | | | | | | | | | | | | | |
| Bank and/or Financial Institution | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | | | |
| Business Service Center | | | | | | | | | | | | | P | P | P | P | P | P | | P | P | P | | |
| Commercial Parking Lot or Facility | | | | | | | | | | | | | | P | | P | | | | P | | | | |

## Table 4.2.1: Principal Use Table

Key: P = Permitted by Right S = Special Use Permit Required * = Specific Use Standards Apply in District *blank cell* = not allowed

| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Funeral Services | | | | | | | | | | | | | P | | P | P | P | P | | P | | | | |
| Mini-Warehouse/Self-Storage | | | | | | | | | | | | | P | P | | | P | | | P | P | P | P | |
| Off-Premises Advertising | | | | | | | | | | | | | | | | | | | | | P* | P* | P* | 4.3.4 |
| Repair Shop | | | | | | | | | | | | | P | P | P | P | P | | | P | P | P | | |
| **Food & Drink** | | | | | | | | | | | | | | | | | | | | | | | | |
| Commercial Kitchen, Catering *[11-16-2020]* | | | | | | | | | | | | | P | | P | P | P | | | P | P | P | P | |
| Microbrewery/Microdistillery *[11-16-2020]* | | | | | | | | | | | | | P | P | P | P | P | | | P | P | P | P | |
| Restaurant | | | | | | | | | | | | | P | P | P | P | P | | P | P | P | P | P | |
| **Lodging** | | | | | | | | | | | | | | | | | | | | | | | | |
| Bed and Breakfast Inn | S* | S* | S* | S* | S* | | | | | | | | | P | | | | | | | | | | 4.3.4 |
| Campground/Recreational Vehicle (RV) Park | S* | | S* | S* | S* | S* | S* | | | | | | P* | | | | P* | | | | | | | 4.3.4 |
| Hotel or Motel | | | | | | | | | | | | | P | P | | P | P | | | | P | P | | |
| **Office** | | | | | | | | | | | | | | | | | | | | | | | | |
| Contractor Office | | | | | | | | | | | | | P | S | P* | P* | P | | | P | P | P | P | 4.3.4 |
| Labor Organization | | | | | | | | | | | | | P | P | | | | P | | | | P | P | |
| Offices for Private Business and Professional Activities | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | P | |
| **Personal Services** | | | | | | | | | | | | | | | | | | | | | | | | |
| Dry Cleaning/Laundry Plant | | | | | | | | | | | | | P | | P | | P | | | P | P | P | P | |
| Instructional Services and Studios *[11-16-2020]* | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | | |
| Personal Services, General | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | | |

## Table 4.2.1: Principal Use Table

Key: P = Permitted by Right S = Special Use Permit Required * = Specific Use Standards Apply in District *blank cell* = not allowed

| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| **Retail Sales** | | | | | | | | | | | | | | | | | | | | | | | | |
| Auction House *[11-16-2020]* | | | | | | | | | | | | | | | | | P | | | P | | P | | |
| Convenience Store *[11-16-2020]* | S* | S* | | | S* | S* | S* | | | | | | P | P | P | P | P | S | | P | P | P | P | 4.3.4 |
| Food Market | | | | | | | | | | | | | P | P | P | P | P | | P | P | P | | | |
| Grocery Store | | | | | | | | | | | | | P | P | P | P | P | | P | P | P | | | |
| Oil or Gas Dealer, Retail *[11-16-2020]* | | | | | | | | | | | | | | | | | P | | | P | P | P | | |
| Pharmacy | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | | | |
| Retail Nursery | | S | | | | | | | | | | | P | P | P | P | P | | | P | P | P | | |
| Retail Sales, Building and Construction Supplies | | | | | | | | | | | | | P | P | | | P | | | P | P | P | P | |
| Retail Sales, General | | | | | | | | | | | | | P | P | P | P | P | | P | P | P | P | | |
| **Vehicle & Equipment Sales & Service** | | | | | | | | | | | | | | | | | | | | | | | | |
| Boat Dealer | | | | | | | | | | | | | P | | | | P | | | P | P | P | P | |
| Car Wash | | | | | | | | | | | | | P | S | P | P* | P | | P | P | P | P | P | 4.3.4 |
| Equipment Rental and Leasing | | | | | | | | | | | | | P | S | | | P | | | P | P | P | P | |
| Farm Implement Sales | | | | | | | | | | | | | P | P | | | P | | | P | P | P | P | |
| Fuel Sales | | | | | S* | | | | | | | | P* | S* | P* | P* | P* | | P* | P* | P* | P* | P* | 4.3.4 |
| Mobile Home and Prefab Building Sales | | | | | | | | | | | | | P | | | | P | | | P | P | P | | |
| Transportation Vehicle Service and Storage Facility *[11-16-2020]* | | | | | | | | | | | | | | | | | | | | S | S | P | P | |
| Vehicle Rentals | | | | | | | | | | | | | P | S | | P* | P | | | P | P | | | 4.3.4 |
| Vehicle Sales | | | | | | | | | | | | | P | | | | P | | | P | P | P | P | |

## Table 4.2.1: Principal Use Table

Key: P = Permitted by Right S = Special Use Permit Required * = Specific Use Standards Apply in District *blank cell* = not allowed

| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Vehicle Service Station, Large Vehicles | | | | | | | | | | | | | P | | | | P | | | P | P | P | P | |
| Vehicle Service Station, Minor *[11-16-2020]* | | | | | | | | | | | | | P | S | P* | P* | P | | P | P | P | P | P | 4.3.4 |
| Vehicle Service Station, Major | | | | | | | | | | | | | P | | | | P | | | P | P | P | P | |
| Vehicle Towing Service and Storage Yard | | | | | | | | | | | | | P | S | P | | P | | P | P | P | P | P | 4.3.4 |
| **Industrial Uses** | | | | | | | | | | | | | | | | | | | | | | | | |
| Design & Technology Services | | | | | | | | | | | | | | | | | | | | | | | | |
| Broadcasting and Production Studio | | | | | | | | | | | | | P | P | | | P | | | P | S | P | P | |
| Data Center *[11-16-2020]* | | | | | | | | | | | | | | | | | | | | P | P | P | P | |
| Research and Development Facility | | | | | | | | | | | | | P | P | | P | P | | | P | P | P | P | |
| Industry & Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Artisan Manufacturing *[11-16-2020]* | P | | | | | | | | | | | | P | P | P* | P* | P | | | P | P | P | P | 4.3.5 |
| 311 Food Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Animal Food Manufacturing (NAICS 3111) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Bakeries and Tortilla Manufacturing (NAICS 3118) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Dairy Product Manufacturing (NAICS 3115) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Fruit and Vegetable Preserving and Specialty Food | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |

## Table 4.2.1: Principal Use Table

Key: P = Permitted by Right S = Special Use Permit Required * = Specific Use Standards Apply in District *blank cell* = not allowed

| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Manufacturing (NAICS 3114) | | | | | | | | | | | | | | | | | | | | | | | | |
| Grain and Oilseed Manufacturing (NAICS 3112) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Other Food Manufacturing (NAICS 3119) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Seafood Product Preparation and Packaging (NAICS 3117) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Sugar and Confectionary Product Manufacturing (NAICS 3113) | | | | | | | | | | | | | P | | | | S | | | P | P | P | P | |
| 312 Beverage & Tobacco Product Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Beverage Manufacturing (NAICS 3121) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Tobacco Manufacturing (NAICS 3122) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| 313 Textile Mills | | | | | | | | | | | | | | | | | | | | | | | | |
| Fabric Mills (NAICS 3132) | | | | | | | | | | | | | | | | | | | | | S | S | P | |
| Fiber, Yarn, and Thread Mills (NAICS 3131) | | | | | | | | | | | | | | | | | | | | | S | S | P | |
| Textile and Fabric Finishing and Fabric Coating Mills (NAICS 3133) | | | | | | | | | | | | | | | | | | | | | S | S | P | |
| 314 Textile Product Mills | | | | | | | | | | | | | | | | | | | | | | | | |
| Other Textile Product Mills (NAICS 3149) | | | | | | | | | | | | | | | | | | | | S | S | S | P | |
| Textile Furnishings Mill (NAICS 3141) | | | | | | | | | | | | | | | | | | | | S | S | S | P | |
| 315 Apparel Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |

## Table 4.2.1: Principal Use Table

Key: P = Permitted by Right S = Special Use Permit Required * = Specific Use Standards Apply in District *blank cell* = not allowed

| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Apparel Accessories and Other Apparel Manufacturing (NAICS 3159) | | | | | | | | | | | | | | | | | | | | P | P | P | P | |
| Apparel Knitting Mills (NAICS 3151) | | | | | | | | | | | | | | | | | | | | S | S | S | P | |
| Cut and Sew Apparel Manufacturing (NAICS 3152) | | | | | | | | | | | | | | | | | | | | P | P | P | P | |
| 316 Leather and Allied Product Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Footwear Manufacturing (NAICS 3162) | | | | | | | | | | | | | | | | | | | | P | P | P | P | |
| Leather and Hide Tanning and Finishing (NAICS 3161) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Other Leather and Allied Product Manufacturing (NAICS 3169) | | | | | | | | | | | | | | | | | | | | P | P | P | P | |
| 321 Wood Product Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Other Wood Product Manufacturing (NAICS 3219) | | | | | | | | | | | | | | | | | | | | S | | S | P | |
| Sawmills and Wood Preservation (NAICS 3211) | | | | | | | | | | | | | | | | | | | | S | | S | P | |
| Veneer, Plywood, and Engineered Wood Product Manufacturing (NAICS 3212) | | | | | | | | | | | | | | | | | | | | S | P | S | P | |
| 322 Paper Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Converted Paper Product Manufacturing (NAICS 3222) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| 323 Printing & Related Support Activities | | | | | | | | | | | | | | | | | | | | | | | | |

## Table 4.2.1: Principal Use Table

Key: P = Permitted by Right S = Special Use Permit Required * = Specific Use Standards Apply in District *blank cell* = not allowed

| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Printing and Related Support Activities (NAICS 3231) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| 325 Chemical Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Basic Chemical Manufacturing (NAICS 3251) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Other Chemical Product and Preparation (NAICS 3259) [Except Explosives Manufacturing (NAICS 325920) and All Other Miscellaneous Chemical Product and Preparation Manufacturing (NAICS 325998)] | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Paint, Coating, and Adhesive Manufacturing (NAICS 3255) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Pharmaceutical and Medicine Manufacturing (NAICS 3254) | | | | | | | | | | | | | | | | | | | | | P | P | P | |
| Resin, Synthetic Rubber, and Artificial Synthetic Fibers and Filaments Manufacturing (NAICS 3252) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Soap, Cleaning Compound, and Toilet Preparation Manufacturing (NAICS 3256) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| 326 Plastics & Rubber Products Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Plastics Product Manufacturing (NAICS 3261) | | | | | | | | | | | | | | | | | | | | | S | S | P | |
| Rubber Product Manufacturing | | | | | | | | | | | | | | | | | | | | | | S | P | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| (NAICS 3262) | | | | | | | | | | | | | | | | | | | | | | | | |
| 327 Nonmetallic Mineral Product Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Cement and Concrete Product Manufacturing (NAICS 3273) [Except Cement Manufacturing (NAICS 32731)] | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Clay Product and Refractory Manufacturing (NAICS 3271) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Glass and Glass Product Manufacturing (NAICS 3272) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Other Nonmetallic Mineral Product Manufacturing (NAICS 3279) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| 331 Primary Metal Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Alumina and Aluminum Production and Processing (NAICS 3313) [Except Alumina Refining and Primary Aluminum Production (NAICS 331313) and Secondary Smelting and Allowing of Aluminum (NAICS 331314)] | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Iron and Steel Mills and Ferroalloy Manufacturing (NAICS 3311) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Nonferrous Metal (except Aluminum) Production & | | | | | | | | | | | | | | | | | | | | | | S | P | |

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| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Processing (NAICS 3314) | | | | | | | | | | | | | | | | | | | | | | | | |
| Steel Product Manufacturing from Purchased Steel (NAICS 3312) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| 332 Fabricated Metal Product Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Architectural and Structural Metals Manufacturing (NAICS 3323) | | | | | | | | | | | | | | | | | | | | | S | S | P | |
| Boiler, Tank, and Shipping Container Manufacturing (NAICS 3324) | | | | | | | | | | | | | | | | | | | | | S | S | P | |
| Coating, Engraving, Heat Treating, and Allied Activities (NAICS 3328) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Cutlery and Handtool Manufacturing (NAICS 3322) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Forging and Stamping (NAICS 3321) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Hardware Manufacturing (NAICS 3325) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Machine Shops: Turned Product; and Screw, Nut, and Bolt Manufacturing (NAICS 3327) | | | | | | | | | | | | | | | | | | | | | | S | P | |
| Other Fabricated Metal Product Manufacturing (NAICS 3329) | | | | | | | | | | | | | | | | | | | | S | S | S | P | |
| Spring and Wire Product Manufacturing (NAICS 3326) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |

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| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| **333 Machinery Manufacturing** | | | | | | | | | | | | | | | | | | | | | | | | |
| Agriculture, Construction, and Mining Machinery Manufacturing (NAICS 3331) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Commercial and Service Industry Machinery Manufacturing (NAICS 3333) | | | | | | | | | | | | | P | | | | S | | | P | P | P | P | |
| Engine, Turbine, and Power Transmission Equipment Manufacturing (NAICS 3336) | | | | | | | | | | | | | P | | | | S | | | P | P | P | P | |
| Industrial Machinery Manufacturing (NAICS 3332) | | | | | | | | | | | | | P | | | | S | | | P | P | P | P | |
| Metalworking Machinery Manufacturing (NAICS 3335) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Other General Purpose Machinery Manufacturing (NAICS 3339) | | | | | | | | | | | | | P | | | | S | | | P | P | P | P | |
| Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing (NAICS 3334) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| **334 Computer and Electronic Product Manufacturing** | | | | | | | | | | | | | | | | | | | | | | | | |
| Audio and Video Equipment Manufacturing (NAICS 3343) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Communications Equipment Manufacturing (NAICS 3342) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Computer and Peripheral | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Equipment Manufacturing (NAICS 3341) | | | | | | | | | | | | | | | | | | | | | | | | |
| Navigational, Measuring, Electromedical, and Control Instruments Manufacturing (NAICS 3345) | | | | | | | | | | | | | P | | | | S | | | P | P | P | P | |
| Manufacturing and Reproducing Magnetic and Optical Media (NAICS 3346) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Semiconductor and Other Electronic Component Manufacturing (NAICS 3344) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| 335 Electrical Equipment, Appliance, and Component Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Electrical Equipment Manufacturing (NAICS 3353) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Electric Lighting Equipment Manufacturing (NAICS 3351) | | | | | | | | | | | | | P | | | | S | | | P | P | P | P | |
| Household Appliance Manufacturing (NAICS 3352) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Other Electrical Equipment and Component Manufacturing (NAICS 3359) | | | | | | | | | | | | | P | | | | S | | | P | P | P | P | |
| 336 Transportation Equipment Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Aerospace Product and Parts Manufacturing (NAICS 3364) | | | | | | | | | | | | | | | | | | | | | P | S | P | |
| Motor Vehicle Body and Trailer Manufacturing (NAICS 3362) | | | | | | | | | | | | | | | | | | | | | S | S | P | |

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| Use | Zoning District | | | | | | | | | | | | | | | | | | | | | | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Motor Vehicle Manufacturing (NAICS 3361) | | | | | | | | | | | | | | | | | | | | | S | S | P | |
| Motor Vehicle Parts Manufacturing (NAICS 3363) | | | | | | | | | | | | | | | | | | | | | P | S | P | |
| Other Transportation Equipment Manufacturing (NAICS 3369) | | | | | | | | | | | | | | | | | | | | | P | S | P | |
| Railroad Rolling Stock Manufacturing (NAICS 3365) | | | | | | | | | | | | | | | | | | | | | P | S | P | |
| Ship and Boat Building (NAICS 3366) | | | | | | | | | | | | | | | | | | | | | P | S | P | |
| 337 Furniture and Related Product Manufacturing | | | | | | | | | | | | | | | | | | | | | | | | |
| Household and Institutional Furniture and Kitchen Cabinet Manufacturing (NAICS 3371) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Office Furniture (including Fixtures) Manufacturing (NAICS 3372) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Other Furniture Related Product Manufacturing (NAICS 3379) | | | | | | | | | | | | | P | | | | S | | | S | P | P | P | |
| Medical Equipment and Supplies Manufacturing (NAICS 3391) | | | | | | | | | | | | | | | | | | | | P | P | P | P | |
| Other Miscellaneous Manufacturing (NAICS 3399) | | | | | | | | | | | | | P | | | | S | | | P | P | P | P | |
| Intensive Industry | | | | | | | | | | | | | | | | | | | | | | | | |
| Intensive Manufacturing & Processing | | | | | | | | | | | | | | | | | | | | | | | | |
| All Other Miscellaneous Chemical Product and Preparation | | | | | | | | | | | | | | | | | | | | | | | S | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Manufacturing (NAICS 325998) | | | | | | | | | | | | | | | | | | | | | | | | |
| Alumina Refining and Primary Aluminum Production (NAICS 331313) | | | | | | | | | | | | | | | | | | | | | | | S | |
| Animal Slaughtering and Processing (NAICS 3116) | | | | | | | | | | | | | | | | | | | | | | | S | |
| Cement Manufacturing (NAICS 32731) | | | | | | | | | | | | | | | | | | | | | | | S | |
| Explosives Manufacturing (NAICS 325920) | | | | | | | | | | | | | | | | | | | | | | | S | |
| Foundries (NAICS 3315) | | | | | | | | | | | | | | | | | | | | | | | S | |
| Lime and Gypsum Product Manufacturing (NAICS 3274) | | | | | | | | | | | | | | | | | | | | | | | S | |
| Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing (NAICS 3253) | | | | | | | | | | | | | | | | | | | | | | | S | |
| Petroleum and Coal Products Manufacturing (NAICS 3241) | | | | | | | | | | | | | | | | | | | | | | | S | |
| Pulp, Paper, and Paperboard Mills (NAICS 3221) | | | | | | | | | | | | | | | | | | | | | | | S | |
| Secondary Smelting and Alloying of Aluminum (NAICS 331314) | | | | | | | | | | | | | | | | | | | | | | | S | |
| Other Intensive Industrial Uses | | | | | | | | | | | | | | | | | | | | | | | | |
| Electricity Generating Facilities | | | | | | | | | | | | | | | | | | | | | | | S | |
| Fuel Bulk Storage Facilities | | | | | | | | | | | | | | | | | | | | | | | S | |
| Mining & Quarrying, High | | | | | | | | | | | | | | | | | | | | | | | S* | 4.3.5 |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Intensity | | | | | | | | | | | | | | | | | | | | | | | | |
| Mining & Quarrying, Low Intensity | | | | | | | | | | | | | | | | | | | | | | S* | S* | 4.3.5 |
| Sanitary Landfill (NAICS 562212) | | | | | | | | | | | | | | | | | | | | | | | S* | 4.3.5 |
| **Warehousing, Storage, & Wholesale Sales and Distribution** | | | | | | | | | | | | | | | | | | | | | | | | |
| Dry Stack Boat Storage Facility, Stand-Alone | | | | | | | | | | | | | | P | | | P | | | P | | P | P | |
| Motor Freight Transportation Warehousing | | | | | | | | | | | | | P | | | | | | | P | P | P | P | |
| Recreational Vehicle and Boat Trailer Storage Lot *[11-16-2020]* | | | | | | | | | | | | | P* | | P* | | P* | | | P* | P* | P* | P* | 4.3.5 |
| Warehousing *[11-16-2020]* | | | | | | | | | | | | | P | P | | | P* | | | P* | P | P | P | 4.3.5 |
| Wholesaling | | | | | | | | | | | | | P* | P | | | P* | | | P* | P* | P | P | 4.3.5 |
| Wholesaling Seafood with Water Frontage *[11-16-2020]* | | | | | | | | | | | | | P | | P | | P | | | | | | | |
| **Waste & Salvage** | | | | | | | | | | | | | | | | | | | | | | | | |
| Commercial Recycling Facility, Large Collection *[11-16-2020]* | | S | S | S* | S* | S | | | | | | | P* | | S* | | P* | S* | S | P* | P* | P* | P* | 4.3.5 |
| Commercial Recycling Facility, Processing *[11-16-2020]* | | | | | | | | | | | | | | | | | S | | | S | S* | P* | P* | 4.3.5 |
| Commercial Recycling Facility, Processing and Collection *[11-16-2020]* | | | | | | | | | | | | | | | | | S | | | S | S | P* | P* | 4.3.5 |
| Commercial Recycling Facility, Small Collection *[11-16-2020]* | | S | S | S* | S* | S* | S* | S | S | S | S | S | P* | P* | P* | P* | P* | S* | P* | P* | P* | P* | P* | 4.3.5 |
| Landfill, Demolition | P* | P* | P* | P* | P* | P* | | | | | | | P* | | P* | | P* | P* | P* | | P* | P* | P* | 4.3.5 |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 | |
| Landfill, Landscape | P* | P* | P* | P* | P* | P* | | | | | | | P* | | P* | | P* | P* | P* | | P* | P* | P* | 4.3.5 |
| Junk Yards, Scrap Processing | | | | | | | | | | | | | | | | | | | | | | | P* | 4.3.5 |
| Septage, Sludge Disposal | | | | | | | | | | | | | | | | | | | | | | | S* | 4.3.5 |

# Section 4.3. Standards for Specified Principal Uses

## 4.3.1. AGRICULTURAL USES

### A. All Agricultural Uses

#### 1. Stable

*[11-16-2020]*

Stables in the AR, R-20S, R-20, and R-15 districts shall comply with the following standards:

**a.** No stable shall be erected closer than 100 feet to any property line.

**b.** A buffer in compliance with Section 5.4, Landscaping and Buffering, shall be required along property lines adjacent to residential uses.

## 4.3.2. RESIDENTIAL USES

### A. Household Living

#### 1. Dwelling, Dual-Unit Attached

**a.** In the R-20, R-15, R-10, and R-7 zoning districts, dual-unit attached dwellings are only allowed as part of a performance residential development and are subject to the maximum density for the district. *[09-08-2020]*

**b.** Dual unit attached dwellings in the B-1 and B-2 districts shall comply with the standards for multi-family dwellings in those districts.

#### 2. Dwelling, Multi-Family

**a.** In the R-20, R-15, R-10, and R-7 zoning districts, multi-family dwellings are only allowed as part of a performance residential development and are subject to the maximum density for the district. *[09-08-2020]*

**b.** Multi-family dwellings in the B-1 and B-2 districts shall comply with the following standards:

**1.** Dwelling units must be part of mixed use development established to provide innovative opportunities for an integration of diverse but compatible uses into a single development that is unified by distinguishable design features with amenities and walkways to increase pedestrian activity.

**2.** The development shall be single ownership or unified control of a property owners association.

**3.** Uses within the development are restricted to residential uses and uses allowed in the B-1 district.

**4.** Sidewalks must be provided throughout the project.

**5.** Parking location and quantity shall be shared.

**6.** Community facilities and/or common area shall be provided.

**7.** Mixed-Use Residential buildings are permitted and encouraged.

**8.** Conceptual elevations indicating proposed architectural style and conceptual lighting plans shall be submitted with the application.

**3. Dwelling, Quadraplex**

**a.** In the R-20, R-15, R-10, and R-7 zoning districts, quadraplex dwellings are only allowed as part of a performance residential development and are subject to the maximum density for the district. *[09-08-2020]*

**b.** Quadraplex dwellings in the B-1 and B-2 districts shall comply with the standards for multi-family dwellings in those districts.

**4. Dwelling, Single-Family Detached**

Single-family dwellings in the B-1 and B-2 districts shall comply with the standards for multi-family dwellings in those districts.

**5. Dwelling, Triplex**

**a.** In the R-20, R-15, R-10, and R-7 zoning districts, triplex dwelling are only allowed as part of a performance residential development and are subject to the maximum density for the district. *[09-08-2020]*

**b.** Triplex dwellings in the B-1 and B-2 districts shall comply with the standards for multi-family dwellings in those districts.

**6. Dwelling, Row-Style**

**a.** In the R-20, R-15, R-10, and R-7 zoning districts, row-style dwelling are only allowed as part of a performance residential development and are subject to the maximum density for the district. *[09-08-2020]*

**b.** Row-style dwellings in the B-1 and B-2 districts shall comply with the standards for multi-family dwellings in those districts.

**7. Dwelling, Two-Family (Duplex)**
*[11-16-2020]*

Two-family dwellings in the B-2 district shall comply with the standards for multi-family dwellings.

**8. Live/Work or Caretaker Unit**

The purpose of this provision is to allow close physical proximity required by the owner-operator or a full-time employee to effectively transact a small business and yet maintain economically and safely a family dwelling unit within the same structure.

**a.** Any attached and detached live/work unit shall be allowed, provided:

1. The dwelling unit shall be occupied solely by the person engaged in the principal use, a full-time employee, or their family members residing with them;
2. The building shall meet the minimum side and rear setbacks of the R-15 district and the front setback requirements of the underlying zoning district.
3. The site shall provide an open space, unobstructed by any buildings, parking or structures, equal to the total floor space of the dwelling unit.
4. The amount of floor area for the dwelling unit shall be not more than 50 percent of the total floor area of the principal use.
5. The dwelling unit shall be located totally above the ground floor or totally to the rear of the principal structure so as not to interrupt the commercial frontage.
6. In addition to the required off-street parking for the principal use, 2 off-street parking spaces shall be provided for the dwelling unit.
7. A site plan and building layout shall be submitted with application.

**b.** A mobile home may be used as a separate and unattached residential structure under this provision, provided the following standards:

1. An area of 15,000 square feet can be designated for the use of residents, free from any use or activity needed to operate the business;
2. The mobile home shall be screened from view by adjacent properties or rights-of-way as specified in Section 5.4, Landscaping and Buffering;
3. The dwelling unit shall be occupied solely by the person engaged in the principal use, a full time employee, or their family members residing with them;
4. The mobile home shall meet the minimum side and rear setbacks of the R-15 District and the front setback requirements of the underlying zoning district;
5. The mobile home shall be totally to the rear of the principal use so as not to interrupt the commercial frontage; and
6. A site plan and building layout shall be submitted with application.

**c.** A single family dwelling unit may be constructed under this provision as a caretaker home for the enforcement and maintenance of conservation areas, provided:

1. The dwelling shall be occupied solely by the person engaged in the maintenance of the conservation land, an employee of the organization holding the conservation easement, or their family members residing with them;
2. The conservation easement allows a residence on the designated conservation land;

3. The building shall meet the minimum side and rear setbacks of the R-15 District and the front setback requirements of the underlying zoning district; and

4. A site plan and building layout shall be submitted with application.

**9. Mobile Home**

Mobile homes in the I-1 and I-2 districts shall comply with all dimensional requirements as specified for residential dwellings in the R-15 District.

**10. Mobile Home, Doublewide**

**a.** All doublewide mobile home structures shall have a gabled roof and be permanently affixed to a continuous permanent masonry foundation unpierced except for required ventilation and access.

**b.** Wheels, axles, transportation lights, and towing apparatus must be removed.

**11. Mobile Home Park**
*[11-16-2020]*

Mobile home parks shall comply with the following standards:

**a. General Standards**

1. Density shall not exceed 2.5 units per acre outside of areas designated as Employment Center, Urban Mixed Use, or Community Mixed Use in the County's Comprehensive Plan.

2. No person shall construct a mobile home park or make any addition to a mobile home park that either alters the number of sites for mobile homes within the park or affects the facilities required therein without a permit authorizing such construction or addition.

3. Every mobile home park shall contain at least three mobile home spaces.

4. The amount of land for each mobile home space utilizing individual septic tank systems shall be determined by the New Hanover County Health department after an investigation of soil conditions, the proposed method of sewage disposal, and proposed water system. However, in no case shall the size of a mobile home space be less than 5,000 square feet, and 6,000 square feet for multi-section units.

5. No mobile home park spaces shall be located in the 100-year Floodplain.

6. Parking shall be provided off-street at a ratio of 2:1 and shall be set back a minimum of ten feet from the roadway surface.

**b. Space Requirements**

1. Each mobile home space shall be at least 40 feet wide.

2. There shall be at least 20 feet of clearance between mobile homes, including ones parked end-to-end.

3. No mobile home shall be located closer than 75 feet to any residentially zoned property not occupied by a mobile home park.

4. Mobile homes shall be set back a minimum of 29 feet from the center line of the roadway.

**c. Road Improvements**

1. All roads in any mobile home park serving more than 25 spaces shall be paved to county specifications.

2. Each road shall be at least 18 feet in width and shall be generally centered in a right-of-way not less than 30 feet in width with direct access to a publicly maintained street or highway.

3. Each mobile home space shall abut an improved interior road, but none shall have direct access to a public street or thoroughfare.

4. Every street shall have a reserved strip six feet in width running parallel and adjacent to each side of the paved surface that shall be used for driveways, walkways, grass, low growing vegetative cover, or utility rights-of-way and must be seeded.

5. Unless unusual topography or configuration of property lines dictate otherwise, cul-de-sacs shall not exceed 1,000 feet in length with a minimum turnaround of 80 feet in diameter and an improved surface radius of 35 feet.

6. All streets will be appropriately identified with street name signs as applicable.

7. Parks providing internal access using unpaved roads shall design these roads to ensure emergency vehicle access.

**d. Space Identification**

All spaces shall be permanently identified with numbers at least three inches high located on the ground by permanent markers or on monuments, provided they are visible from the street. The numbers may be pole-mounted provided the numbers do not exceed one square foot and the pole does not exceed three feet in height except that electrical pedestals may also be used for numbering. Each individual mobile home shall also be affixed with lot identification numbers erected on the façade of the structure that fronts the roadway.

**e. Signage**

Permanent identification signs for the park may be allowed provided:

1. The sign is non-illuminated and does not exceed 32 square feet in area; and

2. The sign shall be located on private property and at least ten feet from any public right-of-way and at least 20 feet from any dwelling unit.

**f. Open Space**

1. The developer shall be responsible for ensuring adequate open space areas are available for use by the residents in accordance with Table 4.3.2.A.11.f: Required Open Space.

**Table 4.3.2.A.11.f: Required Open Space**

| Number of Mobile Home Spaces in Park | Required Open Space |
|---|---|
| 26-50 | ½ acre |
| 51-100 | 1 acre |
| 101-150 | 1 ½ acres |
| Over 150 | 1 ½ acres + 199 square feet per lot over 150 |

2. All open space areas shall have a minimum of 2,500 square feet. This requirement may be waived if the average lot size of the mobile home park is 10,000 square feet or greater.
3. Open space areas shall be designed and located to be easily accessible to all residents.

**g. Street Lights**

A lighting system consisting of electric lamps with 200-foot spacing or as specified by power company standards shall be provided. Pole mounted lights shall be set back 5 feet from the edge of the roadway surface. Lighting intensity shall be based on the standards used by the power company for candlepower at ground level.

**h. Refuse Collection**

Arrangements shall be made for a private vendor or other source to collect refuse, either from individual spaces or from centrally located dumpster sites. All dumpster locations are to be fenced and screened from view. Individual refuse receptacles shall be waterproof and rodent proof.

**i. Sewage Disposal**

All parks are to be provided with a sewage collection system and/or septic tanks approved by the appropriate agency.

**j. Water Supply**

All parks shall obtain water from a public source or a source as approved by the local or state health agency.

**k. Utilities**

Each space shall be equipped with water, sewer, and electrical connections.

### l. Fire Hydrants

1. For any mobile home park with three or more spaces that is served by a public or private central water system meeting state requirements for fire hydrants, the developer shall be required to install a fire hydrant at the entrance to the mobile home park.
2. For any mobile home park with 10 or more spaces that is served by a central water system meeting state requirements for fire hydrants, the developers shall be required to install additional hydrants equal to the total linear feet of the roadway divided by 1,000 or to the total number of spaces divided by 40, whichever is greater. These additional hydrants shall be spaced evenly throughout the mobile home park in order to provide maximum fire protection coverage, as determined by the County Fire Marshal. In no case shall a space be located more than 500 feet from a hydrant.
3. For any mobile home park with three or more spaces and with no adequate central water system, but either including or adjacent to an adequate, permanent surface water body, the developer shall be required to do one of the following:
    - **i.** Install a dry fire hydrant as close to the water source as possible, with the adequacy of the water source and location of the dry fire hydrant to be determined by the County Fire Marshal; or
    - **ii.** Establish an easement or road to the water source providing permanent, all-weather access that is adequate, as determined by the County Fire Marshal for fire-fighting equipment and vehicles.

### m. Mobile Home Stands and Anchors

Each mobile home space shall be improved to provide an adequate foundation for the placement and anchoring of the mobile home as follows:

1. The mobile home site shall be improved to provide an adequate foundation for the placement and anchoring of the mobile home, thereby securing the structure against uplift, sliding, rotation, and/or overturning.
2. Each mobile home shall be provided with anchorage in accordance with the North Carolina Uniform Standard Code for Mobile Homes.

### n. Permitted Uses

1. Within a mobile home park, one mobile home or dwelling unit may be used as an administrative office. Other administrative and service buildings housing sanitation and laundry facilities or any other such facilities shall comply with all applicable ordinances, codes, and statutes regarding buildings, electrical installations, plumbing, and sanitation systems.

2. Convenience establishments of a commercial nature, including food stores, coin-operated laundries and dry cleaning establishments, laundry and dry cleaning pickup stations, beauty parlors, and barber shops may be permitted in mobile home parks subject to the following restrictions:

   i. Such establishments shall be located, intended, and designed to serve only the trade or service needs of persons residing in the park.

   ii. Such establishments shall be subordinate to the residential use and character of the park.

   iii. Off-street parking for commercial establishments shall be provided at a ratio of 1 space for every 400 square feet of gross floor area.

   iv. Such establishments shall present no visible evidence of their commercial character from any portion of any residential district outside the park.

   v. Commercial establishments other than a coin-operated laundry shall be limited to 500 square feet of gross floor area for parks have less than 75 occupied mobile home spaces.

   vi. Commercial establishments in parks having more than 75 occupied spaces shall be limited to 1,000 square feet of gross floor area.

   vii. Parks that decrease their occupied spaces to less than 75 for a period of 12 months shall be required to decrease the amount of gross floor area for commercial establishments to 500 square feet.

   viii. Vehicular access to such establishments shall be from interior streets.

   ix. Signs serving such establishments inside the mobile home park shall be limited to 20 square feet in area, non-illuminated, and shall be attached to the establishment.

**o. Maintenance and Records**

1. All service buildings, commercial structures, and the grounds of the park shall be maintained in clean condition and kept free from any condition that will menace the health of any occupant, the public, or constitute a nuisance.

2. It shall be the duty of the operatory of the park to keep an accurate register containing a record of all occupants of the park. The owner shall keep the register available at all times for inspection by law enforcement officials, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register shall contain the name and address of the occupants of each space.

#### p. Travel Trailers Prohibited

Travel trailers are not permitted in a mobile home park.

#### q. Occupancy

No mobile home space shall be occupied until all improvements have been completed for the phase of the park under review and a final site development plan for that phase has been signed by the Planning Director. Final Site Plans shall comply with Section 10.3.6: Site Plan. Required improvements shall include but not be limited to: installation of water and sewer systems, installation of roads, electric systems and street lighting, installation of roads and recreation area development and marked spaces. A field inspection by the appropriate inspection officials and engineering officials shall be conducted to verify the installation of required improvements.

#### r. Improvement Sureties

Occupancy of an improved mobile home park space may be approved in lieu of street paving and required landscaping provided the developer provides the County a surety, either in the form of a bond, cash in escrow or irrevocable letter of credit in an amount equal to the projected cost of the improvements left incomplete. No surety or portion thereof shall be released by the County until certification of completion of the improvement has been provided.

### B. Group Living

#### 1. Family Care Home

Family care homes shall not be located within a 2,000-foot radius of an existing family care home.

#### 2. Fraternity/Sorority Residence

Fraternity/sorority residences shall comply with the following standards:

**a.** All fraternity/sorority residences shall meet the location criteria established for Additional Dwelling Allowances in Section 3.1.3.E.

**b.** The lot size for the residence shall be no less than 20,000 square feet for new construction and no less than 15,000 square feet for the conversion of existing buildings.

**c.** The usable floor space shall be no less than 250 square feet per resident.

**d.** A continual visual buffer a minimum of six feet in height and consisting of a combined fence and evergreen hedge or shrubbery screen shall be required to screen all parking areas from adjacent properties and rights-of-way.

#### 3. Group Home

*[11-16-2020]*

Group homes shall comply with the following standards:

**a.** Group homes shall be limited to six disabled persons living together as a self-supporting and self-sufficient household unit.

**b.** No group home shall be occupied or operated without zoning approval.

**1.** Group homes that are exempt from licensure pursuant to NCGS §122C-22 must recertify their exemption status annually; and

**2.** Group homes for special needs persons must recertify qualification of all residents as special needs persons annually.

**c.** Group homes shall not be located closer than 2,000 feet to any other existing group home, measured by a straight line from the nearest property lines, irrespective of jurisdictional boundaries. The distance shall be reduced by the right-of-way of a major thoroughfare exceeding 100 feet, major topographical features such as a major watercourse, or by major nonresidential or public uses such as a park, school, or religious institution.

**d.** Reasonable accommodations shall be provided in accordance with Section 10.3.13, Reasonable Accommodation.

**4. Senior Living: Assisted Living Facility**
*[11-16-2020]*

Developments in this category that are not part of a continuing care retirement community shall comply with the following standards:

**a.** The minimum lot size is five acres.

**b.** Maximum height shall be limited to 35 feet when buildings are placed within 50 feet of single-family residential lots or parcels.

**c.** Except as otherwise required by subsection c above, the height of buildings may be increased to no more than 50 feet when setbacks are increased to equal the proposed height of the building.

**d.** The site must be served by public water and sewer.

**e.** Maximum impervious area shall not exceed 50 percent of the net acreage. In areas where coastal stormwater rules apply, those limits will supersede this provision.

**f.** Open space and improved recreation space shall be provided at a rate of 20 percent of net acreage. Vegetative buffers of not less than 20 feet are required for all proposals.

**g.** Frontage on an arterial or collector roadway is required.

**h.** All other local state or federal permits or authorizations are required.

**5. Senior Living: Continuing Care Retirement Community**
*[11-16-2020]*

**a. Standards in All Zoning Districts**

Continuing care retirement communities in all zoning districts shall comply with the following standards:

1. The minimum lot size is 20 acres.
2. Maximum impervious area for the total development may not exceed 40 percent of the net acreage. In areas where coastal stormwater rules apply, those limits will supersede this provision.
3. Commercial uses in the nature of small, neighborhood shops, each not exceeding 5,000 square feet of gross floor area may occupy up to 2 percent of the net acreage.
4. Maximum height may not exceed 35 feet for single family structures designated for seniors or for any building within 50 feet of single family residential lots or parcels.
5. Except as noted in subsection 5 above, maximum height may be increased to no more than 50 feet when setbacks are increased to equal the proposed height of the building.
6. Public water and sewer must serve the site.
7. Open space and improved recreational area shall be provided at a rate of 35 percent of net acreage. Improved recreation space shall be appropriate for seniors at all stages of lifestyle transition, such as ADA accessible walkways, gardens, and parks.
8. Vegetative buffers of not less than 20 feet are required for all proposals.
9. Frontage on an arterial or collector street is required unless located in a Planned Development and meeting the requirements outlined below.
10. All other local state or federal permits or authorizations are required.

### 4.3.3. CIVIC & INSTITUTIONAL USES

#### A. Child & Adult Care

##### 1. Adult Day Care

Adult day care shall comply with the following standards:

a. Such facilities shall be limited to the care of no more than 50 adults eighteen years of age or older.

b. Care shall not exceed 24 hours at one time.

c. Services must be provided in a home or facility certified to meet State standards and shall be provided for the following individuals:

1. Adults who do not need nursing care but who require complete, full-time daytime supervision;
2. Adults who need assistance with activities of daily living in order to maintain themselves in their own homes; and
3. Adults who need intervention in the form of enrichment and opportunities for social activities in order to prevent deterioration that would lead to institutionalization.

### 2. Family Child Care Home

Family Child Care Homes in Residential Districts shall comply with the following standards:

**a.** All dimensional requirements of the underlying district must be met.

**b.** The entire play area shall be enclosed with a fence having a minimum height of 4 feet and constructed in such a manner that maximum safety is ensured.

**c.** No outside sign in excess of two square feet shall be permitted, except when such facility is located on an existing roadway identified as a collector or arterial facility on the Wilmington MPO Functional Classification Map, in which case the maximum sign area shall be 12 square feet.

## B. Civic

### 1. Animal Shelter

*[11-16-2020]*

Animal Shelters in R-15, R-20S, and R-20 Districts shall comply with the following standards:

**a.** Minimum lot size shall comply with Table 4.3.3.B.1.a: Animal Shelter Minimum Lot Size, based on the number of animals kept at the shelter.

**Table 4.3.3.B.1.a: Animal Shelter Minimum Lot Size**

| Number of Animals | Minimum Lot Size |
|---|---|
| 1-10 | 2 acres |
| 11-20 | 4 acres |
| 21-30 | 6 acres |

For each additional acre beyond six acres, an additional ten animals may be permitted. The minimum lot size requirements may be waived if the shelter is constructed to entirely enclosed all facilities so as to adequately protect all animals from weather extremes and to protect adjacent residences from noise, odors, and other objectionable characteristics, provided all building setback requirements are met.

**b.** All lots on which a shelter is located must have direct access onto a street that meets the minimum requirements for acceptance and maintenance by the NC Department of Transportation.

**c.** All structures shall have side and rear setbacks of 50 feet.

**d.** All county requirements regarding sewage disposal systems and sanitation control methods shall be met.

**e.** No outside sign in excess of 2.25 square feet in area shall be permitted.

**2. Food Pantry**
*[11-16-2020]*

Any areas utilized for waiting or dining shall be incidental in nature and entirely located indoors.

**3. Lodges, Fraternal, and Social Organizations**
*[11-16-2020]*

Lodges, Fraternal, and Social Organizations in all residential districts shall comply with the following standards:

**a.** All new sites shall be a minimum of two acres in size.

**b.** Structures shall have side and rear setbacks of 50 feet and a front yard of at least 25 feet greater than that required for single family residences within the district located.

**c.** Provisions for food, refreshments, and entertainment for club members and their guests may be allowed in conjunction with such use if the Board of County Commissioners determines that said provisions will not constitute a nuisance.

**4. Religious Assembly**
*[11-16-2020]*

**a.** Religious Assemblies in the R-7, R-5 and RMF districts shall comply with the following standards:

**1.** Religious institutions up to 1,000 or fewer seats are allowed as long as:

**i.** Structures are limited to a sanctuary or similar main gathering facility that may also include individual rooms for administration, dining halls, and classrooms. Accessory structures for maintenance and storage purposes are permitted.

**ii.** Signs shall not be internally illuminated.

**2.** The following uses are prohibited without a special use permit:

**i.** Outdoor recreational facilities, except those associated with child care provided as part of the principal use. Such facilities shall be restricted to “tot lots” or similar play areas.

**ii.** Schools associated with the institution.

**iii.** Indoor recreation facilities such as basketball courts or similar facilities.

**iv.** Religious institutions with more than 1,000 seats, provided that such facilities shall only be allowed if direct access is provided from a Minor Collector road or greater as identified on the Wilmington MPO Functional Classification Map.

**3.** Primary vehicular access to the use shall not be provided by way of a local residential street.

**b.** Religious Assemblies in the B-1, CB and CS districts shall comply with the following standards:

**1.** Religious institutions are permitted with no seat limitations if located on a Minor Collector road or greater as identified on the Wilmington MPO Functional Classification Map.

**2.** Primary vehicular access to the use shall not be provided by way of a local residential street.

## C. Communication and Information Facilities

*[09-08-2020]*

### 1. General Requirements for All Communication and Information Facilities.

The following standards shall apply to all communications and information facilities:

#### a. Setbacks

Except for amateur radio antenna up to 90 feet, any tower, antenna, or related wireless support structure in any zoning district shall be set back from any existing residential property line or residential zoning district boundary a distance equal to the height of the tower as measured from the base of the tower. In no case shall the setback for any tower, antenna, or related structure be less than 50 feet.

#### b. Certification Required

All applicants seeking approval shall also submit a written affidavit from a qualified person or persons, including evidence of their qualifications, certifying that the construction or placement of such structures meets the provisions of the Federal Communications Act, 47 U.S.C. § 332, as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455 (a), in accordance with the rules promulgated by the Federal Communications Commission (FCC), and all other applicable federal, state, and local laws. The statement must certify that radio frequency emissions from the antenna array(s) comply with the FCC standards. The statement shall also certify that both individually and cumulatively the proposed facilities located on or adjacent to the proposed facility will comply with current FCC standards. In accordance with NCGS 160D-932, the county cannot base its permitting decision on public safety implications of radio frequency emissions of wireless facilities.

#### c. Expert Review

Outside experts and disputes are subject to the following provisions:

1. Siting of telecommunications facilities may involve complex technical issues that require review and input by outside experts. Staff may require the applicant to pay the reasonable costs of a third-party technical study or a proposed facility. Selection of expert(s) to review the proposal shall be at the sole discretion of the decision-making body.

2. If the applicant for a telecommunications facility claims that one or more standards of this ordinance are inconsistent with federal law as applied to a particular property, or would prohibit the effective provision of wireless communications within the relevant market area, the decision-making body may require that the applications be reviewed by a qualified engineer for a determination of the accuracy of such claims. Any costs shall be charged to the applicant.

**d. Signage**

Signage shall comply with the following standards.

1. Attaching commercial messages for off-site or on-site advertising shall be prohibited.

2. The only signage that is permitted upon an antenna, wireless support structure, equipment cabinet, or fence shall be information and for the purpose of identifying:

   **i.** The antenna support structure (such as ASR registration number);

   **ii.** The party responsible for the operation and maintenance of the facility;

   **iii.** Its current address and telephone number;

   **iv.** Security or safety signs;

   **v.** Property manager signs for the tower (if applicable); and

   **vi.** Signage appropriate to warn the general public as to the use of the facility for radiofrequency transmissions.

**2. Amateur Radio Antenna**

Except for in the I-1 and I-2 districts, Amateur Radio Antenna 90 feet in height or taller, in addition to the standards set forth in Subsection 4.3.3.C.1 above, shall require a Special Use Permit and are subject to the standards of 4.3.3.C.6 below.

**3. Antenna & Towers Ancillary to the Principal Use**

Except for in the I-1 and I-2 districts, Antenna & Towers 70 feet in height or taller, in addition to the standards set forth in Subsection 4.3.3.C.1 above, shall require a Special Use Permit and are subject to the standards of 4.3.3.C.6 below.

**4. Collocations**

**a.** Wireless collocations attached to existing structures that are not considered non-substantial modifications shall not add more than six feet to the overall height of a structure.

**b.** The applicant is encouraged to provide simulated photographic evidence of the proposed appearance of the collocation and a statement as to the potential visual and aesthetic impacts on all adjacent residential zoning districts. The simulation should include overall height; configuration; physical location; mass and scale; materials and color (including proposals for steel structures); and illumination.

**c.** Concealed (stealth) or camouflaged facilities are encouraged when the method of concealment is appropriate to the proposed location. Stealth facilities may include but are not limited to: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers, or other architectural features that blend with an existing or proposed building or structure. Freestanding stealth facilities typically have a secondary, obvious function such as a church steeple, windmill, silo, light standards, flagpole, bell/clock tower, water tower, or tree.

**5. Non-Substantial Modification**

**a.** The applicant is encouraged to provide simulated photographic evidence of the proposed appearance of non-substantial modification and a statement as to the potential visual and aesthetic impacts on all adjacent residential zoning districts. The simulation should include overall height; configuration; physical location; mass and scale; material and color (including proposals for steel structures0; and illumination.

**b.** Concealed (stealth) or camouflaged facilities are encouraged when the method of concealment is appropriate to the proposed location. Stealth facilities may include but are not limited to: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers, or other architectural features that blend with an existing or proposed building or structure. Freestanding stealth facilities typically have a secondary, obvious function such as a church steeple, windmill, silo, light standard, flagpole, bell/clock tower, water tower, or tree.

**6. Other Wireless Communication Facilities including New Wireless Support Structures & Substantial Modifications**

**a.** Where Special Use Permits are required, all of the following standards shall be applied, and all requirements must be met. Additional conditions may be determined to mitigate negative impacts, and the permit should be approved only if all negative impacts can be mitigated. No reduction in setbacks may be granted for this use for increased buffers.

**1.** The minimum distance between the wireless support structure and any other adjoining parcel of land or road must be equal to the minimum setback described in Subsection 4.3.3.C.1.a above, plus any additional distance necessary to ensure that the wireless support structure, as designed, will fall within the wireless support structure site.

**2.** The applicant shall provide simulated photographic evidence of the proposed appearance of the wireless support structure and wireless facilities from four vantage points and a statement as to the potential visual and aesthetic impacts on all adjacent residential zoning districts. The simulation shall include overall height; configuration; physical location; mass and scale; materials and color (including proposals for stealth structures); and illumination.

**3.** Concealed (stealth) or camouflaged facilities are encouraged when the method of concealment is appropriate to the proposed location. Attached stealth facilities may include but are not limited to: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers, or other architectural features that blend with an existing or proposed building or structure. Freestanding stealth facilities typically have a secondary, obvious function such as a church steeple, windmill, silo, light standards, flagpole, bell/clock tower, water tower, or tree.

**4.** The proposed appearance of concealed or non-concealed facilities shall be evaluated for compatibility with the surrounding community prior to submission of the special use permit application. Applicants shall meet with Planning and Land Use staff for a preliminary review of proposed appearance in order to assure each facility will impose the least obtrusive visual impact.

**b.** A landscaped buffer with a base width not less than 25 feet and providing 100 percent opacity shall be required within the wireless support structure site to screen the exterior of protective fencing or walls. The base station and equipment compound of the wireless support structure and each guy wire anchor must be surrounded by a fence or wall not less than eight feet in height.

**c.** All wireless support structures shall be constructed to accommodate collocation. Structures over 150 feet in height shall be engineered to accommodate at a minimum two additional providers. Structures 150 feet or less in height shall be engineered to accommodate at a minimum one additional provider.

**d.** Equipment compounds shall comply with the following standards:

**1.** Shall not be used for the storage of any equipment or hazardous waste (e.g., discarded batteries) or materials not needed for the operation. No outdoor storage yards shall be allowed in a tower equipment compound.

**2.** Shall not be used as a habitable space.

**e.** The applicant shall submit Form 7460 to the Federal Aviation Administration (FAA) to assure compliance with all FAA standards and to resolve issues of concern, including required lighting, possible transmission interference or other conflicts when the proposed wireless support structure site is located within 10,000 feet of an airport or within any runway approach zone.

**7. Nonconforming Wireless Support Structures**

**a.** Any wireless support structure and associated equipment which was lawfully constructed under the terms of the Ordinance, which is now considered a nonconforming improvement, may continue or be reconstructed as a conforming improvement even though the wireless support structure and associated equipment may not conform with the provisions of this ordinance for the district in which it is located. Wireless support structures and associated equipment may only be enlarged and/or relocated if the enlarged or relocated wireless support structure: is considered an eligible facilities request, eliminates the need for an additional wireless support structure, provides additional collocation opportunities on the wireless support structure, or provides additional antenna space on the wireless support structure; and provided further than the enlargement and/or relocation shall be in conformance with the following regulations and design limitations:

**1.** Wireless support structure height may not be increased by more than 10 percent of the originally constructed structure height, except where either of the following is applicable:

**i.** The district in which the wireless support structure is located would allow the increase by right, or

**ii.** The wireless support structure was originally permitted as a special use permit and applicant obtains a special use permit modification, as described in UDO Section 10.3.5 Special Use Permit.

**2.** A wireless support structure shall be allowed to be reconstructed and relocated within the boundaries of the property on which it is

located so long as the decrease in the setbacks does not exceed 10 percent of the originally constructed structure height and the relocated structure is sited to minimize any increase in the existing nonconformity. Any request to reconstruct and relocate the structure where the resulting decrease in setback exceeds 10 percent of the originally constructed structure height shall require a special use permit or special use permit modification, as described in UDO Section 10.3.5, Special Use Permit.

## D. Educational Services

RESERVED

## E. Government Services

RESERVED

## F. Health Care Facilities

### 1. Hospital

Hospitals in the R-20, R-15, and R-10 districts shall comply with the following standards:

**a.** The minimum lot size is two acres.

**b.** The structure shall have side and rear setbacks of 50 feet and a front yard of at least 25 feet greater than required of single family residences within the district in which located.

### 2. Nursing and Rehabilitation Center

Nursing and Rehabilitation Centers in all districts where a special use permit is required shall comply with the following standards:

**a.** The minimum lot size is two acres.

**b.** The structure shall have side and rear setbacks of 50 feet and a front yard of at least 25 feet greater than required of single family residences within the district in which located.

**c.** The number of beds approved should correspond to the number of beds allocated to the applicant by an approved certificate of need.

### 3. Urgent Care Facility

*[11-16-2020]*

Urgent Care Facilities seeking approval of a heliport as an accessory use must obtain a Special Use Permit.

## G. Recreation, Parks, and Open Space

### 1. Boating Facility, Community

*[11-16-2020]*

Community boating facilities shall comply with the following standards:

**a.** The rights to use such facility must be conferred by an easement appurtenant to the residential lot it is intended to serve.

**b.** The applicant shall demonstrate that the project will have minimal impacts on water quality, primary nursery areas, shellfish grounds, and conservation resources.

**c.** The number of boat slips may not exceed the number of residential lots or dwelling units within the associated development.

**d.** Commercial activities, including but not limited to the sale of gasoline, oil, marine supplies and food stuffs, shall be strictly prohibited.

**2. Boating Facility, Private Residential**

The rights to use a private residential boating facility must be conferred by an easement appurtenant to the residential lot it is intended to serve.

**3. Cemetery**

A cemetery shall meet the minimum requirements of the NC State Cemetery Commission.

## H. Transportation

**1. Marina, Commercial**
*[11-16-2020]*

Commercial marinas in Residential and B-1 Districts shall comply with the following standards:

**a.** Night lighting by design and construction shall be contained on the site.

**b.** A site plan shall be submitted for review and approval.

**c.** The applicant shall demonstrate that the siting of the facility will have minimal impacts on water quality, primary nursery areas, shellfish grounds, and conservation resources.

**d.** Any accessory dry stack boat storage facility must be clearly identified on the approved site plan, be described in the findings of fact, and meet all accessory use-specific standards outlined in Section 4.3.5: Standards for Specified Accessory Uses.

**2. Marina, Commercial with Floating Structures**
*[11-16-2020]*

Commercial marinas with floating structures shall comply with the following standards:

**a.** Floating structures shall not be located within 15 feet of the waterward extension of all property lines.

**b.** Not more than one dwelling unit per floating structure shall be permitted.

**c.** A permanent pier, dock, or walkway with adequate night lighting shall join each floating structure and the adjacent shoreline.

**d.** Each floating structure shall be inspected and approved by the Building Safety Department prior to placement in the marina. This

approval shall be dependent upon, but not limited to, approval of the electrical system and the method of exiting.

**e.** Each floating structure shall be provided with permanent water and sewer systems approved by the New Hanover County Health Department. All wastewater piping from the unit shall be constructed to the NC State Plumbing Code. No overboard discharge openings through the hull or structure shall be permitted except for one dewatering pipe which may not be connected to wastewater piping.

**f.** A system for collection and removal of solid wastes and refuse shall be approved by the New Hanover County Health Department.

**g.** A minimum of 2,000 square feet of gross land area contiguous and above mean high water shall be provided for each floating structure on-shore.

**h.** A site plan shall be submitted for approval showing all improvements as required by this ordinance.

**i.** Any floating structure existing prior to the original adoption of these use standards on April 2, 1984 was required to conform within one year of that date.

**j.** The applicant shall demonstrate that the siting of the facility will have minimal impacts on water quality, primary nursery areas, shellfish grounds, and conservation resources.

## I. Utilities

### 1. Electric Substation

Electric substations in the R-5 and RMF Districts shall comply with the following standards:

The substation must be screened in accordance with Section 5.4, Landscaping and Buffering, except that screening may be reduced if the substation is completely screened from view of the public right-of-way or adjacent property.

### 2. Utility Lines, Structures, and/or Facilities; General

**a.** General utility lines, structures, and/or facilities in all districts shall comply with the following standards:

**1.** All sewage and disposal and collection facilities shall be designed and installed in accordance with the standards and requirements set by CFPUA and/or appropriate local or state agency.

**2.** Non-CFPUA sewage treatment systems shall be located only in those districts in which the use they are serving is permitted. However, non-CFPUA sewage treatment systems serving uses in more than one district may be located in any of those use districts.

**b.** General utility lines, structures, and/or facilities in the R-5 and RMF districts shall comply with the following standards:

**1.** The utility must be screened in accordance with Section 5.4, Landscaping and Buffering, except that screening may be reduced if the utility is completely screened from view of the public right-of-way or adjacent property.

### 4.3.4. COMMERCIAL USES

#### A. Amusement & Entertainment Uses

##### 1. Adult Entertainment Establishment

Adult entertainment establishments in the I-1 District shall comply with the following standards:

**a.** Each adult entertainment establishment shall be located a minimum of 1,000 feet from any existing adult entertainment establishment. Such measurement shall be the horizontal distance between the nearest property lines of the proposed and existing adult entertainment establishment.

**b.** Each adult entertainment establishment shall be located a minimum of 1,000 feet from any residentially zoned area, church, school, or park. Such measurement shall be the horizontal distance between the property line of the proposed adult entertainment establishment and the nearest residential zoning line or property line of any church, school, or park.

**c.** Any display, device, or sign that depicts or describes specified sexual activities or specified anatomical areas shall be out of view of the public way and surrounding property.

**d.** Any adult entertainment establishment existing prior to the original adoption of these use standards on November 1, 1993 was required to conform within one year of that date.

##### 2. Electronic Gaming Operation

*[11-16-2020]*

Electronic gaming operations shall comply with the following standards:

**a.** Hours of operation shall be limited to 8:00 am through 12:00 midnight, seven days per week.

**b.** Alcohol sales or consumption shall be prohibited.

**c.** The maximum number of machines/terminals/computers for any electronic gaming operation business is ten.

**d.** All food or beverage to be served or distributed by the establishment must meet the requirements of the New Hanover County Environmental Health Department, including any and all permits and licenses.

**e.** Fire Services shall set an occupancy limit for the establishment prior to submission of an application.

**f.** Maximum daily cash payout shall not exceed $600. Winning which exceed this amount shall be paid out in the form of a check or credit.

All establishments engaged in internet and sweepstakes operations must comply with all reporting requirements regulated by the Internal Revenue Service.

**g.** Any building and/or zoning permits issued for electronic gaming and sweepstakes operations shall be subject to annual review (from the date of approval) to ensure compliance with all relevant regulations and conditions.

**h.** Electronic gaming operations shall be located a minimum distance of 500 feet, measured in a straight line in any direction from closest point of the building and parking lot of the proposed business to the property line of any of the following:

**1.** A residence or a residential zoning district

**2.** A place of worship or other religious institution

**3.** A day care center or public or private school

**4.** A public park, playground, or public library

**5.** Another electronic gaming operation

**6.** An adult entertainment establishment

**i.** Applicants shall submit a current straight line drawing prepared within 30 days prior to the application by a registered surveyor, depicting the property lines and the structures containing any of the above uses and the straight line measurements to each. A use outlined under subsection h above, shall be considered to be existing or established if it is in place or actively under construction at the time an application is submitted. Residential zoning districts shall be based upon the most current official zoning map.

**j.** All legally operating gaming operations made nonconforming by adoption of this section shall be removed or brought into compliance with these provisions within 60 months of the date of adoption of this section.

### 3. Event Center

*[11-16-2020]*

Event Centers in the B-1 and CB Districts shall be limited to indoor operations only, except that outdoor operations may be allowed in these districts if approved by a Special Use Permit.

### 4. Indoor Recreation Establishment

*[11-16-2020]*

Indoor recreation establishments in residential districts and in the O&I District shall comply with the following standards:

**a.** All buildings shall be set back from the right-of-way at least 50 feet and 100 feet if the site is in the Special Highway Overlay District.

**b.** Signage shall be limited to one ground sign not to exceed 32 square feet and shall be set back from the right-of-way at least 25 feet.

**c.** Access to the site shall be provided by a Minor Collector road or greater, as designated on the Wilmington MPO Functional Classification Map.

#### 5. Outdoor Recreation Establishment

*[11-16-2020]*

Outdoor recreation establishments in residential districts and the O&I District shall comply with the following standards:

**a.** All buildings shall be set back from the right-of-way at least 50 feet and 100 feet if the site is in the Special Highway Overlay District.

**b.** Signage shall be limited to one ground sign not to exceed 32 square feet and shall be set back from the right-of-way at least 25 feet.

**c.** Access to the site shall be provided by a Minor Collector road or greater, as designated on the Wilmington MPO Functional Classification Map.

#### 6. Outdoor Shooting Range

Outdoor shooting ranges shall comply with the following standards:

**a.** All shooting areas shall be setback a minimum distance of 100 feet from any street right-of-way.

**b.** The firing range shall have a natural earth embankment a minimum of ten feet high placed behind all targets within the shooting area.

**c.** The firing range shall be posted “No Trespassing-Danger-Shooting Range” at 100 feet intervals around the perimeter.

**d.** At least one qualified individual in the sponsoring club or organization shall be certified for shooting range supervision. Each facility shall adopt safety rules and regulations as determined by the sponsoring club or organization.

**e.** The firing range shall be covered by a minimum of $300,000 of accident and liability insurance.

### B. Animal Services

#### 1. Animal Grooming Service

*[11-16-2020]*

Animal Grooming Services within the B-1, CB, and O&I Districts shall not include outdoor runs or play areas.

#### 2. Equestrian Facility

*[11-16-2020]*

Equestrian facilities in the AR, R-20S, R-20, and R-15 districts shall comply with the following standards:

**a.** No stable shall be erected closer than 100 feet to any property line.

#### 3. Kennel

*[11-16-2020]*

Kennels in the R-15, R-20S, and R-20 districts shall comply with the following standards:

**a.** Minimum lot size shall comply with Table 4.3.4.B.3.a: Minimum Lot Size for Kennel, based on the number of animals kept on site. For each additional acre beyond six acres, an additional ten animals may be permitted. The minimum lot size requirements may be waived if the shelter is constructed to entirely enclosed all facilities so as to adequately protect all animals from weather extremes and to protect adjacent residences from noise, odors, and other objectionable characteristics, provided all building setback requirements are met.

**Table 4.3.4.B.3.a: Minimum Lot Size for Kennel**

| Number of Animals | Minimum Lot Size |
|---|---|
| 1-10 | 2 acres |
| 11-20 | 4 acres |
| 21-30 | 6 acres |

**b.** All lots on which a shelter is located must have direct access onto a street that meets the minimum requirements for acceptance and maintenance by the NC Department of Transportation.

**c.** All structures shall have side and rear setbacks of 50 feet.

**d.** All county requirements regarding sewage disposal systems and sanitation control methods shall be met.

**e.** No outside sign in excess of 2.25 square feet in area shall be permitted.

## C. Commercial Services

### 1. Off- Premises Advertising

See Section 5.6, Signs.

### 2. Mini-Warehouse/Self-Storage

*[09-08-2020]*

When located in the B-2 District or UMXZ District or when established on a lot having frontage on Market Street, Carolina Beach Road, College Road, or Castle Hayne Road, mini-warehouse/self-storage facilities shall comply with the following standards:

**a.** Except as otherwise authorized in this subsection, all property stored on the site shall be enclosed entirely within enclosed buildings.

**b.** A minimum of ten percent of the area of each building façade that faces a public or private street, a shared parking area, a pedestrian way, or designated open space shall consist of transparent windows or doors. For purposes of this requirement, portions of a façade that are screened from view at ground level from the street, parking area, pedestrian way, or open space, as applicable, shall not count toward the building façade area.

**c.** The color of building exteriors visible from ground level view from the street or from abutting properties at ground level shall be natural tones found as predominant colors in the natural environment, such as muted tones of green, brown, beige, yellow, or tan. The use of colors on a building exterior that are significantly more intense, vibrant, or bright compared to nearby properties so as to call attention to the establishment is prohibited.

**d.** The use of metal as a primary material is prohibited on perimeter or exterior walls that are visible from an arterial street or from a residential district or existing residential development.

**e.** The only commercial uses permitted on-site shall be the rental of storage space, the pickup and deposit of goods or property in dead storage, and the sale or rental of goods incidental to on-site storage (e.g., boxes, tape, and labels).

**f.** Outdoor storage shall be limited to the storage of licensed and operational recreational vehicles and boats. Such storage shall:

**1.** Be located to the rear of the principal structure;

**2.** Be screened from all public rights-of-way and abutting properties by a fence or wall and vegetation that complies with the design requirements for a Combination Planted Buffer Strip and Fencing type of transitional buffer.

**3.** Limit the height of any boat or recreational vehicle located within 45 feet of a property line to a maximum of 12 feet and any other boat or recreational vehicle to a maximum of 14 feet;

**4.** Be limited to a specific delineated area which does not interfere with on-site vehicular circulation;

**5.** Not exceed 20 percent of the buildable area of the site; and

**6.** Not include any dry stacking of boats (dry stacking of boats is prohibited).

## D. Food & Drink

RESERVED

## E. Lodging

### 1. Bed and Breakfast Inn

*[11-16-2020]*

Bed and breakfast inns in the RA, AR, R-20S, R-20, and R-15 districts shall comply with the following standards:

**a.** No lighting beyond normal residential lighting is allowed.

**b.** The only signage allowed shall be one attached wall sign no greater than four square feet.

### 2. Campground/Recreational Vehicle (RV) Park

**a.** Every recreational vehicle park shall contain at least 25 spaces.

**b.** Recreational vehicles and travel trailers shall only be occupied in approved campgrounds.

**c.** Every space shall consist of a minimum area of 2,000 square feet. Each space shall be designated on the ground by permanent markers or monuments.

**d.** Parking spaces sufficient to accommodate at least one motor and camping vehicle shall be constructed within each space.

**e.** All spaces developed adjacent to a public street shall be set back a minimum of 40 feet from the street right-of-way.

**f.** All spaces shall be located on sites with elevations that are not susceptible to flooding. The spaces shall be graded to prevent any water from ponding or accumulating within the park. Each space shall be properly graded to obtain a reasonably flat site and to provide adequate drainage away from the space.

**g.** The park shall have all weather roads that directly abut each space. All road rights-of-way shall be 20 feet except that one-way roads may have a minimum width of 12 feet. In areas of heavy traffic use, 30-foot rights-of-way shall be required.

**h.** No space shall have direct vehicular access to a public road.

**i.** The park shall be developed with proper drainage ditches. All banks shall be sloped and seeded.

**j.** Cul-de-sacs or dead-end roads shall not exceed 1,000 feet in length measured from the entrance to the center of the turnaround. Any road designed to be permanently closed shall have a turnaround at the closed end with a minimum right-of-way diameter of 80 feet.

**k.** When the park has more than one direct access to a public road, they shall not be less than 300 feet apart or closer than 300 feet to a public road intersection unless unusual site conditions demand otherwise.

**l.** Each park shall have a central structure or structures that will provide separate toilet facilities for both sexes. This structure may also contain a retail sales counter and/or coin operated machine for the park residents' use only, provided there is no exterior advertising. Vending machines also may be permitted in a sheltered area.

**m.** No swimming pool or bathing area shall be installed, altered, improved, or used without compliance with applicable Health department regulations. No bathing area shall be used without the approval of the New Hanover County Health Department.

**n.** Park identification signs shall comply with the following standards:

**1.** No more than two signs with a total area of not more than 32 square feet for each sign may be permitted.

**2.** Signs shall be located on park property no closer than 10 feet to any property line or road right-of-way.

3. Only indirect non-flashing lighting may be used for illumination and the sign must be constructed in such a manner as to prevent a direct view of the light source from any public right-of-way.

**o.** Sanitary facilities shall be provided in accordance with the following standards:

1. All toilet, shower, lavatory, and laundry facilities shall be provided and maintained in a clean and sanitary condition and kept in good repair at all times.
2. They shall be safely and adequately lighted.
3. Facilities shall be easily accessible and conveniently located.
4. All toilet, shower, lavatory, and laundry room facilities shall be acceptable to the New Hanover County Health department and shall be inconformity with all New Hanover County codes.
5. All buildings shall be constructed in accordance with the building codes for the county.

**p.** Water supply shall comply with the following standards:

1. A safe, adequate, and conveniently located water supply must be provided for each park.
2. No water supply shall be installed, altered, or used without the approval of the New Hanover County Health Department.

**q.** Sewage disposal shall comply with the following standards:

1. Sewage dumping stations shall be approved by the New Hanover County Health Department.
2. Each park shall provide at least one sewage dumping station.
3. No method of sewage disposal shall be installed, altered, or used without the approval of the New Hanover County Health department.
4. All sewage wastes from each park, including wastes from toilets, showers, bathtubs, lavatories, wash basins, sinks, and water using appliances not herein mentioned, shall be piped into the park's sewage disposal system or systems.

**r.** Open space shall be provided in accordance with the following standards:

1. Each park shall provide open space areas to serve the needs of the anticipated users.
2. A minimum of 0.25 acres of level, well-drained ground for every 50 spaces shall be required as open space.
3. The park owner is responsible for the development and maintenance of all open space areas.

**s.** Fire hydrants shall be provided in accordance with the following standards:

1. The developer of any campground or recreational vehicle park with a central water system meeting State requirements for fire hydrants shall be responsible for providing adequate fire protection for the park through the provision of a fire hydrant located as close as possible to the entrance of the park.

2. The hydrant shall be connected to the central water system serving the park and in accordance with specification established by the County Fire Marshal.

**t.** The park owner is responsible for refuse collection.

**u.** It shall be unlawful for a person to park or store a mobile home in a campground or recreational vehicle park. However, one mobile home may be allowed within a park to be used as an office and/or residence of persons responsible for the operation and maintenance of the travel trailer park.

**v.** It shall be the duty of the operatory of the campground or recreational vehicle park to keep an accurate register containing a record of all occupants of the park. The owner shall keep the register available at all times for inspection by law enforcement officials, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register shall contain the following information:

1. Name and address of the occupants of each space;

2. Date entering and leaving the park; and

3. The license number of each vehicle (car, truck, camping vehicle, etc.) with state of issuance, make, and type of equipment.

## F. Office

### 1. Contractor Office

Contractor offices shall comply with the following standards:

**a.** In the B-1 and CB districts, outside storage areas are prohibited.

**b.** In the CB District, all work associated with contractor operations shall be conducted entirely within enclosed structures.

## G. Personal Services

RESERVED

## H. Retail Sales

### 1. Convenience Store

*[11-16-2020]*

Convenience stores in the RA, AR, R-15, R-10, and R-7 Districts shall comply with the following standards:

**a.** The total amount of land devoted to such use shall not exceed one acre.

**b.** The gross square footage of the structure shall not exceed 3,000 square feet.

**c.** The use shall be limited to providing convenience food sales and gasoline sales to the surrounding residential area, provided that vehicular service such as, but not limited to, auto repair, sale of auto accessories, washing, etc. shall not be permitted.

**d.** A convenience food store shall not be permitted within the interior of a subdivision.

**e.** Specifications for a proposed principal use sign shall be submitted with the application for the Special Use Permit.

**f.** Fuel sales may be approved provided such sales shall be limited to one pump island located a minimum distance of 30 feet from any street right-of-way and 40 feet from any side or rear lot line. Overhead canopies shall be measured in accordance with Section 4.3.4.I.2.b

## I. Vehicle & Equipment Sales & Service

### 1. Car Wash

*[11-16-2020]*

Car washes in the CB District shall comply with the following standards:

**a.** No outdoor work shall be performed except in areas designated for such activity on an approved site plan.

**b.** The premises shall not be used for the sale of vehicles.

### 2. Fuel Sales

*[11-16-2020]*

Fuel sales in all districts where allowed shall comply with the following standards:

**a.** The premises shall not be used for the sale of vehicles.

**b.** Fuel pump canopies shall meet the setbacks of the underlying zoning district, as measured from the outer edge of any supportive structure physically connected to a fuel pump and the ground along a straight line to the nearest point of the property line.

**c.** Setback distances from street rights-of-way may be reduced by one-half.

Fuel sales in the R-15 District shall comply with the following standards:

**d.** Fuel sales may be allowed in conjunction with a convenience store use Special Use Permit.

**e.** Such sales shall be limited to one pump island located a minimum distance of 30 feet from any street right-of-way and 40 feet from any side or rear lot line.

### 3. Vehicle Rentals

Vehicle rentals in the CB District may display no more than ten automotive vehicles.

### 4. Vehicle Service Station, Minor

*[11-16-2020]*

Minor vehicle service stations in the B-1 and CB Districts shall comply with the following standards:

**a.** No automobile towing operations are allowed.

**b.** All repair work or lubrication shall be conducted within the principal building. All permanent storage of materials, merchandise, or repair and servicing equipment shall be contained within the principal building.

**c.** No operator shall permit the storage of motor vehicles for a period in excess of 24 hours unless the vehicles are enclosed in the principal building.

**d.** Service or customer vehicles shall be parked on the premises in a manner that will not create traffic hazards or interfere with the vehicular maneuvering area necessary to enter or exit the site.

**e.** The premises shall not be used for the sale of vehicles.

**f.** No outdoor work shall be performed except in areas designated for such activity on an approved site plan.

**g.** Outdoor work areas shall be fenced, walled, or screened to minimize on-site and off-site noise, glare, odor, or other impacts.

## 4.3.5. INDUSTRIAL USES

### A. Design & Technology Services

RESERVED

### B. Industry & Manufacturing

#### 1. Artisan Manufacturing

*[11-16-2020]*

Artisan manufacturing in the B-1 and CB Districts shall comply with the following standards:

**a.** One or more accessory uses, such as a restaurant, retail, demonstration area, education and training facility or other incidental use open and accessible to the public shall be included.

**b.** Storage of materials, including silos, products for distribution, and other items requiring long-term storage shall be allowed in areas behind a building, within service alleys, in an enclosed building, or otherwise screened from the public right-of-way, pedestrian way, and adjacent residential properties.

**c.** Off-site distribution via tractor trailer is only permitted if the truck traffic is limited to streets classified as arterials on the Wilmington MPO Functional Classification Map.

## C. Intensive Industry

### 1. Mining & Quarrying, High Intensity

High intensity mining and quarrying shall comply with the following standards:

**a.** The minimum lot size shall be one acre.

**b.** Soil or other unconsolidated material (i.e. sand, marl, rock, fossil deposits, peat, fill or topsoil) may be removed for use off-site.

**c.** Additional on-site processing shall be permitted (i.e. use of conveyor systems, screening machines, crushing, or other mechanical equipment).

**d.** All mining operations and their associated activities must be located a minimum of 100 feet from all property lines when dewatering occurs.

**e.** High intensity mining operations shall not be allowed in areas classified as aquifer resource protection or watershed resource protection on the 2006 CAMA Land Classification Map.

### 2. Mining & Quarrying, Low Intensity

Low intensity mining and quarrying shall comply with the following standards:

**a.** Low intensity mining operations may not occupy more than 20 acres.

**b.** Soil or other unconsolidated material (i.e. sand, marl, rock, fossil deposits, peat, fill or topsoil) may be removed for use off-site. However, no further on-site processing is permitted (i.e. use of conveyor systems, screening machines, crushing, or other mechanical equipment). Mining activities where other on-site processing activities are conducted are considered Mining & Quarrying, High Intensity

**c.** The use of explosives is not permitted.

**d.** All mining operations and their associated activities shall comply with the following standards when dewatering occurs:

**1.** Must be located a minimum of 100 feet from all property liens.

**2.** The depth of each excavation pit shall not exceed 35 feet.

### 3. Sanitary Landfill

Sanitary landfills shall comply with the following standards:

**a.** No refuse shall be deposited and no building or structures shall be located within 50 feet of the nearest property line.

**b.** The operation of the landfill shall be carried out in accordance with the standards and procedures prescribed by the NC Department of Environmental Quality.

## D. Warehousing, Storage, & Wholesale Sales and Distribution

### 1. Recreational Vehicle and Boat Trailer Storage Lot

*[11-16-2020]*

Recreational vehicle and boat trailer storage lots shall comply with the following standards:

**a.** The use shall be solely open-air and ground level. No enclosing or overhead covering structures shall be installed.

**b.** Access shall be from a public or private street right-or-way.

**c.** A minimum buffer of 20 feet shall be provided in accordance with the provisions of Section 5.4: Landscaping and Buffering.

**d.** Repair, maintenance, or habitation of any recreational vehicle or boat stored in the facility is prohibited.

### 2. Warehousing

*[11-16-2020]*

Storage of live animals, explosives, and flammable gases or liquids is prohibited in warehousing in the B-2 and CS Districts.

### 3. Wholesaling

*[11-16-2020]*

Wholesaling shall comply with the following standards:

**a.** Wholesaling of live animals, explosives, and flammable gases or liquids is prohibited in the B-2 and CS Districts.

**b.** No outside storage is allowed in the PD, B-2, and AC Districts.

## E. Waste & Salvage

### 1. Commercial Recycling Facility, Large Collection

*[11-16-2020]*

Large collection commercial recycling facilities shall comply with the following standards:

**a.** The facility may be larger than 500 square feet and on a separate property or tract of land.

**b.** Facilities permitted by special use permit shall be limited to receiving only paper, glass, metal, and plastic recyclable products.

**c.** The site must be monitored daily to maintain sanitary conditions.

**d.** The facility and its appurtenant uses shall not be located closer than 100 feet to any residentially-zoned property.

**e.** Loading and outside storage shall comply with the following standards:

1. All loading and outside storage shall be to the side and/or rear of the building.
2. Storage or loading conducted on the side of the building shall be screened from view from the adjacent right-of-way.
3. All exterior storage shall be in containers or under shelters that are covered and secured.
4. No outside storage shall be visible from residentially-zoned property.

**f.** The facility may not operate between the hours of 7:00 PM and 7:00 AM when adjacent to residentially-zoned property.

**2. Commercial Recycling Facility, Processing**
*[11-16-2020]*

Processing commercial recycling facilities shall comply with the following standards:

**a.** The facility and its appurtenant uses shall not be located closer than 150 feet to any residentially-zoned properties.

**b.** Power-driven equipment is permitted.

**c.** Loading and outside storage shall comply with the following standards:

1. All loading and exterior storage shall be to the side or rear of the building.
2. Storage or loading conducted to the side of the building shall be screened from view from the adjacent right-of-way.
3. All exterior storage shall be in containers or under shelters that are covered and secured.
4. No outside storage shall be visible from residentially-zoned properties.

**d.** The facility shall not emit dust, smoke fumes, or vibrations detectable on adjacent properties.

**3. Commercial Recycling Facility, Processing and Collection**
*[11-16-2020]*

Commercial Recycling Facilities, Processing and Collection shall meet the standards of Commercial Recycling Facility, Processing and either Commercial Recycling Facility, Large Collection or Commercial Recycling Facility, Small Collection, whichever collection use is applicable. In the event where there is a conflict in standards between the Processing use and applicable Collection use, the most stringent standards shall apply.

**4. Commercial Recycling Facility, Small Collection**
*[11-16-2020]*

Small collection commercial recycling facilities shall comply with the following standards:

**a.** The facility may not exceed 500 square feet in size.

**b.** Facilities shall be limited to receiving only paper, glass, metal, and plastic recyclable products.

**c.** The facility must be located on a host tract, provided is does not occupy parking spaces needed by the primary use to comply with the requirements of Section 5.1, Parking and Loading.

**d.** The facility must be set back at least 10 feet from any street right-of-way.

**e.** The facility shall be located at least 100 feet from any residentially zoned property line.

**f.** No power-driven equipment is allowed except collection trucks.

**g.** Containers shall be constructed of durable, waterproof, and rustproof materials.

**h.** No material storage outside the container is allowed.

**i.** No signage other than an identification logo not exceeding ten square feet attached to the storage container is allowed.

**j.** The name, address, and p hone number of the organization and/or persons responsible for pick-ups and maintenance of the facility shall be displayed on the container.

**k.** The site must be monitored daily to maintain sanitary conditions.

**l.** The facility shall not reduce the landscaping required for any concurrent use.

**5. Landfill, Demolition**
*[11-16-2020]*

Demolition landfills shall comply with the following standards:

**a.** A site plan for the proposed demolition landfill meeting the requirements outlined in Section 10.3.6, Site Plan, shall be submitted to the NHC Environmental Health and Planning and Land Use departments for review and approval in accordance with NC Solid Waste Management Rules.

**b.** No demolition landfill shall be located within 500 feet of any residence, church, school, and/or place of assembly nor within 100 feet from any stream, creek, canal, marsh, estuarine waters, lake, river, and/or impoundment.

**c.** The filling of lower lying areas with demolition materials may be subject to Army Corps of Engineers 404 permits and the Division of Coastal Management's major CAMA permit.

**d.** All demolition landfills shall have access from a platted and recorded road and each site shall be accessed only through an arterial or collector street.

**e.** A buffer shall be required which shall consist of a minimum of 3 rows of vegetation in accordance with Section 5.4, Landscaping and

Buffering, or earthen berms with screening plants of sufficient height to screen the landfill area from view.

**f.** The developer/owner shall be responsible for obtaining a Sedimentation and Erosion Permit.

**g.** Demolition landfills shall not exceed 30 feet in height with side slopes not to exceed a 3 horizontal:1 vertical ratio.

**h.** One temporary sign not exceeded 32 square feet in area shall be erected on the site during the period that landfilling activity is permitted. The sign is to include the owner/operator's name and telephone number and the hours of operation. Upon cessation of the landfill, the sign shall be dismantled and removed with the exception of the landfill closure notification sign which shall be removed six months after closure.

**i.** After obtaining all necessary permits, the owner/developer shall have prepared a legal description that would be sufficient as an instrument of conveyance of the property. This description, along with a site map and a certified copy of applicable permits shall be filed for recordation with the Register of Deeds. The documents shall be filed under the name of the owner and shall specifically state that the site was granted a permit for disposal of demolition debris. After these documents have been properly recorded, a certified copy shall be filed with the Planning & Land Use Department.

**j.** The developer/owner of the disposal site shall provide free and unobstructed access during normal operation hours to county officials charged with the administration of this ordinance.

**k.** All existing landfills that do not have a valid permit shall comply with these regulations immediately.

**6. Landfill, Landscape**
*[11-16-2020]*

Landscape landfills shall comply with the following standards:

**a.** A site plan for the proposed landscape landfill meeting the requirements outlined in Section 10.3.6, Site Plan, shall be submitted to the NHC Environmental Health and Planning and Land Use departments for review and approval in accordance with NC Solid Waste Management Rules.

**b.** No landscape landfill shall be located within 500 feet of any residence, church, school, and/or place of assembly nor within 100 feet from any stream, creek, canal, marsh, estuarine waters, lake, river, and/or impoundment.

**c.** The filling of lower lying areas with landscape materials may be subject to Army Corps of Engineers 404 permits and the Division of Coastal Management's major CAMA permit.

**d.** The developer/owner of the disposal site shall provide free and unobstructed access during normal operation hours to county officials charged with the administration of this ordinance.

**e.** All existing landfills that do not have a valid permit shall comply with these regulations

**f.** The disposal of naturally occurring materials such as stumps, limbs, leaves, and dirt, that are generated on-site during the construction of residential projects are permitted with no further standards provided the material does not exceed a 0.5-acre footprint.

**g.** All other landscape landfills must comply with the following standards:

**1.** The landfill shall have access from a platted and recorded road and each site shall be accessed only through an arterial or collector street.

**2.** A buffer shall be required which shall consist of a minimum of 3 rows of vegetation in accordance with Section 5.4, Landscaping and Buffering, or earthen berms with screening plants of sufficient height to screen the landfill area from view.

**3.** The developer/owner shall be responsible for obtaining a Sedimentation and Erosion Permit.

**4.** Landscape landfills shall not exceed 30 feet in height with side slopes not to exceed a 3 horizontal:1 vertical ratio.

**5.** One temporary sign not exceeded 32 square feet in area shall be erected on the site during the period that landfilling activity is permitted. The sign is to include the owner/operator's name and telephone number and the hours of operation. Upon cessation of the landfill, the sign shall be dismantled and removed with the exception of the landfill closure notification sign which shall be removed 6 months after closure.

**6.** After obtaining all necessary permits, the owner/developer shall have prepared a legal description that would be sufficient as an instrument of conveyance of the property. This description, along with a site map and a certified copy of applicable permits shall be filed for recordation with the Register of Deeds. The documents shall be filed under the name of the owner and shall specifically state that the site was granted a permit for disposal of demolition debris. After these documents have been properly recorded, a certified copy shall be filed with the Planning & Land Use Department.

**7. Junk Yards, Scrap Processing**

Scrap processing junk yards shall comply with the following standards:

**a.** The minimum front setback shall be 100 feet from any street right-of-way.

**b.** All open storage shall be screened by the use of natural objects, plantings, fences, or other appropriate means so as not to be visible from streets and/or adjacent properties.

**c.** No junk yard or scrap processor shall be established within 500 feet of any residentially zoned or developed area.

**8. Septage, Sludge Disposal**

Septage and sludge disposal sites shall comply with the following standards:

**a.** Each sludge disposal site shall be located a minimum of 250 feet from a residence, place of business or church and 100 feet from any stream, canal, marsh, coastal water, lake or impoundment, subsurface drainage, or drainage ditch.

**b.** Each septage disposal site shall be located a minimum of 1,000 feet from a residence, place of business, or church and 100 feet from any stream, canal, marsh, coastal water, lake or impoundment, subsurface drainage, or drainage ditch.

**c.** A planted buffer strip, as specified in Section 5.4, Landscaping and Buffering, shall be provided along all front, side, and rear property lines, except in areas designated for ingress and egress.

**d.** Each site shall be posted "No Trespassing" and at each entrance legible signs of at least two square feet must be posted stating "Caution-Sludge or Septage Disposal Area" or other similar language conveying this warning.

**e.** No septage or sludge shall be deposited and no building or structures shall be located within 100 feet of the nearest property line in the disposal site area.

**f.** The operation and responsibility of said use shall be carried out in accordance with all standards and rules prescribed by the NC Division of Health Services and the NHC Health Department.

# Section 4.4. Accessory Use and Structure Standards

### 4.4.1. PURPOSE

This section authorizes the establishment of accessory uses and structures that are customarily subordinate to principal uses, provided that the accessory use or structure complies with all applicable standards in this section.

### 4.4.2. APPROVAL OF ACCESSORY USES AND STRUCTURES

All principal uses allowed in a zoning district shall be deemed to include those accessory uses, structures, and activities typically associated with this use, unless specifically prohibited in this ordinance. All accessory uses shall be subject to the standards in this section, as well as any applicable use-specific standards required for the associated principal use as set forth in this article.

### 4.4.3. PERMISSIONS FOR SPECIFIED ACCESSORY USES AND STRUCTURES

Table 4.4.3: Accessory Use Table, identifies which uses are permitted by right, permitted subject to approval of a special use permit, and prohibited in each zoning district. Permissions for the RFMU and EDZD districts are outlined in Article 3: Zoning Districts. The meanings of abbreviations in Table 4.4.3 are set forth in subsections A through C below.

**A.** A "P" in a cell indicates the use is permitted by right in the zoning district. Permitted uses, except for exempt bona fide farm uses, are subject to all other applicable standards of this UDO.

**B.** An "S" in a cell indicates that the use is allowed only if reviewed and approved as a special use in accordance with 10.3.5, Special Use Permit. Special uses are subject to all other applicable standards of this UDO.

**C.** A blank cell indicates that the use is not allowed in the respective zoning district.

**Table 4.4.3: Accessory Use Table**

Key: P = Permitted by Right S = Special Use Permit Required *blank cell* = not allowed

| Accessory Uses | Zoning Districts | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 |
| Accessory Dwelling Unit | | | | | | | | P | P | P | P | P | | P | | | | | | | | | |
| Accessory Structure | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Accessory Use, Customary | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Dry Stack Boat Storage Facility, at a Marina | | | S | S | S | S | | | | | | | P | P | | | P | | | P | | P | P |
| Electronic Gaming Operation | | | | | | | | | | | | | | | P | | P | | | | | P | P |
| Electric Vehicle Charging Station *[11-16-2020]* | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Farm Stand | P | P | P | P | P | | | | | | | | P | P | P | | P | | | | | | |
| Home Occupation *[11-16-2020]* | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Residential Private Pier | P | | P | P | P | P | P | P | P | P | P | P | P | P | | | | | | | | | |
| Solar Energy Collection Facility, Accessory *[11-16-2020]* | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| RV or Travel Trailer Dwelling *[09-08-2020]* | P | | P | P | P | P | P | | | | | | P | | | | P | | | | | | |
| Small Watercraft Storage *[09-08-2020]* | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Stormwater Facilities on Contiguous Properties | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Wind Energy Collection Facility, Accessory *[11-16-2020]* | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |

### 4.4.4. STANDARDS FOR SPECIFIED ACCESSORY USES AND STRUCTURES

#### A. Accessory Dwelling Unit

Detached accessory dwelling units shall be allowed in districts where permitted by right, subject to the following requirements:

1. Only one accessory apartment shall be permitted by right.
2. Area sufficient for two off-street parking spaces shall be required.
3. Proof of adequate water and sewer capacity from the appropriate provider (CFPUA, etc.) shall be provided if accessory units are not included in subdivision approvals.
4. In the RMF districts, accessory apartments shall only be allowed when constructed in connection with any single family detached development allowed within the district.
5. In conventional subdivisions, the subject lot must exceed the minimum lot area of the applicable zoning district by at least 50 percent or 5,000 square feet, whichever is less.
6. In performance subdivisions, accessory units shall be considered a dwelling unit for density requirements, and new accessory units may not increase density beyond the maximum allowed in the applicable zoning district.
7. The entire accessory unit shall not exceed 50 percent of the gross total enclosed heated square footage of the existing single-family dwelling or 1,200 square feet, whichever is less.
8. The side setbacks for the detached unit shall be no less than required for the principal structure and a minimum of five feet.
9. Rear setbacks for the detached unit shall be a minimum of five feet.
10. The detached unit shall be located completely behind the plane of the rear façade of the principal structure unless constructed over a detached garage.

#### B. Accessory Structure

Accessory structures shall comply with the following standards:

1. No accessory structure shall be erected in any required yard nor within five feet of any other building, except that accessory buildings not exceeding 600 square feet may be permitted in the required side and rear yards provided such accessory buildings are at least five feet from the property line and do not encroach into any required easements.
2. Accessory structure not exceeding 50 square feet and used exclusively to house well and pump equipment may be permitted in the required front, side, and rear yards, provided such accessory buildings are at least five feet from any property line and do not encroach into any required easements or sight angles.

3. HVAC units elevated to comply with flood plain regulations may be permitted in any side setback provided the supporting structure is at least five feet from the adjoining property line.

4. An accessory building or use may be located on another contiguous or noncontiguous lot from the principal use it is associated with to the extent that the principal use itself would also be permitted on such lot.

### C. Accessory Use, Customary

1. No additional permits beyond those obtained for the principal use are required unless otherwise specified.

2. No use-specific standards apply unless required elsewhere in this ordinance.

### D. Dry Stack Boat Storage Facility, At A Marina

Dry stack boat storage facilities at a marina in residential districts and in the B-1 District shall comply with the following standards:

1. Facilities accessory to marinas approved by a special use permit must be included in the permit approval for the marina as described in Section 4.3, Standards for Specified Principal Uses.

2. Setbacks for facilities from any residential property line shall be not less than 2.75 times the height of the structure if enclosed or the highest point of a stored vessel if unenclosed. In no case may the setback be less than the requirements of the underlying zoning district.

3. Appearance of stacked storage should retain the character of the surrounding residential areas and provide opaque vegetative buffers to reduce visual impacts.

4. Projects shall be designed so that the use of noise-generating activities, such as large marine forklifts, boat haul out or boat repair approved as part of a special use permit will be located as far away from residential structures as feasible to lessen impacts on the residential quality of life.

### E. Electronic Gaming Operation

*[11-16-2020]*

Electronic gaming operations shall comply with the following standards:

1. The principal commercial operation must be permitted as a use by right.

2. The operation shall be located within the same structure or unit as the principal use.

3. The maximum number of machines/terminals/computers allowed per business units is two devices.

4. For situations in which there are multi-unit or multi-tenant commercial buildings and more than one unit wishes to include gaming operations, a special use permit meeting the standards of Section 4.3, Standards for Specified Principal Uses, is required. In no case can the cumulative total number of machines for a business center, multi-unit or multi-tenant building exceed ten.

5. Off-street parking shall include one additional space per machine over and above the normal parking standards for the principal use in accordance with Section 5.1, Parking and Loading, and all parking must comply with all other provisions of Section 5.1, Parking and Loading.

### F. Home Occupation

Home occupations shall comply with the following standards:

1. Only one person other than members of the family residing on the premises shall be engaged in such application.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign not exceeding 2.25 square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
4. No home occupation shall be conducted in any accessory building.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in any required yard. Vehicles used primarily as passenger vehicles including pickup trucks and step-type vans only shall be permitted in connection with the conduct of the customary home occupation.
6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, or electrical interference detectable to the normal senses off the lot. In the case of the electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltages off the premises.
7. No display of products shall be visible from the street and the selling of merchandise or the manufacture of merchandise for sale except baking, sewing, and/or handicrafts normally made in the home cannot be the primary function of the home occupation.
8. Instruction in music, dancing, or tutoring of academic subjects shall be limited to four students at a time.

### G. Residential Private Pier

All piers must meet Coastal Area Management Act standards.

### H. RV or Travel Trailer Dwelling

Use of recreation vehicles or travel trailers as dwelling units is only allowed in approved Campground/Recreational Vehicle (RV) Park uses. This shall not be construed to exclude the use of recreational vehicles or travel trailers as permitted

Temporary Relocation Housing or to prohibit the parking of recreational vehicles in locations where parking of personal automobiles is allowed, such as approved parking spaces or residential driveways. This also does not exclude sales display of recreational vehicles or travel trailers allowed as accessory to a permitted commercial use. *[09-08-2020]*

### I. Small Watercraft Storage

Structures, such as kayak racks, for the storage of small watercraft are allowed in all zoning districts as accessory uses, excepting that they shall only be allowed as accessory to Community Boating Facilities and Outdoor Recreational Establishments provided that:

1. Structures shall be reviewed for compliance with building code and applicable floodplain regulations.

2. When personal watercraft are not stored in an enclosed structure, all watercraft shall be required to be tied-down or removed during hurricane emergency events.

3. No structure, including stored watercraft, shall encroach into any required setbacks or easements.

4. For all Outdoor Recreational Establishments, and for Community Boating Facilities not directly abutting the residential lots or units served by the facility, one automobile parking space, in addition to existing approved spaces, shall be required for every 4 storage rack slots or fraction thereof. Bicycle parking spaces may be provided in lieu of up to two automobile parking spaces at the rate of 1 space for every storage slot. This requirement may be amended as part of an approved special use permit or subject to a parking study if authorized by Section 5.1 of this ordinance when the principal use is permitted by-right.

5. The addition of a small watercraft storage structure to a nonconforming use shall require a special use permit.

### J. Solar Energy Collection Facility, Accessory

*[11-16-2020]*

Accessory Solar Energy Collection Facilities shall comply with the following standards:

1. Roof-mounted solar energy collection facilities shall not extend above the exterior perimeter or beyond the roof peak of the building on which the collection facility is mounted or built.

2. Ground-mounted solar energy collection facilities shall meet the minimum requirements for accessory structures.

### K. Stormwater Facilities on Contiguous Properties

Retention and detention facilities serving nonresidential development shall be permitted on contiguous residential tracts abutting the development served provided:

1. There is no encroachment of the commercial activity onto the adjacent residential site.
2. The adjacent residential property shall be in the same ownership as the commercial tract.
3. The residential site is not part of an existing residential subdivision except in the case of shared stormwater facilities.
4. The stormwater facility shall be setback twice the corresponding residential side and rear setbacks measured from the top of the slope to the adjacent property line. A minimum 20-foot buffer shall be provided within the setback.
5. The stormwater management facility shall be constructed as an aesthetic amenity with maximum slopes of 5:1.
6. If fencing of the facility is necessary, it shall not be chain link.

### L. Wind Energy Collection Facility, Accessory

*[11-16-2020]*

Accessory Wind Energy Collection Facilities shall comply with the following standards:

1. No equipment shall exceed the maximum height permitted in the zoning district.
2. All equipment, including foundation, turbines, and guy wires, shall meet the minimum required setbacks for the principal structure, and no ground-mounted wind energy collection facility shall be allowed within any portion of a front yard.
3. In the case of ground-mounted wind energy collection facilities, such facilities shall be set back from all adjoining property lines a distance equal to the height of the facility.
4. An applicant shall provide proof of an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding, or excessive pressure on the wind energy collection facility, including rotor blades and turbine components.
5. The operator of a wind energy collection facility shall maintain general liability insurance coverage for the installation and operation of the facility under a standard homeowner's or standard business owner's insurance policy, separate and distinct from any insurance requirements of a public utility.

# Section 4.5. Temporary Use Standards

### 4.5.1. PURPOSE

This section allows for the establishment of certain temporary uses and structures of limited duration, when such uses must comply with standards, as outlined in this section. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

### 4.5.2. GENERAL STANDARDS FOR TEMPORARY USES

**A.** No temporary buildings or trailers shall at any time be located closer than 25 feet to a property line of any adjacent property, notwithstanding the required setbacks of the zoning district in which such temporary building or trailer is located.

**B.** Approval for any temporary use specified in Section 4.5.3, Permissions for Specified Temporary Uses, or for any unspecified temporary structure must be reviewed for compliance with the standards of this Ordinance, including parking.

**C.** Temporary special event uses shall be permitted subject to the standards outlined in Section 4.5.3, Permissions for Specified Temporary Uses, below, or as required by applicable County or state agencies.

**D.** The Planning Director may approve a temporary zoning permit for a period not exceeding one month for bazaars, carnivals, religious revivals, sideshows, concerts, or sporting events. The Planning Director may impose conditions of approval to protect the safety of the occupants and the public. In the AC District, the concurrence of the airport authority is required prior to the approval of the temporary zoning permit.

### 4.5.3. PERMISSIONS FOR SPECIFIED TEMPORARY USES

Table 4.5.3: Temporary Use Table, identifies which uses are permitted by right, permitted subject to approval of a special use permit, and prohibited in each zoning district. Permissions for the RFMU and EDZD districts are outlined in Article 3: Zoning Districts. The meanings of abbreviations in Table 4.5.3 are set forth in subsections A and B below.

**A.** A “P” in a cell indicates the use is permitted by right in the zoning district. Permitted uses, except for exempt bona fide farm uses, are subject to all other applicable standards of this UDO.

**B.** A blank cell indicates that the use is not allowed in the respective zoning district.

| Table 4.5.3: Temporary Use Table<br>Key: P = Permitted by Right *blank cell* = not allowed | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Temporary Uses | Zoning Districts | | | | | | | | | | | | | | | | | | | | | | |
| | RA | AR | R-20S | R-20 | R-15 | R-10 | R-7 | R-5 | RMF-L | RMF-M | RMF-MH | RMF-H | PD | UMXZ | B-1 | CB | B-2 | O&I | SC | CS | AC | I-1 | I-2 |
| Circuses, Carnivals, and Fairs | | | | | | | | | | | | | P | P | P | | P | | | P | P | P | |
| Construction Office | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Debris Site *[11-16-2020]* | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Farmers' Market | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | | P | | | | | |
| Seasonal Sales | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | P |
| Special Fundraising for Non-profit Organizations | P | P | P | P | P | P | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Temporary Emergency Services Facility *[11-16-2020]* | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Temporary Family Healthcare Structure *[11-16-2020]* | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Temporary Real Estate Office/Model | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Temporary Relocation Housing | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Travel Trailers | See Section 4.3.4.E.2 for Campground/Recreational Vehicle (RV) Park standards | | | | | | | | | | | | | | | | | | | | | | |

## 4.5.4. STANDARDS FOR SPECIFIED TEMPORARY USES

### A. Circuses, Carnivals, and Fairs

Circuses, carnivals, and fairs shall not be allowed for more than 30 days' duration per year.

### B. Construction Office

Construction offices shall comply with the following standards:

1. Temporary buildings or trailers may be used as construction offices, field offices, or for storage of materials to be used in connection with the development of said tract, provided that said temporary structures are removed from said tract within 30 days after completion of the project development, after voluntary suspension of work on the project or development, after revocation or expiration of building permit or an order by the Building Safety Director upon a finding that said temporary structure is deemed hazardous to the public health and welfare.
2. Such temporary buildings or trailer may not be used as a dwelling unit.

### C. Debris Site

*[11-16-2020]*

Debris sites shall comply with the following standards:

1. No debris may be located so as to encroach into, or wholly or partially obstruct, any street, right-of-way, driveway, building, sidewalk, multi-use path, fire lane, fire hydrant, or other public infrastructure or utility easement.
2. Debris sites are limited to no more than 30 total consecutive calendar days at one time, unless granted an extension by the Planning Director.

### D. Farmers' Market

Farmers' markets shall comply with the following standards:

1. Sales are limited to a cumulative total of no more than 60 days per calendar year.
2. All vendors must be original producers of items for sale.
3. Eligible products for temporary farmers' markets are fruits, vegetables, herbs, flowers, eggs, meats, seafood, cheese, baked goods, jellies and jams, honey, and handmade crafts, consistent with NC Food and Drug and Department of Agriculture and all other federal, state, and local laws relating to the production and selling of such goods.
4. A minimum of 75 percent of the products displayed and offered for sale must be directly linked to farm products, and documentation of how these standards will be met shall be specified on the submission for zoning approval.
5. The proposed time schedule and duration of the use must be specified on the submission for zoning approval.
6. Minimum lot size shall be no less than two acres for farmers' markets.
7. The site shall front on a collector or arterial roadway.
8. Approved NCDOT driveway permit is required.
9. Ingress, egress, circulation, and parking plans shall describe any measure proposed to assure safety and minimize traffic impacts on surrounding areas.
10. Adequate solid waste disposal methods must be provided for vendors and customers.
11. Only temporary signage shall be allowed for these temporary uses. A maximum of two temporary signs shall be allowed on site to advertise for the market as a whole.
    a. Temporary signage consistent with the permit may be installed no more than two days prior to the start of market activities and shall be removed at the conclusion of operating hours.
    b. Individual signs shall not exceed 35 square feet in sign area.
    c. All permitted signs shall have a maximum height of six feet and shall be set back a minimum of ten feet from any property line.

**d.** Illumination of signage is prohibited.

**12.** Parking

**a.** One parking space is required for every 800 square feet of gross market size, with a minimum of two spaces. Spaces shall meet the minimum size requirements as identified in Section 5.1, Parking and Loading.

**b.** Parking shall be provided on the same site as the farmers' market or may be located off-site provided that it is within 400 feet of the main entrance of the market. If parking is provided off of the primary parcel, then a written parking agreement between the responsible party and the parcel owner shall be provided prior to the issuance of any permit. Adequate and safe ingress and egress shall be provided by the farmers' market management or the property owner.

**c.** All parking must occur in designated areas. No parking shall occur in any unimproved parking surfaces such as, but not limited to, landscape parking islands, medians, or open/passive recreation space.

**13.** A site layout showing the proposed marketing area (vendor spaces, staging, sales and display areas, and customer promenades), parking, traffic circulation, lighting, waste disposal method, signage, and other site amenities must be submitted for approval.

**14.** Tents or other shelters must meet fire safety codes and shall be disassembled after market hours of operation. Tents shall be located so that they will not interfere with the normal operations of any permanent use on the property.

**15.** The proposed location may not be part of designated recreation, open space, or common area in an approved residential subdivision.

**16.** Restroom facilities for the public may be required for compliance with the NC Building Code.

**17.** If structures are proposed or required, the plan shall be reviewed for compliance with the Americans with Disabilities Act and other building codes.

**18.** Live animals or birds shall not be sold or displayed.

**19.** No bands, amplified music, or other entertainment shall be allowed.

**20.** No concessions for consumption on site and no cooking of products shall be allowed on the site.

**21.** No alcohol products shall be allowed.

**22.** Any proposal for a permanent farmers' market, and any temporary farmers' market proposing to exceed the standards or limitations outlined in this section, may be allowed at the discretion of the Board of County Commissioners only upon issuance of a Special Use Permit under the terms outlined in Article 10: Administrative Procedures.

### E. Seasonal Sales

Seasonal sales are limited to a duration of 45 days per calendar year.

### F. Special Fundraising for Non-Profit Organizations

Special fundraising for non-profit organizations is limited to a duration of 45 days per calendar year.

### G. Temporary Real Estate Office/Model

Temporary real estate offices or sales offices may be established in a display dwelling unit or temporary building provided that said offices are closed and the operation discontinued and all temporary structures and facilities are removed from the tract upon the completion of the sale, rent, or lease of 95 percent of the dwelling units or lots of said tract.

### H. Temporary Relocation Housing

Temporary relocation housing shall comply with the following standards:

1. The proposed location shall be within a disaster area with specifically defined boundaries and under specific conditions as determined by a federal Disaster Declaration where public or individual assistance is made available, or as determined by the County Manager.
2. Temporary accommodations for the displaced as permitted by this section shall not be installed for more than 12 months from the date of the declaration or determination, except as authorized by the Board of Commissioners.
3. Temporary housing units shall be removed from the site within 30 calendar days after completion of the rehabilitation work which may include, but not be limited to, issuance of a Certificate of Occupancy, Certificate of Completion, or final inspection if this occurs prior to the 12-month expiration or Board authorization term.
4. All applicants for temporary housing units shall register with the Planning Department.
5. Temporary housing units may be subject to additional agency approvals which may include, but not be limited to, water supply, wastewater disposal, solid waste management and disposal, building permits, stormwater permits, or other utilities through the applicable regulatory office. Additional code requirements which may include, but not be limited to, building code and fire code shall be adhered to.
6. Temporary housing units shall comply with either the minimum National Flood Insurance Program standards as set forth in Code of Federal Regulations, Title 44 Part 60 or Article 9: Flood Damage Prevention.
7. Each housing unit shall have a minimum setback of five feet from any street right-of-way or property line.
8. For temporary housing units in a community or group setting, the following shall apply:

**a.** All units shall be set back a minimum of 20 feet from the perimeter of the site.

**b.** A sketch plan showing the general location and estimated number of units, parking, access points and traffic circulation, and provisions for utilities including power, water supply, wastewater disposal, stormwater management, and solid waste management shall be submitted to the Planning Director.

# Article 5: General Development Standards

## Section 5.1. Parking and Loading

*[11-16-2020]*

### 5.1.1. APPLICABILITY

#### A. New Development

All new development shall provide off-street parking and loading areas in accordance with the standards of this section.

#### B. Existing Development

1. Any change in use of existing development shall be accompanied by provision of any additional off-street parking and loading spaces required for the new use by this section, provided that additional off-street parking is not required if the change in use results in fewer than five additional parking spaces or less than a five percent increase in required parking spaces.
2. If any existing structure or use is expanded or enlarged (in terms of the number of dwelling units, guest rooms, floor area, or seats), any additional off-street parking and loading spaces that may be required shall be provided in accordance with the requirements of this section as applied only to the expanded or enlarged part of the structure or use.

### 5.1.2. MINIMUM OFF-STREET PARKING STANDARDS

#### A. Minimum Number of Off-Street Parking Spaces

Except as otherwise provided in Section 5.1.3, Alternative Parking Plans, new development or a change in use or expansion shall provide the minimum number of off-street parking spaces in accordance with Table 5.1.2.A: Minimum Off-Street Parking, based on the principal use or uses on the site. Interpretation of the off-street parking space standards for principal uses with variable parking demands or unlisted principal uses shall be in accordance with Section 5.1.2.B, Unlisted Uses, below.

**Table 5.1.2.A: Minimum Off-Street Parking**

*sf = square feet of gross floor area, except where otherwise specified;*
*du = dwelling unit; / = per*

| Use | Required Off-Street Parking |
|---|---|
| **Agricultural Uses** | |
| Agricultural and Forestry Uses, General | No minimum |
| Livestock Sales | No minimum |
| Stable | No minimum |
| Wholesale Nursery | No minimum |
| **Residential Uses** | |
| **Household Living** | |

## Table 5.1.2.A: Minimum Off-Street Parking

*sf = square feet of gross floor area, except where otherwise specified;*
*du = dwelling unit; / = per*

| Use | Required Off-Street Parking |
|---|---|
| Dwelling, Dual-Unit Attached | 2/du |
| Dwelling, Multi-Family | 1.5/du with 1 bedroom;<br>2/du with 2+ bedrooms |
| Dwelling, Quadraplex | 1.5/du with 1 bedroom;<br>2/du with 2+ bedrooms |
| Dwelling, Single-Family Detached | 2/du |
| Dwelling, Triplex | 1.5/du with 1 bedroom;<br>2/du with 2+ bedrooms |
| Dwelling, Row-Style | 2/du |
| Dwelling, Two-Family (Duplex) | 2/du |
| Live/Work or Caretaker Unit | 2/du, in addition to parking provided for principal use |
| Mobile Home | 2/du |
| Mobile Home, Doublewide | 2/du |
| Mobile Home Park | 2/du |
| Mobile Home Subdivision | 2/du |
| Senior Living: Independent Living Retirement Community | 1.5/du plus 2/1,000 sf nonresidential space |
| **Group Living** | |
| Family Care Home | 2/du |
| Fraternity/Sorority Residence | 1/single occupancy bedroom<br>2/double occupancy bedroom |
| Group Home | Maximum of 2 plus 1/every 4 beds plus 2 for resident supervisor(s) |
| Senior Living: Assisted Living Facility | 1 per 3 beds |
| Senior Living: Continuing Care Retirement Community | See Senior Living: Independent Living Retirement Community and Senior Living: Assisted Living Facility |
| **Civic and Institutional** | |
| **Child and Adult Care** | |
| Adult Day Care | 1 per 4 clients (per design capacity or state permit) |
| Child Care Center | 1 per 10 children (per design capacity or state permit) |

## Table 5.1.2.A: Minimum Off-Street Parking

*sf = square feet of gross floor area, except where otherwise specified;*
*du = dwelling unit; / = per*

| Use | Required Off-Street Parking |
|---|---|
| Family Child Care Home | 1 space in addition to the 2/du required for the residential use |
| **Civic** | |
| Animal Shelter | 2/1,000 sf |
| Community Center | 2.5/1,000 sf |
| Food Pantry | 2.5/1,000 sf |
| Library | 2.5/1,000 sf |
| Lodges, Fraternal, & Social Organizations | 3/1,000 sf |
| Museum | 2.5/1,000 sf |
| Religious Assembly | 1 per 5 seats in largest assembly area |
| **Communication and Information Facilities** | |
| Amateur Radio Antennas (up to 90 ft.) | No minimum |
| Antenna & Towers less than 70 ft. in Height & Ancillary to the Principal Use | No minimum |
| Collocation, Wireless | No minimum |
| Non-Substantial Modification | No minimum |
| Other Wireless Communication Facilities including Wireless Support Structures & Substantial Modifications | No minimum |
| **Educational Services** | |
| Colleges, Universities, and Professional Schools | 2/1,000 sf classroom and research space, plus 1 per 6 seats in largest assembly area |
| Elementary and Secondary Schools | Kindergarten, Nursery, Elementary, and Junior High School: 1 per 6 students per design capacity<br>High School: 1 per 4 students design capacity |
| Vocation or Trade School | 3/1,000 sf |
| **Government Services** | |
| Emergency Services Facility | 2.5/1,000 sf |
| Government Offices and Buildings | 2.5/1,000 sf |
| Post Office | 2.5/1,000 sf, plus 1 for each post office vehicle stored on site |
| **Health Care Facilities** | |
| Hospice | 1 per 4 beds |

## Table 5.1.2.A: Minimum Off-Street Parking

*sf = square feet of gross floor area, except where otherwise specified;*
*du = dwelling unit; / = per*

| Use | Required Off-Street Parking |
|---|---|
| Hospital | 3.5/1,000 sf |
| Medical and Dental Office and Clinic | 3.5/1,000 sf |
| Nursing and Rehabilitation Center | 1 per 4 beds |
| Urgent Care Facility | 3.5/1,000 sf |
| **Recreation, Parks, and Open Space** | |
| Boating Facility, Community | 1 per boat slip |
| Boating Facility, Private Residential | No minimum |
| Cemetery | No minimum |
| Community Garden | No minimum |
| Golf Course | 2 spaces per hole |
| Park and Recreation Area | No minimum |
| **Transportation** | |
| Airport and Terminal | No minimum |
| Bus and Taxi Terminal | No minimum |
| Heliport | No minimum |
| Marina, Commercial | 1 per boat slip and 1 per 4 dry storage facilities |
| Marina, Commercial with Floating Structures | 1 per boat slip, 1 per 4 dry storage facilities, and 2 per floating structure |
| Railroad Freight Depot | 2/1,000 sf office facilities |
| Railroad Passenger Terminal | 2/1,000 sf |
| Water Transportation Facilities | Study required |
| **Utilities** | |
| Electric Substation | No minimum |
| Solar Energy Collection Facility | 2/1,000 sf office facilities |
| Utility Lines, Structures, and/or Facilities; General | 2/1,000 sf office facilities |
| **Commercial Uses** | |
| **Amusement & Entertainment Uses** | |
| Adult Entertainment Establishment | 4/1,000 sf |
| Bar/Nightclub | 6/1,000 sf seating area |
| Electronic Gaming Operation | The greater of: 10/1,000 sf or 1 per 2 |

## Table 5.1.2.A: Minimum Off-Street Parking

*sf = square feet of gross floor area, except where otherwise specified;*
*du = dwelling unit; / = per*

| Use | Required Off-Street Parking |
|---|---|
| | terminals/computers |
| Event Center | 5/1,000 sf |
| Indoor Recreation Establishment | Theaters or Indoor Stadiums: 1 per 5 seats<br>All other uses: 4/1,000 sf |
| Outdoor Recreation Establishment | Stadium or Arena: 1 per 5 seats<br>All other uses: 4/1,000 sf activity area |
| **Animal Services** | |
| Animal Grooming Service | 4/1,000 sf |
| Equestrian Facility | No minimum |
| Kennel | 4/1,000 sf |
| Veterinary Service | 3/1,000 sf |
| **Commercial Services** | |
| Bank and/or Financial Institution | 3/1,000 sf |
| Business Service Center | 3/1,000 sf |
| Commercial Parking Lot or Facility | No minimum |
| Funeral Services | 1 per 5 seats in assembly areas, plus 1 space per funeral vehicle |
| Mini-Warehouse/Self-Storage | 0.5/1,000 sf rentable storage area |
| Off-Premises Advertising | No minimum |
| Repair Shop | 3/1,000 sf |
| **Food and Drink** | |
| Commercial Kitchen, Catering | 1.5/1,000 sf |
| Microbrewery/Microdistillery | 8/1,000 sf seating area |
| Restaurant | 6/1,000 sf seating area |
| **Lodging** | |
| Bed and Breakfast Inn | 1 per bedroom and 2/1,000 sf common indoor space |
| Campground/Recreational Vehicle (RV) Park | 1 per campsite |
| Hotel or Motel | 1 per bedroom and 2/1,000 sf common indoor space |
| **Office** | |
| Contractor Office | 3/1,000 sf |

## Table 5.1.2.A: Minimum Off-Street Parking

*sf = square feet of gross floor area, except where otherwise specified;*
*du = dwelling unit; / = per*

| Use | Required Off-Street Parking |
|---|---|
| Labor Organization | 2.5/1,000 sf |
| Offices for Private Business and Professional Activities | 2.5/1,000 sf |
| **Personal Services** | |
| Dry Cleaning/Laundry Plant | 2.5/1,000 sf |
| Instructional Services and Studios | 2.5/1,000 sf |
| Personal Services, General | 2.5/1,000 sf |
| **Retail Sales** | |
| Auction House | 2.5/1,000 sf |
| Convenience Store | 2.5/1,000 sf |
| Food Market | 2.5/1,000 sf |
| Grocery Store | 2.5/1,000 sf |
| Oil or Gas Dealer, Retail | 2.5/1,000 sf |
| Pharmacy | 2.5/1,000 sf |
| Retail Nursery | 2.5/1,000 sf |
| Retail Sales, Building and Construction Supplies | 2/1,000 sf |
| Retail Sales, General | 2.5/1,000 sf |
| **Vehicle & Equipment Sales & Service** | |
| Boat Dealer | 3/1,000 sf indoor sales/leasing/office area |
| Car Wash | 3 spaces for every one car the car wash can accommodate at one time |
| Equipment Rental and Leasing | 2/1,000 sf |
| Farm Implement Sales | 2/1,000 sf |
| Fuel Sales | 1.5/1,000 sf |
| Mobile Home and Prefab Building Sales | 2/1,000 sf |
| Transportation Vehicle Service and Storage Facility | 2.5/1,000 sf indoor office space, plus 1 per repair bay |
| Vehicle Rentals | 3/1,000 sf |
| Vehicle Sales | 3/1,000 sf indoor sales/leasing/office area, plus 1 per repair bay |
| Vehicle Service Station, Large Vehicles | 2.5/1,000 sf indoor office/waiting area, plus 1 per repair bay |
| Vehicle Service Station, Minor | 3/1,000 sf indoor office/waiting area, plus 1 per repair bay |
| Vehicle Service Station, Major | 3/1,000 sf indoor office/waiting area, plus 1 per repair bay |
| Vehicle Towing Service and Towing Yard | 2/1,000 sf |

## Table 5.1.2.A: Minimum Off-Street Parking

*sf = square feet of gross floor area, except where otherwise specified;*
*du = dwelling unit; / = per*

| Use | Required Off-Street Parking |
|---|---|
| **Industrial Uses** | |
| **Design & Technology Services** | |
| Broadcasting and Production Studio | 2.5/1,000 sf |
| Data Center | 1.5/1,000 sf |
| Research and Development Facility | 2.5/1,000 sf |
| **Industry & Manufacturing** | |
| Artisan Manufacturing | 2.5/1,000 sf |
| 311 Food Manufacturing | 1.5/1,000 sf |
| 312 Beverage & Tobacco Product Manufacturing | 1.5/1,000 sf |
| 313 Textile Mills | 1.5/1,000 sf |
| 314 Textile Product Mills | 1.5/1,000 sf |
| 315 Apparel Manufacturing | 1.5/1,000 sf |
| 316 Leather and Allied Product Manufacturing | 1.5/1,000 sf |
| 321 Wood Product Manufacturing | 1.5/1,000 sf |
| 322 Paper Manufacturing | 1.5/1,000 sf |
| 323 Printing & Related Support Activities | 1.5/1,000 sf |
| 325 Chemical Manufacturing | 1.5/1,000 sf |
| 326 Plastics & Rubber Products Manufacturing | 1.5/1,000 sf |
| 327 Nonmetallic Mineral Product Manufacturing | 1.5/1,000 sf |
| 331 Primary Metal Manufacturing | 1.5/1,000 sf |
| 332 Fabricated Metal Product Manufacturing | 1.5/1,000 sf |
| 333 Machinery Manufacturing | 1.5/1,000 sf |
| 334 Computer and Electronic Product Manufacturing | 1.5/1,000 sf |
| 335 Electrical Equipment, Appliance, and Component Manufacturing | 1.5/1,000 sf |
| 336 Transportation Equipment Manufacturing | 1.5/1,000 sf |
| 337 Furniture and Related Product Manufacturing | 1.5/1,000 sf |
| **Intensive Industry** | |
| Intensive Manufacturing & Processing | 1.5/1,000 sf |
| Other Intensive Industrial Uses | No minimum |
| **Warehousing, Storage, & Wholesale Sales and Distribution** | |
| Dry Stack Boat Storage Facility, Stand-Alone | 1 per 4 dry docks |

| Table 5.1.2.A: Minimum Off-Street Parking<br>*sf = square feet of gross floor area, except where otherwise specified;*<br>*du = dwelling unit; / = per* | |
|---|---|
| **Use** | **Required Off-Street Parking** |
| Motor Freight Transportation Warehousing | 2/1,000 sf |
| Recreational Vehicle and Boat Trailer Storage Lot | No minimum |
| Warehousing | 1.5/1,000 sf |
| Wholesaling | 1.5/1,000 sf |
| Wholesaling Seafood with Water Frontage | 1.5/1,000 sf |
| **Waste & Salvage** | |
| Commercial Recycling Facility, Large Collection | 1.5/1,000 sf |
| Commercial Recycling Facility, Processing | 1.5/1,000 sf |
| Commercial Recycling Facility, Processing and Collection | 1.5/1,000 sf |
| Commercial Recycling Facility, Small Collection | 1 space |
| Landfill, Demolition | 1.5/1,000 sf office space |
| Landfill, Landscape | 1.5/1,000 sf office space |
| Junk Yards, Scrap Processing | 1.5/1,000 sf |
| Septage, Sludge Disposal | 1.5/1,000 sf office space |

### B. Unlisted Uses

An applicant proposing to develop a principal use that is unlisted in Table 5.1.2.A: Minimum Off-Street Parking, shall propose the amount of required parking by one of the three methods outlined in this subsection. On receiving the application proposing to develop a principal use not expressly listed in Table 5.1.2.A, the Planning Director shall:

1. Apply the minimum off-street parking space requirement specified in Table 5.1.2.A for the listed use that is deemed most similar to the proposed use;
2. Establish the minimum off-street parking space requirement by reference to standard parking resources published by the Institute for Transportation Engineers (ITE), Urban Land Institute (ULI), National Parking Association, or the American Planning Association; or
3. Require the applicant to conduct a parking demand study to demonstrate the appropriate minimum off-street parking space requirement. The study shall estimate parking demand based on the recommendations of the ITE, ULI, or another acceptable source of parking demand data. This demand study shall include relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

### C. Mixed-Use Development

**1.** An applicant for a development containing more than one use may calculate reduced minimum parking requirements based on the potential to share parking between uses. The provisions of this subsection C shall not limit the opportunity for an applicant to reduce the minimum number of off-street parking spaces through approval of an alternative parking plan in accordance with Section 5.1.3, Alternative Parking Plans or other provisions of this Ordinance.

**2.** The following methodology shall be used to calculate the required parking:

**a.** The applicant shall determine the minimum parking required for each component use in the development in accordance with Table 5.1.2.A: Minimum Off-Street Parking.

**b.** The applicant shall apply the time-of-day demand factors for each component use in accordance with Table 5.1.2.C: Shared Parking Time-of-Day Parking Ratios.

**c.** The applicant shall calculate the sum of each column in the resulting table (rounding up all fractions). These sums represent the total estimated shared demand for each time period throughout a typical day.

**d.** The highest of the sums of the columns shall be used as the minimum amount of parking required for the development.

**Table 5.1.2.C: Shared Parking Time-of-Day Parking Ratios**

| Use Classification, Category or Type | Weekday | | | Weekend | | |
|---|---|---|---|---|---|---|
| | 2 am to 7 am | 7 am to 6 pm | 6 pm to 2 am | 2 am to 7 am | 7 am to 6 pm | 6 pm to 2 am |
| Residential | 100% | 60% | 100% | 100% | 80% | 100% |
| Child care center | 0% | 100% | 40% | 0% | 80% | 20% |
| Office | 20% | 100% | 20% | 5% | 10% | 0% |
| Hotel or motel | 100% | 60% | 100% | 100% | 60% | 100% |
| Personal services | 20% | 100% | 40% | 0% | 60% | 0% |
| Entertainment venues (e.g. theaters) | 0% | 40% | 100% | 0% | 60% | 100% |
| Retail sales | 0% | 100% | 80% | 0% | 100% | 60% |
| All other uses | 100% | 100% | 100% | 100% | 100% | 100% |

### 5.1.3. ALTERNATIVE PARKING PLANS

The Planning Director may approve an alternate parking plan that proposes alternatives to providing the number of off-street parking spaces required on a site by Section 5.1.2, Minimum Off-Street Parking Standards, in accordance with the following methods and standards.

#### A. Parking Demand Study

An applicant may demonstrate that the appropriate minimum off-street parking space requirement for their project is different from the standards outlined in Section 5.1.2, Minimum Off-Street Parking Standards by conducting a parking demand study prepared by a professional engineer. Such a study must illustrate that the minimum parking requirements outlined in Table 5.1.2.A do not accurately apply to a specific development proposal and meet the following requirements:

1. The data submitted must include, at minimum, the size and type of the proposed development, the mix of uses, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads of all uses; and
2. The data must be obtained either from relevant studies published in referenced journals or other secondary source of comparable authority; or from primary studies of no fewer than 3 comparable developments within the regional or comparable market.

#### B. Shared Off-Site Parking

##### 1. Location

a. The lot in which the parking spaces are located shall be within 660 feet of the primary pedestrian entrances to the uses shared by the parking, measured by the actual distance via a pedestrian walkway from the shared parking area to the primary pedestrian entrances, not a straight-line, point-to-point distance.

b. Shared parking spaces shall not be separated from the use they serve by an arterial street unless pedestrian access across the arterial street is provided by appropriate traffic controls (e.g. signalized crosswalk) or a separated pedestrian walkway (such as a bridge or tunnel).

##### 2. Pedestrian Access

Adequate and safe pedestrian access shall be provided between the shared parking areas and the primary entrances to the uses served by the parking, by a walkway protected by a landscape buffer or by a curb separation and elevation from the street grade.

##### 3. Signage

Signage complying with the standards of Section 5.6, Signs, shall be provided to the public to the shared parking spaces.

**4. Jurisdiction**

The alternative parking plan shall include justification of the feasibility of shared parking among the proposed uses. Such justification shall address, at a minimum, the size and type of the uses proposed to share off-street parking spaces, the composition of their tenants, the types and hours of their operations, the anticipated peak parking and traffic demands they generate, and the anticipated rate of turnover in parking space use. The methodology for mixed-use shared parking in Section 5.1.2.C, Mixed-Use Development, may be used to calculate the proposed reduction in required off-street parking.

**5. Shared Parking Agreement**

**a.** An approved shared parking arrangement shall be enforced through written agreement among all the owners or long-term lessees of lands containing the uses proposed to share off-street parking spaces.

**b.** The agreement shall provide all parties the right to joint use of the shared parking area and shall ensure that as long as the off-site parking is needed to comply with this Ordinance, land containing either the off-site parking area or the served use will not be transferred except in conjunction with the transfer of land containing the other.

**c.** The agreement shall state that no party can cancel the agreement without first sending notice via certified mail to the Planning Director, at least 30 days prior to the termination of the agreement.

**d.** The agreement shall be submitted to the Planning Director for review and approval before execution.

**e.** An attested copy of an approved an executed agreement shall be recorded with the Register of Deeds before issuance of a building permit for any use to be served by the shared parking area.

**f.** The agreement shall be considered a restriction running with the land and shall bind the heirs, successors, and assigns of the landowner.

**g.** A violation of the agreement shall constitute a violation of this Ordinance, which may be enforced in accordance with Article 12: Violations and Enforcement.

**h.** No use served by the shared parking arrangement may be continued if the shared parking becomes available to the use permanently or for longer than 30 days, unless substitute off-street parking spaces are provided in accordance with this section.

### C. Remote Parking

If the off-street parking required by this section cannot be reasonably provided on the same lot on which the principal use is located, the parking may be provided off-site, provided an alternative parking plan that complies with the standards of Subsection B.1 through B.5 above are met for the off-site parking.

### D. Deferred Parking

An alternative parking plan may propose to defer construction of up to 25 percent of the number of off-street parking spaces required by Table 5.1.2.A: Minimum Off-Street Parking, in accordance with the following standards:

#### 1. Justification

The alternative parking plan shall include a study demonstrating that because of the location, nature, or mix of uses, there is a reasonable probability the number of parking spaces actually needed to serve the development is less than the minimum required by Table 5.1.2.A: Minimum Off-Street Parking.

#### 2. Reserve Parking Plan

The alternative parking plan shall include a reserve parking plan identifying the amount of off-street parking being deferred and the location of the area to be reserved for future parking, if future parking is needed.

#### 3. Parking Demand Study

**a.** The alternative parking plan shall provide assurance that within 24 months after the initial certificate of occupancy is issued for the proposed development, an off-street parking demand study evaluating the adequacy of the existing parking spaces in meeting the off-street parking demand generated by the development will be submitted to the Planning Director. However, if the Planning Director determines that additional time beyond 24 months is needed to determine whether the supply of parking is adequate to meet demand, the Planning Director has discretion to delay the preparation of the parking study for up to 24 additional months.

**b.** If the Planning Director determines that the study demonstrates the existing parking is adequate, then construction of the remaining number of parking spaces shall not be required. If the Planning Director determines the study indicates additional parking is needed, such parking shall be provided consistent with the reserve parking plan and the standards of this section.

#### 4. Use of Reserve Areas

Areas reserved for future parking shall be brought to the finished grade and landscaped with an appropriate ground cover. These

areas shall not be used for buildings, storage, loading, or other purposes except for temporary overflow parking, provided such use is sufficiently infrequent to ensure maintenance of its ground cover in a healthy condition.

### E. Valet and Tandem Parking

An alternative parking plan may propose to use valet and tandem parking to meet a portion of the minimum number of off-street parking spaces required for commercial uses in accordance with the following standards:

#### 1. Number of Valet or Tandem Spaces

A maximum of 35 percent of the total number of parking spaces provided may be designated for valet or tandem spaces except for restaurants, where up to 50 percent of spaces may be designated for valet parking, and hotels, where up to 60 percent of parking spaces may be designated for valet parking.

#### 2. Drop-Off and Pick-Up Areas

The development shall provide a designated drop-off and pick-up area. The drop-off and pick-up area may be located adjacent to the building served, but shall not be located in a fire lane or where its use would impede vehicular and/or pedestrian circulation, cause queuing in a public street, or impede an internal drive aisle serving the development. Drop-off and pick-up areas shall not be allowed to use sidewalks for any stationing of vehicles.

#### 3. Valet or Tandem Parking Agreement

**a.** Valet or tandem parking may be established and managed only in accordance with a valet or tandem parking agreement. The agreement shall be for a minimum of 10 years, and include provisions ensuring that a valet parking attendant will be on duty during hours of operation of the uses served by the valet parking.

**b.** The agreement shall be submitted to the Planning Director for review and approval before execution.

**c.** An attested copy of an approved and executed agreement shall be recorded with the Register of Deeds before issuance of a building permit for any use to be served by the valet or tandem parking.

**d.** The agreement shall be considered a restriction running with the land and shall bind the heirs, successors, and assigns of the landowner.

**e.** A violation of the agreement shall constitute a violation of this Ordinance, which may be enforced in accordance with Article 12: Violation and Enforcement.

**f.** No use served by valet or tandem parking may be continued if the valet or tandem service becomes unavailable permanently or for more than 30 days, unless substitute off-

street parking spaces are provided in accordance with this section.

### F. Water Vehicle Parking

Water vehicle parking may be used to meet up to ten percent of the required off-street parking requirements for commercial establishments located on or along navigable waters. If water vehicle spaces are provided, a minimum of two boat slips shall be required. Water vehicle parking is exempt from the requirements in Sections 5.1.4.A and 5.1.4.B below.

## 5.1.4. OFF-STREET PARKING DESIGN STANDARDS

### A. Surfacing

1. Except as provided in subsections 2 and 3 below, off-street parking and loading areas for all uses other than single-family detached, two-family, and dual unit dwellings shall be surfaced with asphalt, concrete, brick, stone, pavers, or an equivalent hard, dustless, and bonded surface material. Use of surfacing that includes recycled materials (e.g. glass, rubber, used asphalt, brick, block, and concrete) is encouraged. These surfaces shall be maintained in a smooth, well-graded, clean, orderly, and dust-free condition.
2. Intermittent, temporary, or overflow parking spaces, along with parking areas for Agricultural and Recreation, Parks, and Open Space uses are exempt from the surfacing requirements outlined in subsection 1 along as parking areas are brought to the finished grade and landscaped with an appropriate ground cover maintained in a healthy condition or gravel maintained in a dust-free condition.
3. The use of pervious or semi-pervious parking lot surfacing materials, including, but not limited to pervious asphalt and concrete, open joint pavers, and reinforced grass/gravel/shell grids may be approved for off-street parking and loading areas, provided such surfacing is subject to an on-going maintenance program (e.g., sweeping, annual vacuuming). Any pervious or semi-pervious surfacing used for aisles within or driveways to parking and loading areas shall be certified as capable of accommodating anticipated traffic loading stresses and maintenance impacts.

### B. Design Standards

1. Required off-street parking area for three or more automobiles shall have individual spaces marked, and shall be designed, maintained, and regulated so that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, so that any automobile may be parked and unparked without moving another, except as required for valet and tandem parking in accordance with Section 5.1.3.E, Valet and Tandem Parking.
2. All parking, loading, and service areas shall be separated from abutting walkways, sidewalks, streets, and required landscaped areas by curbing or other suitable protective devices to ensure vehicles do not intrude into these areas.

3. Off-street parking areas serving nonresidential uses or mixed-use development shall be set back a minimum of eight feet from any street right-of-way line (public or private), access easement, or passageway.
4. Parking lots shall be landscaped in accordance with Section 5.4.5, Parking Lots.
5. Parking lot illumination shall comply with Section 5.5, Exterior Lighting.
6. One-way and two-way accessways into required parking facilities shall be identified by directional arrows. Any two-way accessway located at any angle other than 90 degrees to a street shall be marked with a traffic separation stripe running the length of the access. This requirement does not apply to parking lot drive aisles.
7. All automotive vehicle parking spaces and aisles shall comply with the standards in Table 5.1.4.B: Dimensional Standards for Parking Spaces and Aisles.

**Table 5.1.4.B: Dimensional Standards for Parking Spaces and Aisles [1] [2]**

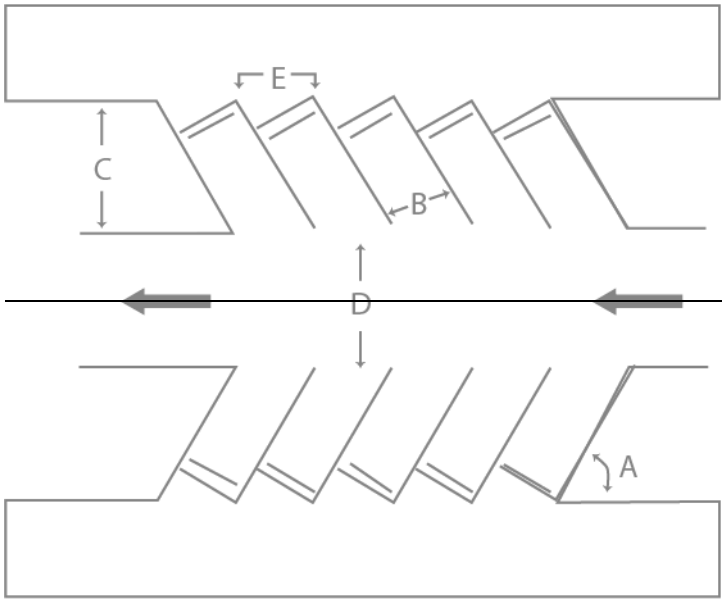
| Parking Angle (degrees) | Stall Width (ft.) | Stall Depth Perpendicular to Curb (ft.) | Aisle Width [3] One-way/Two-way | Stall Length Along Curb (ft.) |
|---|---|---|---|---|
| A | B | C | D | E |
| 0 | 8 | 8 | 20/22 | 22 |
| 45 | 9 | 19 | 20/22 | 13 |
| 60 | 9 | 20 | 20/22 | 10.5 |
| 90 | 9 | 18 | 22/22 | 9 |

[1] Refer to Figure 5.1.4.B below for illustrations showing how dimensions for parking spaces and aisles in various configurations are measured.

[2] Dimensional standards may be modified by the Planning Director for ramped, elevated parking structures to ensure adequate room for parking and maneuvering vehicles is provided.

[3] One-way aisle width may be reduced to a minimum of 11 ft. for 0 degree angled parking; 12 ft. for 45 degree angled parking; and 15 ft. for 60 degree angled parking if not designed to be used for fire access and approved by New Hanover County Fire Services.

**Figure 5.1.4.B: Measurement of Parking Space and Aisle Dimensions**




**8.** The dimensions of parking spaces may be reduced in accordance with the following:

**a.** Up to 25 percent of parking spaces may be designated for compact vehicles. Such spaces shall have a minimum width of eight feet and a minimum length of 16 feet, and shall be identified by proper signage.

**b.** Parking spaces used for tandem parking (See Section 5.1.4.E, Valet or Tandem Parking) may be reduced to a width of eight feet and a length of 18 feet.

**c.** Elevated parking structures (i.e., parking garages) may be permitted in residential districts with a special use permit issued in accordance with Section 10.3.5: Special Use Permit. They are permitted by-right in the B-1, CB, B-2, O&I, and AC districts.

### C. Water Vehicle Parking

**1.** Water vehicle parking spaces shall have a minimum width of 10 feet and a minimum length of 16 feet, and shall be identified by proper signage.

**2.** Space adjacent to a floating dock shall have a minimum length of 16 feet.

## 5.1.5. LOADING AREAS

### A. Minimum Number of Off-Street Loading Berths

**1.** Any new development involving the routine vehicular delivery or shipping of goods, supplies, or equipment to or from the development shall provide a sufficient number of off-street loading berths to accommodate the delivery and shipping operations of the development's uses in a safe and convenient manner.

2. The minimum number of loading berths for different principal uses are set forth in Table 5.1.5: Minimum Number of Off-Street Loading Berths; for proposed uses not listed in Table 5.1.5, the requirement for a use most similar to the proposed use shall apply.

3. The Planning Director may approve a reduction to the number of loading berths required for the use if the applicant demonstrates that the appropriate minimum loading berth requirement for their project is different from the standards outlined in Table 5.1.5, Minimum Number of Off-Street Loading Berths by submitting relevant data obtained either from relevant studies published in referenced journals or other secondary source of comparable authority; or from primary studies of no fewer than 3 comparable developments within the regional or comparable market.

**Table 5.1.5: Minimum Number of Off-Street Loading Berths**

| Principal Use Classification/Category | Size (dwelling units or gross floor area) | Minimum Number of Loading Berths |
|---|---|---|
| **Non-Industrial Uses** | | |
| Household Living Uses (Multi-family only) and Group Living Uses | Between 100 and 300 dwelling units, and | 1 |
| | Each additional 200 dwelling units or major fraction thereof | Add 1 |
| Health Care Uses, Commercial Services Uses, Office Uses, Personal Services Uses, and Visitor Accommodations uses (Hotel or Motel only) | At least 10,000 up to 100,000 sf, and | 1 |
| | Each additional 100,000 sf or major fraction thereof | Add 1 |
| Commercial Uses not listed elsewhere | At least 2,000 but less than 20,000 sf | 1 |
| | At least 20,000 but less than 60,000 sf | 2 |
| | Each additional 60,000 sf or major fraction thereof | Add 1 |
| **Industrial Uses** | | |
| All Industrial Uses | Up to 25,000 sf | 1 |
| | At least 25,000 but less than 40,000 sf | 2 |
| | At least 40,000 but less than 100,000 sf | 3 |
| | At least 100,000 but less than 160,000 sf | 4 |
| | At least 160,000 but less than 240,000 sf | 5 |
| | At least 240,000 but less than 320,000 sf | 6 |
| | At least 320,000 but less than 400,000 sf, and | 7 |

| Table 5.1.5: Minimum Number of Off-Street Loading Berths | | |
|---|---|---|
| **Principal Use Classification/Category** | **Size (dwelling units or gross floor area)** | **Minimum Number of Loading Berths** |
| | Each additional 90,000 sf or major fraction thereof | Add 1 |

**B. Dimensional Standards**

1. Each loading berth shall be of sufficient size to accommodate the types of vehicles likely to use the loading area.
2. The minimum loading berth size that presumptively satisfies loading berth needs is at least 12 feet wide and 45 feet long in general industrial, distribution, or warehousing uses, with at least 15 feet vertical clearance. For all other uses, a berth as short as 33 feet may be allowed.
3. The Planning Director may require a larger loading berth or allow a smaller loading berth on determining that the characteristics of the particular development warrant such increase or reduction.

**C. Location of Loading Areas**

1. To the maximum extent practicable, loading areas should be located to the rear of the use they serve.
2. Loading areas should be located adjacent to the building's loading doors, in an area that promotes their practical use.
3. Loading areas should be located and designed so vehicles using them can maneuver safely and conveniently to them from a public street and complete loading entirely within the site, without obstructing or interfering with any parking space, parking lot aisle, or public right-of-way, unless approved as part of a Master Development Plan or conditional rezoning (e.g., for a mixed-use development project with internal streets).

# Section 5.2. Traffic, Access, and Connectivity

### 5.2.1. VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS

On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of three and ten feet above the finished grades of the intersecting streets in the area bounded by the street rights-of-way of such corner lots and a line joining points along said streets rights-of-way, 50 feet from the point of intersection.

### 5.2.2. DEVELOPMENT ADJACENT TO ROAD, RIGHT-OF-WAY, OR EASEMENT

**A.** Unless exempted in accordance with B, below, every structure erected or moved shall be located on a lot adjacent to a road constructed in accordance with

applicable county standards in place at the time, or to a right-of-way or easement which was platted and recorded prior to 1969.

**B.** The following are exempt from the requirements of this subsection:

**1.** Lots of record established prior to October 6, 1969 that comply with the lot area standards of the district in which they are located;

**2.** Structures that are to be used in conjunction with a bona fide farming operation; and

**3.** Building lots having access over a private driveway or easement at least 30 feet in width to a road, provided the driveway or easement is an easement appurtenant to three or fewer lots and the easement is solely owned by a lot owner, or held in common by three or fewer lot owners.

### 5.2.3. NCDOT DRIVEWAY PERMIT REQUIRED

No building permit for any structure shall be issued which requires NCDOT approval for a Driveway Permit until NCDOT has issued the permit approval. Evidence of approval shall accompany the application for building permit.

### 5.2.4. TRAFFIC IMPACT WORKSHEET

Before a nonresidential project is submitted for site plan review, the applicant shall prepare a Traffic Impact Worksheet to the Planning Director for verification.

**A.** Where the worksheet indicates traffic generation of 100 peak hour trips or more based upon the most current edition of the Institute of Traffic Engineers (ITE) Trip Generation Manual, the applicant shall be required to perform a Traffic Impact Analysis TIA).

**B.** If a TIA is required to be submitted, the applicant or the applicant's Traffic Engineer shall request a pre-application conference with the Planning Director, the MPO Coordinator, and an NCDOT Traffic Engineer to determine the scope of the TIA. (Electronic communication among parties may be utilized to facilitate the scoping process, when necessary.)

**C.** All TIAs shall be prepared by a licensed Traffic Engineer that has relevant professional experience to perform the analysis required for the TIA. Upon completion, the TIA shall be signed and sealed by the licensed and qualified Traffic Engineer and submitted to the Planning Director for review. (To the extent applicable, general guidance and standards for traffic impact analyses is outlined in "Traffic Impact Study Standards" originally approved by the County Commissioners on May 20, 2002.)

**D.** The Planning Director, in collaboration with the MPO Coordinator and NCDOT, shall determine whether the TIA and proposed mitigation (if appropriate) complies with the requirements of this section, or whether additional analysis or mitigation is necessary based on identifiable cumulative impacts or special public safety situations. The collaboration shall follow procedures already established by the MPO for communication with all parties.

**E.** The Planning Director shall notify the applicant with comments within 30 days of receipt of the final TIA.

**F.** Once the mitigation measures are agreed upon by the MPO, NCDOT and County, the Wilmington MPO will prepare a memorandum approving the TIA, identifying the transportation improvements necessary to accommodate the proposed development. Mitigation measures required as part of the TIA acceptance shall be included in the final site plan submitted for review.

**G.** An applicant may appeal a final decision on the mitigation required by a TIA to the Board of Adjustment, by filing an appeal request within 10 working days of a final decision, to the Board of Adjustment, in the form of a letter stating the reasons for appeal and including documentation in support of the appeal. In hearing disputes, the Board of Adjustment may request an independent study by an outside source, chosen by the County and paid for by the applicant, to resolve questions of traffic impact and appropriate mitigation.

# Section 5.3. Tree Retention

*[11-16-2020]*

### 5.3.1. APPLICABILITY

The standards of this section shall apply to all lands and development under the County's zoning jurisdiction except the following:

**A.** Properties that are taxed on the basis of present-use value as forestland in accordance with Article 12, Chapter 105, N.C.G.S., or that are otherwise exempt under state law;

**B.** Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B, N.C.G.S.;

**C.** Any lot of record that is less than one acre in area and located in a residential zoning district;

**D.** Any residential lot that is less than one acre and shown on an approved preliminary plan; and

**E.** Residential subdivisions of five or fewer lots unless they are subject to an Additional Dwelling Allowance special use permit or MDP Master Plan; and

**F.** Trees that are subject to the requirements of this section, but that are demonstrated to be dead, dying, or diseased by greater than 50 percent, as a result of natural factors.

### 5.3.2. FORESTRY AND PROPERTY CLEARING

**A.** A letter of exemption for timber harvest or other exempted forestry activity shall be issued by the Planning Director prior to the removal of any documented, significant, or specimen trees subject to the requirements of this section, based on proof of exemption in accordance with N.C.G.S. 160D-921.

**B.** While exempted forestry activities are not subject to the tree retention requirements of this section, failure to obtain an exemption to a tree removal permit prior to any timber harvest or other property clearing activity will result in the denial of a building permit, site plan approval, or subdivision approval for a period of three years, regardless of any change in ownership, if the harvest results in the removal of all or substantially all documented, significant, or specimen trees from the tract. The

denial period shall be increased to five years in situations where removal of all or substantially all regulated trees was a willful violation of these County regulations.

### 5.3.3. TREE INVENTORY

Trees existing on a site at the time of development that are required to be retained or replaced in accordance with this section shall be inventoried by a cover type survey conducted by point sampling, fixed plot sampling, field survey or other method approved by the Planning Director. Areas that will not be disturbed shall be delineated as such and do not require inventorying individual trees.

### 5.3.4. TREE RETENTION STANDARDS

**A.** Identification of Regulated Trees

Three types of trees are regulated or protected by this section. They are Documented Trees, Significant Trees, and Specimen Trees. This categorization of trees is based on the tree species and existing minimum Diameter at Breast Height (DBH) of the trees. Documented Trees, Significant Trees, and Specimen Trees regulated or protected by this section are identified in Table 5.3.4.A: Regulated Trees.

**Table 5.3.4.A: Regulated Trees**

| Regulated Tree Type | Minimum Diameter at Breast Height (DBH) |
|---|---|
| **Documented Trees** | |
| Dogwoods and American Hollies | 4 inches |
| Long Leaf Pine, Pond Cypress, Bald Cypress, and Hardwoods* | 8 inches |
| Other Conifers | 12 inches |
| **Significant Trees** | |
| Dogwoods, Magnolias, Native Flowering Trees, and American Hollies | 8 inches |
| Long Leaf Pine, Pond Cypress, Bald Cypress, and Hardwoods* | 18 inches |
| Other Conifers | 24 inches |
| **Specimen Trees** | |
| Live Oaks, Pond Cypress, and Bald Cypress | 36 inches |

* Only includes Sweetgums when they are located within required vegetative buffer areas or required open space set-asides

**B.** The Planning Director may permit or require a reduction in required street yards, landscape islands, foundation plantings, setbacks, or other dimensional, parking, or landscaping standards for the purpose of retaining significant or specimen trees.

**C.** A minimum of 15 trees at least two inches DBH or two caliper inches, as applicable, shall be retained or planted on a parcel where development occurs in accordance with Section 5.4, Landscaping and Buffering.

**D.** Regulated trees within a 50-foot perimeter of the property must be retained and protected during non-exempt tree harvests. All significant trees shall be retained.

**E.** If existing trees and shrubs on the site where a transitional buffer is required meets at least 50 percent of the required opacity standards, then those trees and shrubs shall be retained for use in buffering and supplemented as needed with plantings, fences, and/or berms to meet the required standards of Section 5.4.3, Transitional Buffer Standards. In all cases, existing trees (unless invasive) greater than eight inches DBH shall not be removed from a 20-foot buffer strip, unless the Planning Director determines removal of such trees is necessary for the installation of utilities or other required essential improvements. The retention requirements in this section shall not apply to existing trees or shrubs identified as invasive species, as defined in this Ordinance.

### 5.3.5. TREE REMOVAL PERMITS

**A.** Unless a waiver, exemption, or exception applies in accordance with Section 5.3.1, Applicability or Section 10.3.9.B.2, Waivers, Exemptions, and Exceptions, no person, directly or indirectly, shall remove any regulated tree identified in Section 5.3.4, Tree Retention Standards, from public or private property without first obtaining a tree removal permit in accordance with Section 10.3.9, Tree Removal Permit.

**B.** Unless a waiver, exemption, or exception applies in accordance with Section 10.3.9.B.2, Waivers, Exemptions, and Exceptions, a tree removal permit is required before any clearing, grading, or other authorizations may be issued, including building permits.

**C.** The removal of any specimen tree is prohibited on any parcel unless exempt according to Section 10.3.11, Variance – Zoning and Subdivision. If a specimen tree is removed without a permit, the penalty for this violation shall be twice the mitigation fee.

### 5.3.6. TREE PROTECTION DURING CONSTRUCTION

**A.** Existing trees retained on the site to comply with the standards of this section shall be identified on the required landscape plan. An undisturbed area with a porous surface shall be reserved around each tree as determined by the tree's drip ring of its natural canopy.

**B.** Prior to any clearing, grading, or construction activity, approved tree protection fencing, such as safety barrier fencing, a wooden slat snow fence or wire fence, shall be installed around protected trees or tree stands located in construction areas or other site areas that will be disturbed by construction activities. The fencing shall be a minimum of four feet in height and be of durable construction. Tree protective fencing shall remain in place through completion of construction activities.

**C.** No construction workers, tools, materials, or vehicles are permitted within the tree protection fencing.

**D.** If an existing tree retained to comply with the standards of this section is destroyed, substantially damaged, or dies as a result of negligence on the part of the property owner within three years after completion of construction, then replacement trees shall be planted on the site with a total diameter equal to twice the diameter of the retained tree. A minimum growing area of 144 square feet shall be provided for each replacement tree. If the Planning Director determines it is infeasible or for replacement tree(s) to be accommodated on the site, then a payment may be made to the County's Tree Improvement Fund equivalent to the pricing standards in the County fee schedule.

### 5.3.7. MITIGATION

**A.** When Significant Trees are authorized for removal by a tree removal permit or Specimen Trees are authorized for removal by a variance, they shall be replaced at a rate of 2.0 times the caliper inches at DBH removed, except as provided in subsection D below and Section 5.3.8, Optional Incentives for Retaining Trees.

**B.** Each replacement tree shall be a minimum of 2-inch caliper size at time of planting.

**C.** Replacement trees should reflect the type (e.g., hardwood, flowering, evergreen, deciduous, canopy, understory, etc.) of tree being removed to the maximum extent practicable based on the compatibility of the species with proposed buildings and infrastructure, existing environmental conditions, and diversity of tree species.

**D.** If the Planning Director determines it is infeasible for a portion or all of the replacement tree(s) to be accommodated on the site, the Planning Director may direct that an in-lieu fee be paid to the County's Tree Improvement Fund. The mitigation fee as set forth in the County's fee schedule shall be charged for every inch at DBH of Significant Tree removed and two times every inch at DBH of Specimen Tree removed.

**E.** Significant Trees and Specimen Trees that are removed by spading and planted elsewhere on the site are exempt from mitigation. Significant Trees and Specimen Trees that are removed by spading and accepted by the County for planting on property at a location designated by the County Manager are exempt from mitigation. Any tree that has been transplanted for the purpose of this section and becomes diseased or dies within three years of transplanting shall be replanted by the party requesting the exemption with a tree of the same species and size or mitigated pursuant to this article.

### 5.3.8. OPTIONAL INCENTIVES FOR RETAINING TREES

**A.** The retention of existing trees on a site is encouraged. As an incentive to encourage the retention of as many existing trees and existing tree stands on a site as possible, the following credits may be applied to all existing non-invasive trees in good health and condition that are retained on a site to protect tree canopy, native species, and existing natural habitat and as long as the applicable standards of this section are fully met.

**1.** One parking space from the minimum number of parking spaces required by Table 5.1.2.A: Minimum Off-Street Parking, may be credited for every three existing Documented Trees or two existing Significant Trees retained on a site, up to a maximum of a 15 percent reduction of the parking requirements.

2. Retention of existing unregulated or Documented Trees a minimum of 2 inches DBH counts for mitigation of the removal of Significant Trees with every inch at DBH retained counting for one mitigation inch.

3. Retention of existing native species unregulated or Documented Trees a minimum of 2 inches DBH counts for the mitigation of Significant Trees or Specimen Trees removed with an approved variance, with every inch at DBH retained counting for one mitigation inch for Specimen Trees and 1.5 mitigation inch for Significant Trees.

4. Retention of existing trees growing in mature native forests, as determined by a certified arborist or a North Carolina licensed forester, counts for mitigation of the removal of Significant Trees or Specimen Trees removed with an approved variance, with every aggregate inch at DBH counting for one mitigation inch for Specimen Trees and 1.5 mitigation inch for Significant Trees.

5. Retention of existing trees growing in stands or natural clusters, as determined by a certified arborist or North Carolina licensed forester, counts for the mitigation of Significant Trees or Specimen Trees removed with an approved variance, with every aggregate inch at DBH retained counting for one mitigation inch for Specimen Trees, 1.5 mitigation inch for Significant Trees if primarily composed of native species, and 1.0 mitigation inch for Significant Trees if primarily non-native species.

**B.** If a retained documented tree or significant tree or tree retained for mitigation purposes dies within three years of the date of construction on the site, it shall be replaced in accordance with Section 5.3.7, Mitigation.

### 5.3.9. REMOVAL OF HAZARDOUS TREES

**A.** The Planning Director may cause or order removal of any tree or part of a tree, on public or private property, that is in an unsafe condition, damaging to sewers or other public improvement facilities, or infested by an injurious fungus, disease, insect, or other pest.

**B.** The Planning Director may cause or order necessary treatment for any tree on public or private property that is infested by any injurious fungus, disease, insect, or other pest when such action is determined necessary to prevent the spread of any such injurious conditions or pest and to prevent danger to persons or property, or to vegetation planted on adjacent property.

**C.** No foliage shall be allowed to extend from public or private property into any portion of a street right-of-way below a height of eight feet above the grade of the sidewalk at the property line or, if no sidewalk grade has been established, as measured from the center of the roadway. The Planning Director may cause or order corrective action to prevent any such condition from existing.

# Section 5.4. Landscaping and Buffering

*[11-16-2020]*

### 5.4.1. APPLICABILITY

**A.** Except where expressly exempted, these standards shall apply to all development within the County's planning jurisdiction except for single family residences being constructed on lots of two acres or less.

**B.** In cases of expansions to existing principal structures or uses, all newly developed portions of the site shall be subject to the full landscaping requirements of this section. Landscaping upgrades for previously developed portions of the site, up to the maximum landscaping required, shall be provided in accordance with Table 5.4.1.B: Landscaping Upgrade Standards.

**Table 5.4.1.B: Landscaping Upgrade Standards**

| Expansion | Total Trees Required | Street Yard Area | Interior Parking Lot Landscaping | Transitional Buffer Yard |
|---|---|---|---|---|
| 10 and up to 25 percent increase in gross floor area or vehicle use area, OR<br>Between 5 and 20 new parking spaces required | | 50 percent of the required width for new construction | 4 percent of parking lot area | A 6-10 ft. tall fence or 50 percent of width required for new construction |
| Greater than 25 and up to 50 percent increase in gross floor area, OR<br>Over 10,000 square feet increase in gross floor area, OR<br>21 up to 50 new parking spaces required | 15 per acre | Full width to the extent practicable but in no case less than 50 percent of the required width for new construction | 6 percent of parking lot area if possible, but no less than 4 percent | A 6-10 ft. tall fence or 50 percent of width required for new construction |
| Greater than 50 percent increase in gross floor area or vehicular use area, OR<br>Over 20,000 sq. ft. increase in gross floor area, OR<br>More than 50 new parking spaces required | 15 per acre | Full width required for new construction | 8 percent of parking lot area | Full width as required for new construction |

**C.** When a subdivision of previously developed property occurs and a building permit for new construction is obtained for any newly created parcel within two years of the date that the final subdivision plat was approved, all parcels of the original tract shall comply with the provisions outlined in Table 5.4.1.AB for expansions.

**D.** For consecutive expansions occurring within any two-year period, the amount of the expansions shall be summed, and the maximum landscaping required for the total extent of the expansions shall be provided.

**E.** Notwithstanding the above requirements, expansions to existing structures of uses amounting to no more than a total of 500 square feet of gross floor area over a two-year period shall be exempt from the street yard and interior parking lot landscaping standards.

### 5.4.2. GENERAL STANDARDS

**A.** All plant materials and their spacing requirements, which are to be planted to meet the opacity and height requirements of this section, shall be either selected from the manual "Tree and Plant Materials for Landscaping" manual prepared by the County Planning and Land Use Department and incorporated herein by reference (it is available in the County Planning and Land Use Department), or approved by the New Hanover County Agricultural Extension Service. Unless otherwise specified, any tree planted to meet the requirements of this section shall be a minimum of 2.5-inch caliper in size at the time of planting.

**B.** A minimum of 15 trees of at least two inches DBH or two caliper inches, as applicable, shall be retained or planted on a parcel where development occurs for each acre or proportionate area disturbed by the development. Trees retained on the parcel in accordance with Section 5.3, Tree Retention shall count toward this requirement.

**C.** Existing vegetation in good health and condition that meets all applicable standards of this section may be used to satisfy any planting requirements of this section, provided the vegetation and any trees are protected before and during development, in accordance with Section 5.3.6, Tree Protection During Construction.

**D.** Up to 15 percent of the area to be landscaped may be covered with surfaces specifically intended to afford intensive use and enjoyment by employees or the public (such as walking paths, benches, and table pads, etc.).

**E.** Unobstructed visibility shall be maintained at all driveways and roadway intersections, at elevations between three and seven feet of the pavement level within the driveway or roadway's sight triangle, or any area required by the NCDOT.

**F.** It is encouraged that stormwater management systems be integrated into the landscaping plan.

**G.** No certificate of occupancy for any construction or renovation shall be issued until one of the following conditions is met:

**1.** The required landscaping is completed in accordance with the approved plan;

**2.** A bond or certified check, in an amount submitted by the developer and certified by the County Commissioners to be acceptable, is posted and is available to the County; or

**3.** An irrevocable letter of credit or deposit of funds in escrow, in an amount submitted by the developer and certified by the County Commissioners to be acceptable, is issued by a bank in a form approved by the County Attorney.

**H.** No surety or portion thereof, as provided for in this section, shall be released until all landscaping is installed, inspected, and approved.

### 5.4.3. TRANSITIONAL BUFFER STANDARDS

**A.** Transitional buffers are intended to protect adjoining land uses, particularly residential, from the noise, heat, dust, lights, threats to privacy, and aesthetic impacts of more intensive land uses.

## B. Required Width of Plantings

### 1. Buffer Types

The width of a transitional buffer and the required quantity and type of plantings varies based on the nature of the proposed adjacent uses. Table 5.4.3.B.1: Required Transitional Buffers, establishes the type of buffer that is required between two adjacent land uses. Each buffer type is described in Table 5.4.3.B.2: Landscape Buffer Types.

**Table 5.4.3.B.1: Required Transitional Buffers**

| Proposed Use | Existing Adjacent Use or Zoning District | |
|---|---|---|
| | Single-Family Detached or Two-Family (Duplex) Dwelling Units; Undeveloped Land in RA, AR, R-20S, R-20, R-15, R-10, R-7, or R-5 Zoning Districts | All other residential uses; RMF Zoning Districts |
| Single-Family Detached or Two-Family (Duplex) Dwelling Units | N/A | N/A |
| All Other Residential Uses | Type A: Opaque Buffer | N/A |
| Civic & Institutional and Commercial Uses | Type A: Opaque Buffer | N/A |
| Industrial Uses | Type A: Opaque Buffer | Type B: Aesthetic Buffer |

### 2. Minimum Width and Plantings

**a.** The standards for each buffer type are described in Table 5.4.3.B.2: Landscape Buffer Types.

**b.** The width of the required buffer in particular locations may be reduced by up to 50 percent as long as the total area of landscape buffer that is provided is the same as if the width of the buffer were not reduced, and the Planning Director determines that the amount of screening where the width is reduced will be sufficient to accomplish the purposes of Section 5.4.3.

**Table 5.4.3.B.2: Landscape Buffer Types**

| Buffer Type | Minimum Width and Plantings Required |
|---|---|
| **Type A: Opaque Buffer** | |
| Option 1: Vegetation Only | The minimum buffer width shall be 50 percent of the minimum required setback as set forth in Article 3: Zoning Districts, or 20 feet, whichever is greater.**<br>Planted materials shall be a minimum of six feet in height and provide approximately full opacity within one year of planting.*<br>A minimum of three rows of planted material are required. |

| Table 5.4.3.B.2: Landscape Buffer Types | |
|---|---|
| **Buffer Type** | **Minimum Width and Plantings Required** |
| **Type A: Opaque Buffer** | |
| Option 2: Combination Berm & Vegetation | The minimum buffer width shall be 50 percent of the minimum required setback as set forth in Article 3: Zoning Districts, or 20 feet, whichever is greater.**<br><br>The berm shall be constructed of compacted earth. The slope of the berm shall be stabilized with vegetation and shall be no steeper than 3:1. The height of the berm shall be six feet or less with a level or rounded area on top.<br><br>The combined height of the berm and planted vegetation shall provide approximately full opacity to a minimum height of six feet within one year of planting. The height of the berm and vegetation shall be measured from the ground level at the nearest lot boundary line.* |
| Option 3: Combination Fencing & Vegetation | The minimum buffer width shall be 50 percent of the minimum required setback as set forth in Article 3: Zoning Districts, or 10 feet, whichever is greater.**<br><br>Fencing shall be between 6 and 10 feet in height.<br><br>Required planted materials shall be located between the fence and the common property line unless otherwise specified.<br><br>If solid fencing is used, planted materials a minimum of three feet in height and providing a minimum of approximately 50 percent visual opacity at initial planting shall be required. Vegetation shall be planted between the fence and the nonresidential or attached structure if the required buffer is 15 ft. or less in width to accommodate regular maintenance.*<br><br>If permeable fencing is used, a minimum of two rows of planted materials providing approximately full opacity within one year of planting are required.* |
| **Type B: Aesthetic Buffer** | |
| Option 1: Vegetation Only | Width: 20 ft. minimum<br><br>Planted materials shall provide approximately 50 percent opacity within one year of planting.*<br><br>A minimum of three rows of planted material, using a minimum of two plant species that will result in different heights at maturity, are required. |
| Option 2: Combination Fencing & Vegetation | Width: 10 ft. minimum<br><br>Planted materials shall provide approximately 50% opacity within one year of planting.*<br><br>Fencing shall be between 4 and 10 feet in height.<br><br>Planted materials shall be planted between the fence and the industrial use with sufficient space to accommodate regular maintenance.<br><br>If permeable fencing is used, at least one row of planted materials is required. Chain link or wire fencing cannot be used to meet the fencing requirement. |

*Plants and spacing to achieve the height and opacity requirements of this buffer option are outlined in the "Tree and Plant Materials for Landscaping" manual.

**If the applicant increases the required buffer width, an equivalent reduction in a building's setback is allowed, except for interior side and rear setbacks from residential properties in the B-1, B-2, and O&I districts.

**c.** If existing trees and shrubs in the location of a required transitional buffer meets at least 50 percent of the required opacity standards, then those trees and shrubs shall be retained for use in buffering and

supplemented as needed with plantings, fences, and/or berms to meet the standards of this subsection. Existing trees greater than eight inches DBH shall not be removed from the required buffer area, unless the Planning Director determines removal of such trees is necessary for the installation of utilities or other required essential improvements. The retention requirements in this section shall not apply to existing trees or shrubs identified as invasive species, as defined in this Ordinance.

**C. Activities and Development Within Buffer**

No transitional buffer required by this section may contain any building or structure or extension of any building or mechanical system. This prohibition shall apply at the time of issuance of a certificate of occupancy and at any time thereafter, and shall include but not be limited to: porches, decks, patios, HVAC components, waste containers, storage buildings, or any other fixture or permanent structure. Development within the buffer yard shall be limited to the following:

**1.** Fences and walls;

**2.** Retaining walls; and

**3.** Sidewalks, trails, and bike paths, provided that required opacity is maintained in all locations except connections to off-site sidewalks, trails, or bike paths.

### 5.4.4. SCREENING

**A.** The following uses shall be shielded from view from the property line of an existing residential use by means of a 100 percent opaque solid wall:

**1.** Loading/unloading areas; and

**2.** Heating/air conditioning units, excluding roof mounted units.

**B.** The following uses shall be screened from view from the property line of an existing residential use by means of a solid fence:

**1.** Dumpsters or other trash holding areas; and

**2.** Outside storage areas.

**C.** The following uses shall be screened from the view of any public right-of-way or adjacent property by vegetative materials, berms, fencing, walls, and/or any combination thereof to a height of at least eight feet:

**1.** The rear side (if no public access is provided) of a building where that side abuts a street right-of-way; and

**2.** Any dumpster or trash receptacle storage area used in connection with any business establishment.

### 5.4.5. PARKING LOTS

**A.** Landscaping in accordance with the standards in this section shall be required for all off-street parking lots with five or more spaces, or at least 2,500 square feet devoted to vehicular use. A landscaping plan shall be submitted in accordance with the requirements outlined in the Administrative Manual.

**B.** Landscaping shall be required for parking lot perimeters in accordance with the specifications outlined in Table 5.4.5.B: Standards for Parking Lot Perimeter Landscaping, provided that where a perimeter landscaping strip overlays a required street yard or transitional buffer, the more stringent requirements shall apply.

**Table 5.4.5.B: Standards for Parking Lot Perimeter Landscaping**

| | |
|---|---|
| **Applicability** | • A landscaped strip shall be required along any side of a parking lot abutting another parking lot or land in a Residential zoning district . |
| **Dimensional Standards** | • The perimeter landscaping strip shall be a minimum of ten feet in width. |
| **Plantings Required** | • A minimum of one evergreen or deciduous tree for every 20 linear feet of planting strip on average, rounded to the highest whole number, shall be planted within the planting strip. |
| **Design Alternatives** | • When adjacent to another parking lot, the landscaping strip may be interrupted by driveway connections between parking lots. If adjacent parking lots are developed concurrently, then both properties can install a five-foot strip or footages adding up to ten feet, mutually agreed upon in writing by the two property owners.<br>• A landscaped strip shall not be required between adjacent parking lots that share a double parking row split along the middle of a drive aisle.<br>• A perimeter landscaped strip may be used as part of a transitional buffer required in accordance with Section 5.5.4 |

**C.** Landscaping for parking lot interiors shall be in accordance with the requirements in Table 5.4.5.C: Standards for Parking Lot Interiors.

**Table 5.4.5.C: Standards for Parking Lot Interiors**

| | |
|---|---|
| **Dimensional Standards** | • Landscaped areas in the interior of parking lots shall be equal to eight percent of the total area to be used for parking, loading, automobile sales, driveways, internal drive aisles, and other vehicular or pedestrian use.<br>• Landscaping islands, either separate from or protruding from perimeter landscaping strips, shall be a minimum of 12 feet in width measured from back of curb to back of curb. |
| **Plantings Required** | • One planted or existing tree shall be required for every 144 square feet rounded to the next lowest whole number of total interior landscaped area, with a minimum of one tree in each island.<br>• At least 75 percent of trees required for interior landscaping shall be of a shade/canopy species.<br>• The remainder of interior landscaped area shall be covered with appropriate mulching or vegetative groundcover, except for designated pedestrian walkways. |
| **Design Standards** | • No parking space shall be located more than 120 feet from a landscaped island.<br>• All parking spaces shall be blocked or curbed to prevent vehicles from encroaching more than one foot into planting islands or landscaped yards or damaging adjacent fences or screens.<br>• Depressions and curb cuts shall be allowed for water quality protection. |

| Table 5.4.5.C: Standards for Parking Lot Interiors | |
|---|---|
| **Design Alternatives** | • The interior landscaping requirement for storage facilities can be met with landscaped islands on the ends of buildings and with protruding perimeter landscaping.<br>• Interior landscaping within automobile sales lots may be distributed so that smaller understory trees are utilized toward the interior of the lot and shade trees are placed toward the perimeter.<br>• For redevelopment of nonconforming parking facilities containing a total of 5-25 parking stalls, a perimeter landscaped strip a minimum width of ten feet may be provided in-lieu of interior landscaping. For every 40 linear feet, or fraction thereof, the perimeter strip shall contain a minimum of one canopy tree or three understory trees AND a continuous row of evergreen shrubs a minimum 18 inches in height at time of planting. |

**D.** When a parking lot is within 50 feet of a right-of-way, and no other provisions of this Ordinance require a planted buffer, a low landscaped screen shall be installed along any portions of the parking lot along the right-of-way and be incorporated into the street yard to provide protection from the headlights of vehicles within the parking lot. The landscaped screen shall comply with the following standards:

**1.** The landscape screen shall consist of shrubbery, a grade change, a planted berm, or any combination thereof a minimum of three feet in height.

**2.** If the landscape screen is at least 15 feet in width, the landscape screen may be continuous and incorporated into the street yard landscaping area.

**3.** Depressions and curb cuts shall be allowed for water quality protection.

**E.** The Planning Director may waive all or part of the requirements of this section if:

**1.** The parking lot is limited to periodic or intermittent use as a vehicular parking lot for Religious Assemblies or Park and Recreation Areas, provided the parking lot is completely covered by grass or otherwise presents a landscaped effect.

**2.** The parking lot is a temporary parking lot for a period of no more than one year in length and it will not violate the purposes of this section and this Ordinance.

### 5.4.6. STREET YARD STANDARDS

**A.** Street yard landscaping is required for new construction of principal structures, expansions to existing structures, and changes of use whenever additional off-street parking is required, excluding the following uses:

**1.** General Agricultural and Forestry Uses;

**2.** Residential development unless built to the commercial building code;

**3.** Private Residential Boating Facilities;

**4.** Cemeteries;

**5.** Park and Recreation Areas with no structures or parking areas; and

**6.** Utility lines.

**B.** Street yard area shall be required in accordance with the specifications outlined in Table 5.4.6.B, Street Yard Area Standards. The applicant may install the street yard in any configuration that provides the required amount of street yard square footage between the property line and any site improvements and that conforms with required street yard minimum and maximum widths. Street yards may be located within any required setback.

**Table 5.4.6.B: Street Yard Area Standards**

| Zoning District or Use | Required Area |
|---|---|
| **B-2, CS, I-1, I-2, AC** | • 25 square feet for every linear foot of street yard frontage<br>• Minimum street yard width: 12.5 feet<br>• Maximum street yard width: 37.5 feet |
| **B-1, CB, O&I, EDZD, UMXZ Districts**<br><br>**Developments with Additional Dwelling Allowance or High Density Development Special Use Permit** *[09-08-2020]* | • 18 square feet for every linear foot of street yard frontage<br>• Minimum street yard width: 9 feet<br>• Maximum street yard width: 27 feet |
| **Non-Residential Uses in Residential Districts** | • 12 square feet for every linear foot of street yard frontage<br>• Minimum street yard width: 8 feet<br>• Maximum street yard width: 18 feet |

- The road fronting width of driveways are not included in the linear street frontage when determining the base street yard area. *[09-08-2020]*
- The area of any walkways, sidewalks or other bicycle and pedestrian facilities, and transit amenities shall be subtracted from the base street yard area required above to get the total required street yard area.
- Areas designated for stormwater functions, except piped areas, shall not be included in the required street yard area.
- The applicant may choose to increase the required square footage per linear foot up to 25 percent to receive an equivalent reduction in the building's front yard setback.
- The applicant may install the street yard in any configuration that provides the required amount of street yard square footage between the property line and any site improvements as long as it remains in compliance with the minimum and maximum widths outlined above.

**C.** For every 600 square feet of street yard area on average, the following landscaping shall be provided:

**1.** One canopy/shade tree or if overhead power lines are located above the street yard, three (3) understory trees; and

**2.** Six shrubs, 12 inches in height at time of planting.

**D.** Street yard landscaping shall be required along all street frontages. For sites with two or more street frontages, only the primary street frontage shall be required to contain the full amount of street yard as determined in Table 5.4.6.AB: Street Yard

Area Standards. Secondary street frontages are required to contain 50 percent of the required street yard area.

**E.** If there are existing trees of a minimum two inches DBH in the proposed street yard, the Planning Director may grant credit for those trees toward meeting tree preservation requirements. In addition, the Planning Director may require the saving of any regulated tree in the street yard area.

**F.** On a case-by-case basis, the Planning Director may approve alternate planting materials or substitutions to street yard planting requirements where requirements would not be practical due to existing vegetation or other unique conditions. Such substitutions shall be determined to be in keeping with the purpose and intent of this section.

**G.** For all lots of record two acres or less in size, if the Planning Director determines that the essential site improvements cannot be accommodated under these requirements, then the required street yard area may be reduced by one-half, but in no case shall it be reduced less than one-half.

**H.** Walkways, sidewalks, or other bicycle and pedestrian facilities, fountains, walls or fences, and transit amenities shall be permitted within the street yard; however, parking areas shall not be permitted.

### 5.4.7. FOUNDATION PLANTINGS

**A.** Foundation plantings located between the building face and the parking lot or drive aisle shall be required for all portions of buildings adjacent to parking lots or internal drive aisles.

**B.** The following minimum standards are required, though additional landscaping is encouraged:

**1.** The foundation planting area shall be a minimum of 12 percent of the area of the building face adjacent to the parking area or internal drive; and

**2.** The foundation planting area shall be planted as landscaped areas of sufficient variety, height, and size, with plantings listed in “Tree and Plant Materials for Landscaping.”

**C.** Exemptions from foundation plantings may be granted by the Planning Director when the following circumstances exist or when any of the following conditions are proposed on the site:

**1.** For those portions of buildings that have drive-up services (e.g., pharmacies, banks, fast food restaurants, dry cleaners, photo shops, etc.); and

**2.** On the rear side of a building when less than 10 percent of the total required parking is located in the rear of the building and the rear is not adjacent to any public right-of-way.

### 5.4.8. MAINTENANCE

**A.** All existing vegetation that is used to comply with the landscaping requirements, all required planted living material, and all required berms shall be maintained by the owner of the property on a continuing basis.

**B.** Any planted material that becomes damaged or diseased or dies shall be replaced by the owner within 60 days of the occurrence of such condition. If the Planning Director determines there are seasonal conditions that will not permit the timely replacement of the vegetation (e.g. too hot or too cold for successful replanting), the Planning Director may modify the requirement until a time certain when the replanting would be successful.

**C.** Artificial fencing and nonliving screening buffers shall be maintained, cleaned, and repaired by the owner of the property on a continuing basis. Such fencing shall be kept free of litter and advertising.

# Section 5.5. Exterior Lighting

*[09-08-2020]*

### 5.5.1. PURPOSE AND INTENT

The purpose and intent of this section is to regulate exterior lighting to:

A. Ensure all exterior lighting is designed and installed to maintain adequate lighting levels on site:

B. Assure that excessive light spillage and glare are not directed at adjacent property, neighboring areas, or motorists;

C. Provide certainty during the development review process; and

D. Provide security for persons and property.

### 5.5.2. APPLICABILITY

#### A. General

Unless exempted by subsection B below, the standards in this section apply to:

**1.** All new non-residential, mixed-use, and multi-family development;

**2.** Any individual expansion of a building in a non-residential, mixed-use, or multi-family development if the expansion increases the building's floor area by 50 percent or more; and

**3.** Any expansion or alteration of a lighted outdoor area.

#### B. Exemptions

The following types of lighting are exempted from the standards of this section:

**1.** Lighting exempt under state or federal law;

**2.** FAA-mandated lighting associated with a utility tower or airport;

**3.** Lighting for public monuments and statuary;

**4.** Lighting solely for signage (for signage lighting standards see Section 5.6.3.D, Lighting);

**5.** Temporary lighting for circuses, fairs, carnivals, and theatrical and other performance areas, provided such lighting is discontinued upon completion of the event or performance;

6. Temporary lighting of construction sites, provided such lighting is discontinued upon completion of the construction activity;
7. Temporary lighting for emergency situations, provided such lighting is discontinued upon abatement of the emergency situation;
8. Security lighting controlled and activated by motion sensor devices for a duration of 15 minutes or less;
9. Underwater lighting in swimming pools, fountains, and other water features;
10. Holiday or festive lighting; and
11. Outdoor lighting fixtures that do not comply with provisions of this section on September 8, 2020.

### 5.5.3. TIME OF REVIEW

Information about the exterior lighting for the site that demonstrates compliance with the standards in this section shall be submitted in conjunction with an application for site plan approval (Section 10.3.6, Site Plan) or zoning compliance approval (Section 10.3.8, Zoning Compliance Approval), whichever comes first.

### 5.5.4. GENERAL STANDARDS

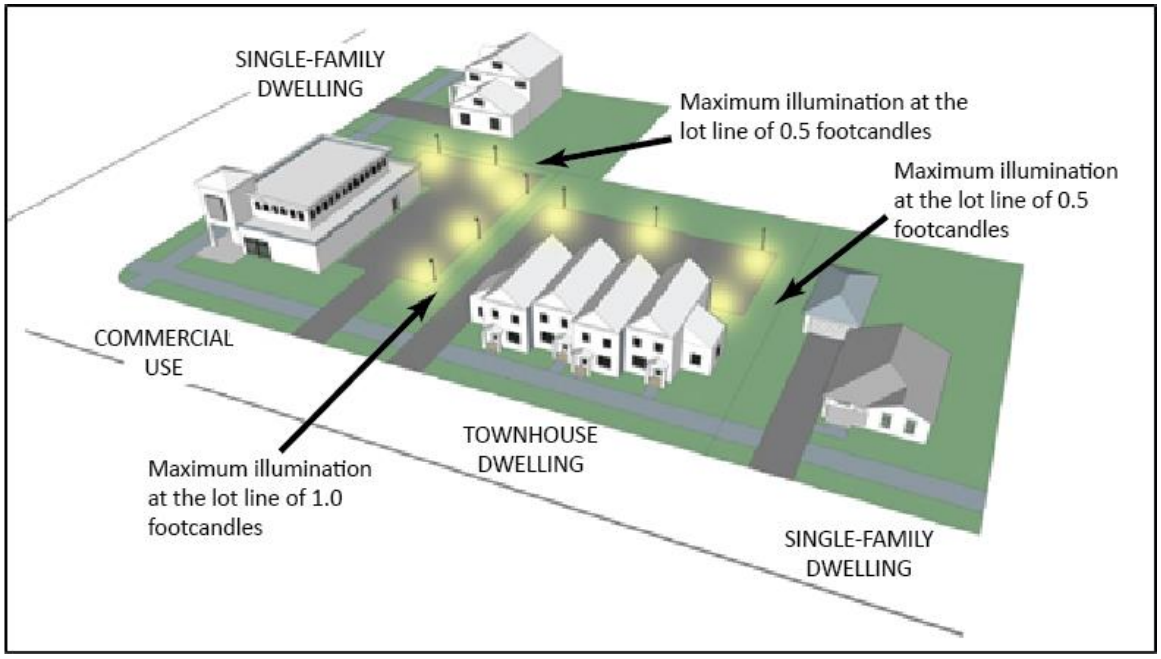
#### A. Maximum Illumination Levels

Except for street lighting, all exterior lighting and indoor lighting visible from outside shall be designed and located so that the maximum illumination measured in foot candles at ground level at a lot line (see Figure 5.5.4.B: Maximum Illumination Levels) shall not exceed the standards in Table 5.5.4.B: Maximum Illumination Levels.

**Table 5.5.4.B: Maximum Illumination Levels**

| Type of Use Abutting Lot Line | Maximum Illumination Level at Lot Line (Foot-Candles) |
|---|---|
| Single family detached, two-family (duplex), triplex, and quadraplex dwellings, or vacant land in the R-20S, R-20, R-15, and R-10 zoning districts | 0.5 |
| All other residential uses and vacant land in all other Residential districts | 1.0 |
| All other uses | 2.0 |

**Figure 5.5.4.B: Maximum Illumination Levels**




## 5.5.5. PROHIBITED LIGHTING

The following lighting is prohibited:

- **A.** Light fixtures that imitate an official highway or traffic control light or sign;
- **B.** Light fixtures that have a flashing or intermittent pattern of illumination, except as permitted for signage in accordance with Section 5.6.2.D, Lighting;
- **C.** Exterior lighting in the Airport Residential (AR) district that does not comply with Section 3.2.5.E.1, Lighting;
- **D.** Exterior lighting in the Airport Commerce (AC) district that does not comply with Section 3.4.9.E.2, Lighting; and
- **E.** Searchlights, except when used by federal, state, or local authorities, or where they are used to illuminate alleys, parking garages, and working (maintenance) areas, so long as they are shielded and aimed so that they do not result in lighting on any adjacent lot or public right-of-way exceeding 2.0 foot candles.

### 5.5.6. EXEMPTIONS FOR SAFETY REASONS

**A.** Government facilities like parks, public safety facilities, and the like, as well as private development may submit a security plan to the Planning Director proposing exterior lighting that deviates from the standards in this section. The Planning Director shall submit the security plan to the Sheriff's Department for review and shall then approve or approve with condition the security plan and its proposed deviation from the standards, upon finding that:

**1.** The proposed deviation from the standards is necessary for the adequate protection of the subject land, development, or the public.

**2.** The condition, location, or use of the land, or the history of activity in the area, indicates the property or any materials stored or used on it are in significantly greater danger of theft or damage, or members of the public are at greater risk for harm than on surrounding property without the additional lighting; and

**3.** The proposed deviation from the standards is the minimum required and will not have a significant adverse effect on neighboring lands.

**B.** If the Planning Director finds the applicant fails to demonstrate compliance with subsection A above, the security plan and its proposed deviation from the standards shall be denied.

## Section 5.6. Signs

### 5.6.1. PURPOSE

The purpose of this section is to coordinate the type, placement, and physical dimensions of signs within the different zoning districts; to recognize the commercial communication requirements of all sectors of the business community; to promote both renovation and proper maintenance of signs; and to guarantee equal treatment under the law through accurate record keeping and consistent enforcement. The general objectives of these standards are to promote the health, safety, welfare, convenience and enjoyment of the public, and in part, to achieve the following:

**A.** Safety - To promote the safety of persons and property by providing that signs:

**1.** Do not create a hazard due to collapse, fire, decay, collision, or abandonment;

**2.** Do not obstruct fire-fighting or police surveillance; and

**3.** Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs.

**B.** Communications Efficiency - To promote the efficient transfer of information in sign messages by providing that:

**1.** Those signs which provide messages and information most needed and sought by the public are given priorities;

2. Businesses and services may identify themselves;

3. Customers and other persons may effectively locate a business or service;

4. No person or group is arbitrarily denied the use of the sight lines from the public right-of-way for communication purposes; and

5. Persons exposed to signs are not overwhelmed by the number or size of messages presented, and are able to exercise freedom of choice to observe or ignore sign messages, according to the observer's purpose.

**C.** Landscape Quality and Preservation - To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:

1. Do not interfere with scenic views;

2. Do not create a nuisance to persons using the public rights-of-way;

3. Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height or movement;

4. Are not detrimental to land or property values; and

5. Contribute to the special character of particular areas of the community, helping to orient the observer within it.

**D.** Outdoor Advertising Signs

1. Outdoor advertising signs are herein regulated for the purposes of regulating excess signage, encouraging the positive economic development of the County, preserving and improving tourism views, promoting the safety of the traveling public, protecting existing property values in both residential and nonresidential areas, preventing the overcrowding of land, and protecting the aesthetics of the County.

2. The regulations are designed to prevent their over-concentration, improper placement, and excessive height, bulk, number and area. It is recognized that, unlike on-premise identification signs, which are in actuality a part of a business, outdoor advertising is a separate and distinct use of the public thoroughfare. With a view to this distinction, outdoor advertising signs are regulated differently from on-premise signs.

### 5.6.2. GENERAL PROVISIONS

#### A. Compliance with Building and Electrical Codes

All signs shall be constructed in accordance with the requirements of the local and state Building Code and the National Electrical Code.

**1. Anchoring**

**a.** Signs shall be suspended by nonrigid attachments that will allow the sign to swing in a wind.

**b.** All freestanding signs and outdoor advertising signs shall have self-supporting structures erected on or permanently attached to concrete foundations.

**c.** All portable signs on display shall be braced or secured to prevent motion.

**2. Wind Loads**

Solid signs, and skeleton signs other than wall signs, shall be designed to withstand a wind load according to the North Carolina State Building Code.

**3. Additional Construction Specifications**

**a.** No signs shall be erected, constructed, or maintained so as to obstruct any required exit, fire escape, window or door opening used as a means of egress.

**b.** No sign shall be attached in any form, manner or shape which will interfere with any opening required for ventilation, except that signs may be erected in front of and may cover transom windows when not in violation of the provisions of Fire Prevention Codes.

**c.** Signs shall be located in such a way as to maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electrical Code specifications.

**4. Maintenance and Removal**

Should any sign become in danger of falling or is deemed otherwise unsafe in the opinion of the Building Safety Director, the owner, or the person or firm maintaining the same, shall upon written notice from the Building Safety Director, forthwith in the case of immediate danger and in any case within 10 days, secure the sign in a manner to be approved by the Building Safety Director in conformity with the provisions of the state building code, or remove the sign. If the sign is not removed, the Building Safety Director or his designated agent may initiate legal procedures to obtain the necessary court orders to remove such sign at the expense of the owner or lessee.

## B. Abandoned Signs

Any on-premises sign relating to any business or other use shall be removed by the owner of the sign or property owner within 60 days after such business or activity has been vacated or terminated. If the sign has not been removed after the removal time has expired and after proper written notification is given, the Planning Director may initiate legal procedures to remove the sign(s) at the expense of the owner or lessee.

## C. Sign Measurements

**1.** General - For the purpose of this section, the area, in square feet, of any sign shall be computed by the smallest square, triangle, rectangle, circle, or combination thereof, which will encompass the entire sign. In computing the sign area in square feet, standard mathematical formulas for known or common shapes will be used. In the case of irregular shapes, straight lines drawn closest to the extremities of the shape will be used.

2. Multiple Faces - Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except where two such faces are placed back-to-back and are at no point more than two feet from one another. The area of the sign shall be taken as the area of the larger face if the two faces are of unequal area; if the areas of the two faces are equal, then the area of one of the faces shall be taken as the area of the sign.

### D. Lighting

Unless otherwise specified in this section, all signs may be illuminated. However, no sign regulated by this Ordinance may utilize:

1. An exposed incandescent lamp with an external reflector without a sunscreen or comparable diffusion;
2. An exposed incandescent lamp unless a screen is attached; or
3. A revolving beacon light.

### E. Exemptions

This section shall not relate to building design, nor shall this section regulate official traffic signs, gravestones, lighting, or displays of a seasonal, religious, or traditional nature (e.g., Christmas or Chanukah lights or decorations, Thanksgiving decorations, Halloween lights or decorations, etc.) which are not commercially-oriented, scoreboards on athletic fields, or any display or construction not defined as a sign. The regulations of this section shall not apply to any sign that is not visible from the perimeter of the subject property.

### F. Permits Required

Unless otherwise specifically provided, a sign permit shall be obtained in accordance with Section 10.3.8, Zoning Compliance Approval, before commencing the construction, alteration, erection, addition to, or moving of any sign or outdoor advertising signor part thereof.

### G. Indemnifications and Insurance

1. All persons involved in the maintenance, installation, alteration, or relocation of signs near or upon any public right-of-way or property shall agree to hold harmless and indemnify the County, its officers, agents, and employees, against any and all claims of negligence resulting from such work insofar as this section has not specifically directed the placement of a sign.
2. No person may engage in the business of erecting, altering, relocating, constructing, or maintaining signs without a valid contractor's license and all required licenses on the state and federal level.
3. All persons involved in the installation, maintenance, relocation, or alteration of signs shall maintain all required insurance and shall file with the state a satisfactory certificate of insurance to indemnify the city, state, or County against any form of liability to a minimum of $100,000.

## H. Prohibited Signs

In all zoning districts the erection, construction, location or the use of any sign is prohibited as follows. Such signs, if deemed to create a public safety hazard by the Building Safety Director, may be removed immediately; otherwise, prohibited signs shall be removed as provided under Section 5.6.4.K. See Table 5.6.2.H: Permitted and Prohibited Signs, by Zoning Districts.

1. Signs in Public Right-of-Way. No sign shall be permitted on or protrude into a public right-of-way, street, or passageway, except as provided specifically for in this section.
2. Signs Attached to Public Property or Utility Structures. Except for signs installed by or with the approval of an appropriate governmental agency, no sign shall be attached to, hung, or painted on any curb stone, hydrant, lamppost, street trees, barricade, temporary walk, telephone pole, telegraph pole, electric light pole, or other utility pole, public fence, or on a fixture of a fire alarm or police call system within any public right-of-way. No detached sign shall be located closer than 10 feet in any direction from any power or transmission line. (NOTE: This does not include the supporting structure, e.g., the power pole.)
3. Signs Constituting Traffic Hazards. No sign shall be permitted whereby its location, nature or type constitutes or tends to constitute a hazard to the safe and efficient operation of vehicles upon any public right-of-way, street, or passageway. No sign shall be permitted that would obstruct the line of sight of motorists or pedestrians at intersections, driveways, or along any public right-of-way, street, or passageway. No sign shall be permitted, as specified in Section136-32.2, N.C.G.S., that would obstruct or resemble traffic signs or signals, or would tend to be confused with a flashing light of an emergency vehicle.

**Table 5.6.2.H: Permitted and Prohibited Signs, by Zoning District**
X= Prohibited P=Permitted

| Sign Type | Residential District | O&I District | B-1, CB, UMXZ, and PD Districts | B-2 and SC Districts | CS, I-1 and AI Districts | I-2 District |
|---|---|---|---|---|---|---|
| Above Roof | X | X | X | X | X | X |
| Animated | X | X | X | X | X | X |
| Attached (Wall) | X | P | P | P | P | P |
| Awning | X | P | P | P | X | X |
| Banner | X | P | P | P | P | P |
| Balloons/Blimps | X | P | P | P | P | P |
| Construction | P | P | P | P | P | P |
| Directional | P | P | P | P | P | P |

| Table 5.6.2.H: Permitted and Prohibited Signs, by Zoning District<br>X= Prohibited P=Permitted | | | | | | |
|---|---|---|---|---|---|---|
| Sign Type | Residential District | O&I District | B-1, CB, UMXZ, and PD Districts | B-2 and SC Districts | CS, I-1 and AI Districts | I-2 District |
| Flag | P | P | P | P | P | P |
| Flashing | X | X | X | X | X | X |
| Freestanding | P | P | P | P | P | P |
| Incidental | X | P | P | P | P | P |
| Integral | P | P | P | P | P | P |
| Pennant | X | X | X | X | X | X |
| Political | P | P | P | P | P | P |
| Portable | X | X | P | P | P | P |
| Projecting | X | X | X | X | X | X |
| Real Estate | P | P | P | P | P | P |
| Revolving | X | X | X | X | X | X |
| Sandwich Board | X | X | X | X | X | X |
| Spec. Purpose | X | X | X | X | X | X |
| Wind Device | X | X | X | X | X | X |
| Window | X | P | P | P | P | P |

4. Signs Constituting Fire Hazards. No sign shall be permitted to prevent free ingress and egress from any door, window, or fire escape.
5. Signs Pertaining to Specified Activities or Containing "Vulgar" Words. No sign shall contain statements, words, or pictures which describe or display "specified anatomical areas" or "specified sexual activities," as defined in this Ordinance or which contain words which are classified as "vulgar" or "vulgar slang" in The New College Edition of the American Heritage Dictionary of the English Language.
6. Moving Signs. No sign shall be permitted containing or consisting of banners, posters, pennants, ribbons, balloons, streamers, or other similarly moving devices or ornamentation, except as specifically provided in this section.
7. Flashing Signs and Rotating Light Beams. No sign shall be permitted which contains or utilizes revolving or rotating beams of light of stroboscopes. No sign shall be erected which flashes, except for time and temperature signs.

8. Signs on Vehicles. No sign shall be placed on a vehicle or trailer which is parked or located for the primary purpose of displaying the sign (this does not apply to permitted portable signs, or to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).

9. Floating Signs. Floating Signs are not permitted.

## I. Signs Which do not Require a Permit

The following types of signs are exempted from the sign permit requirements, but must comply with all other requirements of this section.

1. Signs used by churches, synagogues, or civic organizations.

2. Construction Signs. One construction sign for each street frontage of a construction project, not to exceed 20 square feet in sign area in residential zoning districts or 35 square feet in sign area in all other zoning districts. Such signs may be erected ten days prior to beginning of construction and shall be removed within 30 days following completion of construction.

3. Directional/Information Signs. Four freestanding directional/information signs per lot, not to individually exceed three square feet in sign area or 30 inches in height.

4. Individual Political Signs. Non-illuminated political signs, not to individually exceed 12 square feet in sign area. Such signs shall be removed 30 days following the applicable election or referendum. Political signs may be placed only on private property and only with the permission of the property owner, provided that each candidate for political office, or the candidate's local representative in the case of statewide or national offices, shall apply for a general permit for all personal campaign signs, indicating that the candidate is aware of all regulations concerning political signs, that all supporters receiving the signs will be advised of these regulations and ordered to follow them, and that the signs shall be removed as required by these regulations.

5. Public signs or notices or any sign relating to an emergency.

6. Real Estate Signs. One non-illuminated real estate sign per street frontage, not to exceed 20 square feet in sign area. Such signs must be removed 30 days following rental, sale, or lease.

7. Incidental Signs not to exceed six square feet in aggregate sign area per occupancy

8. Residence signs, Nameplates, or street address numbers, not exceeding four square feet in area.

9. Signs used for bona-fide navigational aids.

10. Flags.

11. Off-Site Real Estate Signs. Off-site real estate signs which are generic signs with display content limited to a directional arrow and/or one descriptive phrase of "open house" or "home for sale," and allowed off the premises from where the real estate product is being offered that comply with the following requirements:

**a.** Be located on private property only with written permission of the applicable property owner. The property owner or real estate agent shall be subject to the applicable penalties for violation of these provisions.

**b.** Be no greater than four square feet in area.

**c.** Be no higher than three (feet, measured from the adjacent ground elevation to the uppermost portion of the sign.

**d.** Only locate one sign per intersection.

**e.** Not block any sight distances of any intersection.

**f.** Not be placed within a public or private road right-of-way.

**g.** Be freestanding.

**h.** Not be placed on trees, utility posts, traffic control signs, or other signs.

**i.** Not have lighting, movable elements, or flags.

**j.** Comply with the following allowable times of placement:

**1.** A sign directing attention to a temporary sales office or model unit in a development of multiple lots or units offered for sale may remain in place seven days a week, for as long as the temporary sales office or model unit is on site.

**2.** A sign directing attention to any property or properties other than a model unit or sales office as specified in paragraph (a), may remain in place from 4:00 p.m. on Friday to 8:00 a.m. on the following Monday. On the following specified holidays, signs may be posted after 4:00 p.m. the day prior to the actual holiday and must be removed by 8:00 a.m. the day following the holiday:

**i.** New Year's Day

**ii.** Martin Luther King, Jr. Day

**iii.** Good Friday (Friday before Easter)

**iv.** Azalea Festival - Friday

**v.** Memorial Day

**vi.** Independence Day

**vii.** Labor Day

**viii.** Veteran's Day

**ix.** Thanksgiving Day - Thursday and Friday

**x.** Christmas Day

## J. Signs Which Require a Permit

### 1. Subdivision Identification Signs

Two subdivision identification signs per entrance, not to exceed 35 square feet each in sign area. Identification signs may be located on

privacy and freestanding walls. Unless otherwise specified, if the identification sign is located on a freestanding wall, the wall shall not exceed six feet in height, or the height of the subdivision privacy wall, whichever is greater.

**2. Identification Signs**

One identification sign per apartment or condominium complex entrance, not to exceed 35 square feet in sign area. Identification signs may be located on walls provided such walls do not exceed four feet in height and 75 square feet in area.

**3. Freestanding Signs in Residential Areas**

For permitted nonresidential uses, including churches and synagogues, one freestanding sign per frontage, not exceeding 35 square feet in sign area, and one marquee sign not to exceed 25 feet in sign area. All permitted freestanding signs shall have a maximum height limit of six feet and shall have a minimum setback of five feet from any property line. For permitted freestanding signs which are to be illuminated, such illumination must come from a light source which is external to the sign itself.

**4. Principal Use Signs**

**a. Freestanding Signs**

**1.** Primary. One primary freestanding sign per premises, in accordance with Table 5.6.2.J.4.a: Freestanding Sign Standards.

**Table 5.6.2.J.4.a: Freestanding Sign Standards**

| Zoning District | Number of Lanes | Street Frontage (Feet) [1] | Front Setback (Min./Max.) (Feet) [2][3] | Maximum Primary Sign Height (Feet) | Maximum Aux. Sign Height (Feet) | Maximum Primary Sign Area (Square Feet) | Maximum Auxiliary Sign Area (Square Feet) |
|---|---|---|---|---|---|---|---|
| B-1, PD, CB *[09-08-2020]* | 2 | N/A | 10 / 20 | 20 | 10 | 50 | 25 |
| | 4 | < 100 | 10 / 20 | 20 | N/A | 50 | N/A |
| | | > 100 | 10 / 20 | 20 | 12 | 65 | 32 |

| Table 5.6.2.J.4.a: Freestanding Sign Standards | | | | | | | |
|---|---|---|---|---|---|---|---|
| Zoning District | Number of Lanes | Street Frontage (Feet) [1] | Front Setback (Min./Max.) (Feet) [2][3] | Maximum Primary Sign Height (Feet) | Maximum Aux. Sign Height (Feet) | Maximum Primary Sign Area (Square Feet) | Maximum Auxiliary Sign Area (Square Feet) |
| B-2, CS, I-1, I-2, AC, SC *[09-08-2020]* | 2 | < 100 | 10 / 20 | 20 | N/A | 65 | N/A |
| | | > 100 | 10 / 25 | 20 | 18 | 100 | 50 |
| | 4 | < 100 | 10 / 25 | 20 | N/A | 100 | N/A |
| | | > 100 | 10 / 30 | 25 | 20 | 150 | 75 |
| | | > 300 | 10 / 30 | 30 | 20 | 175 | 90 |

NOTES:

[1] Number of lanes refers to the ultimate number of lanes based upon existing roadway conditions or upon construction plans approved as part of the current NC DOT Transportation Improvement Program.

[2] Notwithstanding the minimum and maximum front setback requirements indicated above, primary freestanding signs which do not exceed six feet in height and are less than 76 percent of the maximum sign area established above, may be located within five feet of the front property line and shall have no maximum front setback.

[3] Front Setback refers to the setback from the front or corner side property lines.

**2.** Auxiliary. An additional (Auxiliary) freestanding sign shall be allowed for property having in excess of 100 linear feet of road frontage; one auxiliary freestanding sign shall be permitted for each 100 linear feet of road frontage. Auxiliary signs may contain up to 50 percent of the allowable area of primary freestanding signs or 20 square feet, whichever is greater. Auxiliary signs shall not be permitted within 50 feet of any other auxiliary or primary sign located on the same parcel of property. No more than two auxiliary freestanding signs shall be permitted on each road frontage for each parcel of property.

**3.** Carolina Beach Road. Freestanding signs along Carolina Beach Road shall comply with the provisions of this section except that only one freestanding ground sign not to exceed six feet in height and a maximum surface area of 150 square feet is permitted.

**b.** Wall Signs. Up to five wall signs per occupancy, in aggregate not to exceed 20 percent of the area of the wall to which the signs are attached, up to a maximum size of 250 square feet per each occupancy.

**c.** Under-Canopy Signs. One under-canopy sign per occupancy, not to exceed four square feet in sign area.

**d.** On-Premises Window Signs. Any principal building may install on-premises window signs, provided:

**1.** The area of such signs shall not exceed an aggregate area equal to 10 percent of the total ground floor glassed window area of the building.

**2.** Such signs, if located inside the window, may be neon signs.

**3.** Such signs are prohibited above the second floor occupancy.

**e.** Special regulations and allowances for principal use signs:

**1.** Corner Lots. Where an occupancy is on a corner or has more than one main street frontage, an additional wall sign and an additional freestanding sign are allowed on the additional frontage, not to exceed the number and size limitations of other allowed wall and freestanding signs.

**2.** Minimum Clearance. All freestanding, awning, marquee, and under-canopy signs shall have a minimum clearance of nine feet over any pedestrian use area.

**3.** Awning Signs. Three awning signs per occupancy, not to exceed 20 percent of the surface area of an awning.

**4.** Multi-Unit Signs. Multi-unit signs consist of three or more individual identification signs. These individual signs shall be designed to reflect a unified graphic appearance (e.g., size and material type), as determined by the Planning Director. Individual commercial logos are permitted on multi-unit signs so long as they do not constitute more than 25 percent of the area of the applicable individual occupancy identification sign.

### 5.6.3. TEMPORARY AND SPECIAL EVENT SIGNS

#### A. Balloons / Blimps

**1.** Allowed for special events with a permit for up to seven days of consecutive use, five times per calendar year per location, subject to the following conditions:

**a.** The balloon or blimp may not be more than 1,000 cubic feet in size, nor shall the total of the longitudinal and latitudinal dimensions of the device, measured along their axes, exceed 37 linear feet;

**b.** The balloon or blimp shall be securely anchored at a point within the applicable setback for buildings in the zoning district where the balloon or blimp is flown

**c.** The balloon or blimp may not be flown more than 50 feet in the air unless it is located at least 100 feet from any active public roadway; its height may thereafter be increased in proportion to its distance from the roadway, to a maximum of 100 feet. (Example: if the device is anchored 125 feet from a road, it may be flown at a height of 75 feet;

**d.** No balloon or blimp shall be flown in windy conditions (sustained winds of 25 m.p.h. or more) or inclement or stormy weather; all applicable state or federal regulations must be observed;

**e.** No balloons or blimps may be flown within a one-mile radius of another such device; and

**f.** No device authorized by this section may consist of more than one balloon or blimp, or have attached to it any streamers, banners, or other paraphernalia.

**2.** For purposes of this provision, a balloon or blimp may display advertising copy that is not specific to the premises or establishment where the special event is occurring, but may not be displayed at any other premises.

**3.** "Special events," as used in this provision includes grand openings, special sales and other promotional activities. If, in the opinion of the Building Safety Director, any balloon or blimp is creating or contributing to a hazardous situation, the Director may direct that it be removed or that the manner of its display be altered to remove the hazard.

### B. Banners

Banners are allowed for special events with a permit, for up to 30 days of consecutive use, two times per calendar year (separated by a minimum of 30 days). There shall be no more than two banners per occupancy, per permit. In the case of public parks, each group or activity will be considered a separate occupancy. Museums and cultural arts centers are permitted continuous, year-round display of one banner and there is no time constraint imposed upon any one banner's display. A second banner may be permitted in compliance with the banner restrictions applied to other uses. For grand openings, or other special events, a banner may be used for no more than 30 days for one time per calendar year. These banners are allowed with a permit in the Commercial and Industrial districts.

### C. Flags

Flags are allowed as specified in Table 5.6.3.C: Flag Standards by Zoning District. Ground-mounted flagpoles shall not exceed height limits established in Table 5.6.3.C. Roof-mounted flagpoles shall not exceed the maximum height permitted in each zoning district for roof-mounted antennae. No more than two flags shall be permitted per each flagpole, not to exceed the cumulative area established in Table 5.6.3.C. The United States, North Carolina, city and county flags are exempt from all restrictions of this article.

**Table 5.6.3.C: Flag Standards by Zoning District**

| Zoning District | Parcel Size | Number of Flagpoles | Maximum Area | Maximum Height |
|---|---|---|---|---|
| Commercial and Industrial | Less than one acre | Three | 80 square feet | 35 feet |
| | One to three acres | Five | 200 square feet | 50 feet |
| | Three to ten acres | Ten | 200 square feet | 50 feet |
| | More than ten acres | Ten | 800 square feet | 80 feet |
| All Other | N/A | one | 80 square feet | 35 feet |

### D. Pennants

Pennants are prohibited except as navigational aids, or if used by a religious activity or by an educational or charitable organization (see Flags).

### E. Portable Signs

Portable signs are allowed with a permit for up to 30 days of consecutive use, two times a calendar year (separated by a minimum of 30 days), for parcels in the Commercial or Industrial districts. They are prohibited elsewhere. Portable signs cannot exceed 35 square feet in size and six feet in height, or be located within five feet of any property line. That shall not be over one portable sign per parcel. At the expiration of the permit period, the sign, which includes the lettering as well as the signage cabinet, shall be removed.

## 5.6.4. OUTDOOR ADVERTISING SIGNS

### A. Where Permitted

Outdoor advertising signs and structures that comply with the provisions of this Ordinance shall be permitted in the I-1, I-2 and AC zoning districts, provided the specific outdoor advertising sign location is 400 feet or more from any Residential zoning district, place of worship, public park, or school. Outdoor advertising signs shall not be constructed within areas designated under the SHOD district. Outdoor advertising signs shall not be permitted in, upon, or over any navigable public waterway, marsh, or within 400 feet landward of the mean high water line.

### B. Location, Setbacks, and Spacing of Outdoor Advertising Signs

1. Setbacks. Each outdoor advertising sign shall comply with the applicable setback requirements of the district in which it is located. In no case, however, shall an outdoor advertising sign be located less than 10 feet from any right-of-way or property line.
2. Corner Lots. No part of an outdoor advertising sign may be located within a triangular area formed by the street right-of-way lines and a line connecting them at points 50 feet from the right-of-way intersection.
3. Spacing of Outdoor Advertising Signs. No part of any outdoor advertising sign shall be located less than 1,000 feet from any part of another outdoor advertising sign.
4. Back of Outdoor Advertising Sign. The backs of all outdoor advertising signs shall be painted in a neutral color to blend with the surrounding area and to prevent the reflection of car lights and sunlight.

### C. Single Outdoor Advertising Sign Structure

An outdoor advertising sign shall be considered as one sign structure when it is designed to be viewed from:

1. One direction and consists of a single face sign placed in such a manner to be viewed by one directional flow of traffic; or
2. Two directions and consists of two sign faces arranged either back-to-back or in a V-shape.

3. In no case shall there be more than one sign face per directional flow of traffic.

### D. Area and Height Requirements for Outdoor Advertising Signs

1. No outdoor advertising sign facing streets with four or more traffic lanes may exceed 150 square feet; outdoor advertising signs facing streets with fewer than four traffic lanes may not exceed 75 square feet. The allowable sign area of outdoor advertising signs with equal size and shape for both double-faced (back-to-back) and V-type outdoor advertising signs is measured by computing the area of only one side of the outdoor advertising sign. Both sides of a double-faced or V-type outdoor advertising sign shall be of equal size. No point on either side shall be more than 15 feet from the nearest point of the other side.
2. No outdoor advertising sign or part thereof, including base, apron, supports, supporting structures, and trim, may exceed 30 feet in height. Rooftop outdoor advertising signs are prohibited.

### E. Inspection of Outdoor Advertising Signs

The Building Safety Director shall inspect all outdoor advertising signs periodically to determine that the same are in a safe condition and meet the requirements set forth in this section.

### F. Clearance for Overhead Electrical Conductors

Outdoor advertising signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electrical Code specifications, provided that no outdoor advertising sign, except official traffic signs, shall be installed closer than 10 feet horizontally or vertically from any conductor or public utility guy wire.

### G. Illumination

All outdoor advertising sign illumination devices shall be in conformance with the North Carolina State Building Code, Volume IV, and all other state and local codes governing illumination. All illumination shall be designed to be contained to the sign area of the outdoor advertising sign.

### H. Back of Sign

The backs of all outdoor advertising signs shall be painted in a neutral color to blend in with the surrounding area.

### I. Trimming of Vegetation Prohibited

There shall be no trimming of vegetation on public property or rights-of-way to make any outdoor advertising sign more visible.

### J. Maintenance

All outdoor advertising signs shall be maintained in a state of good repair. Whenever it shall appear to the Building Safety Director that any outdoor advertising sign has been constructed or is being maintained in violation of the terms of this section or is unsafe or insecure, such outdoor advertising sign shall

either be made to conform with all outdoor advertising sign regulations or shall be removed at the expense of the owner, within ten days after written notification thereof by the Building Safety Director.

**K. Removal of Obsolete Outdoor Advertising Signs**

Outdoor advertising sign messages which advertise a discontinued activity or use of a building or premise shall be removed within 60 days from the date the activity or use was terminated. Outdoor advertising signs advertising events such as shows, displays, festivals, circuses, fairs, athletic contests, dances, fund drives, elections, exhibits, meetings, conventions, and the like shall be removed within 30 days after the date of termination of such events.

# Section 5.7. Conservation Resources

### 5.7.1. PURPOSE

The purpose of these conservation resources standards is to protect important environmental and cultural resources within the County. Protection of these resources is necessary to:

**A.** Maintain the County's diverse and ecologically important natural systems;

**B.** Preserve the County's estuarine systems important for finfishing and shellfishing;

**C.** Provide open space; and

**D.** Retain the County's archaeological and historical heritage.

### 5.7.2. APPLICABILITY

**A.** Unless exempted by subsection C below, the development and improvement of a parcel of record existing on December 1, 1984, including the division of land, shall be subject to these performance controls, if the parcel is associated with any conservation resources identified in Table 5.7.2.A: Minimum Distinct Area of Conservation Resources, having a corresponding minimum distinct area identified in Table 5.7.2.A. A parcel is considered to be associated with a conservation resource if either the resource is contained partially or wholly on the parcel or if the resource is located next to a parcel such that the resource setback specified in Section 5.7.4, Additional Performance Controls, extends into the parcel.

**Table 5.7.2.A: Minimum Distinct Area of Conservation Resources**

| Conservation Resource | Minimum Distinct Area (acres) |
|---|---|
| Swamp forest | 2.5 |
| Pocosin | 2.5 |
| Savannah | 2.5 |
| Natural ponds | 0.1 |
| Freshwater marsh | 0.1 |
| Brackish marsh | 0.1 |
| Primary nursery areas | 0.1 |
| Barrier island-beach complex (including dunes) | 0.1 |

| Table 5.7.2.A: Minimum Distinct Area of Conservation Resources | |
|---|---|
| **Conservation Resource** | **Minimum Distinct Area (acres)** |
| Maritime shrub thickets | 1.0 |
| Salt Marsh | 0.1 |
| Animal and Plant Natural Areas of Special Significance | No limit |
| Archeological/Historical Resources and Cemeteries | No limit |

**B.** Official maps of and information concerning resources identified in subsection A above are available for review at the County Planning and Land Use Department. These maps serve as an initial resource to determine if a parcel is associated with conservation resources identified in subsection A above, but all conservation resources outlined above shall be identified on all required site plans, regardless of whether they are identified on County maps.

**C.** The following are exempt from the requirements of this article:

**1.** The development of one single family home detached structure, one residential duplex, or the location of two or fewer mobile homes on a parcel.

**2.** Commercial, industrial, office or institutional development involving a land disturbance of less than one acre in area.

**3.** The development or division of a parcel that meets both of the following conditions:

**a.** No part of the development or division shall be located within a distance equal to or less than the setback distance specified in Section 5.7.4, Additional Performance Controls, of any conservation resource or space existing on the parcel or on a contiguous parcel of record.

**b.** No part of the development or division shall be located on any portion of the parcel that is part of the upper drainage basin for any conservation resource or space on the parcel or within the specified setback on a contiguous parcel of record.

### 5.7.3. CONSERVATION SPACE GENERAL PERFORMANCE CONTROLS

The general performance controls for conservation space in this section apply to all development subject to this article.

#### A. Required Amounts of Conservation Space

**1.** Conservation space is defined as that portion of the conservation resource that shall be preserved, as determined by this section (5.7.3).

**2.** Conservation space may not be reserved provided the development or subdivision of the parcel meets the condition specified in Section 5.7.2.C.3.a.

**3.** If the development or subdivision does not meet the condition specified in Section 5.7.2.C.3.b, then, the development or subdivision shall meet

applicable drainage and setback regulations specified in Section 5.7.3.F, Design Storm, and Section 5.7.4, Additional Performance Controls.

4. Conservation space shall not be required to be reserved for the conservation resources identified in Table 5.7.3.A.4: Conservation Resources Not Requiring Conservation Space, unless the total acreage of minimum distinct areas on the parcel of record exceeds the minimum identified in Table 5.7.3.A.4.

**Table 5.7.3.A.4: Conservation Resources Not Requiring Conservation Space**

| Conservation Resource | Total Aggregate Minimum Area (acres) |
|---|---|
| Swamp forest | 5 |
| Pocosin | 5 |
| Savanah | 5 |

5. The required amount of conservation space shall be determined using Table 5.7.3.A.5: Work Table for Determining Required Conservation Space Developable Land, using the four steps set out below, which refers to the columns in Table 5.7.3.A.5.
   a. Step One: List in column 2 the acreage of land occupied by each conservation resource named in column 1. If part of the parcel is occupied by more than one resource, list the acreage occupied only by the resource with the highest ranking. Rankings are listed in column 1 in parenthesis next to the resource name.
   b. Step Two: Multiply each of the listed acreage in column 2 by factors listed in column 3. Place each answer in column 4.
   c. Step Three: Add the acreage in column 4 to determine total minimum conservation space required.
   d. Step Four: Subtract the total minimum conservation space from the total gross parcel to determine the maximum amount of developable land.
6. The total amount of conservation space that shall be reserved shall be equal to or exceed the total minimum conservation space calculated in step three in subsection A above. The total minimum conservation space shall be allocated to and reserved for conservation resource areas in acreage equal to or exceeding the minimum acreage calculated for the resources in column 4 of Table 5.7.3.A.5: Work Table for Determining Required Conservation Space Developable Land.

| Table 5.7.3.A.5: Work Table for Determining Required Conservation Space Developable Land | | | |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| Conservation Resource (Importance Value) | Acreage of Resource on Parcel (times) | Conservation Space Factor (equals) | Minimum Conservation Space |
| Swamp Forest, Minimum 5 acres (5) | | .5 | |
| Pocosin, Minimum 5 acres (5) | | .5 | |
| Savannah, Minimum 5 acres (3) | | .5 | |
| Natural Pond (8) | | 1.0 | |
| Fresh Marsh, Minimum one acre (6) | | .8 | |
| Brackish Marsh (9) | | 1.0 | |
| Primary Nursery Area (13) | | 1.0 | |
| Barrier Island -Beach Complex (11) | | .9 | |
| Maritime Shrub Thickets (10) | | .7 | |
| Salt Marsh (12) | | 1.0 | |
| Important Historical/ Archeological Site (7) | | .9 | |
| Animal & Plant Areas of Special Significance (10) | | .9 | |
| Cemeteries (13) | | 1.0 | |

TOTAL MINIMUM CONSERVATION SPACE_____
TOTAL PARCEL ACREAGE_____
MINUS TOTAL MINIMUM CONSERVATION SPACE_____
EQUALS MAXIMUM DEVELOPABLE LAND _____

### B. Arrangement of Conservation Space

Conservation space shall be reserved in contiguous blocks or in close proximity to the greatest extent possible in order to prevent the scattering of such space and to increase effectiveness in their management.

### C. Transfer of Conservation Space Requirements Between Resource Conservation Areas

In order to provide flexibility in site design, the minimum acreage of conservation space required in column 4 of Table 5.7.3.A.5: Work Table for Determining

Required Conservation Space Developable Land, for any one conservation resource area may be reduced by any desired amount provided, however, that the minimum conservation space required for a different conservation resource area with an equal or higher ranking is increased by an equal or higher amount. For instance, assume that a parcel has ten acres of swamp forest and fifteen acres of fresh marsh. According to the worktable, swamp forest has a conservation factor of .5 and fresh marsh as a conservation of .8. Therefore, at least 5 acres of swamp forest must be reserved as conservation space (10 acres x .5 = 5), and at least twelve acres of fresh marsh must be reserved (15 acres x .8 = 12.0 acres). If the developer, however, wishes to develop seven acres of swamp forest, he may transfer two acres of the conservation space requirement for swamp forest to the fresh marsh because fresh marsh has a higher importance value (6) than does swamp forest (5). As a result of the transfer, therefore, all fourteen acres of the fresh marsh would be required to be preserved as conservation space while only three acres of swamp forest would be required to be preserved.

### D. Improvements

Conservation space shall not be cleared of vegetation, shall not have its natural drainage system significantly altered, and shall not be developed in any manner that would negatively impact the conservation resource, with the following exceptions:

1. Improvements that would either protect or enhance the enjoyment of the conservation resource. Such measures not causing significant impact include, but are not limited to, walkways, self-guided trails, protective fences, docks and boat ramps.
2. Access to other parts of the parcel. If a part of the parcel may be developed but is inaccessible due to the existence of a conservation resource area, a road and/or utilities may be constructed through the conservation resource area. The road and/or utilities, however, shall be designed to the greatest extent practical to minimize impact to the conservation resource.
3. Access to the waterfront. If the entire waterfront along a parcel is inaccessible due to the existence of required conservation space, a boat ramp, dock, or pier may be built for boating facilities in the conservation space, subject to relevant State and Federal permits. The facilities, however, shall be designed to the greatest extent practical to minimize impact to the conservation resource.

### E. Methods of Conservation Space Preservation

Conservation space may be preserved by any of the following means:

1. Dedication of the conservation space or of a conservation easement in perpetuity to and acceptance by the County for use as parks, recreation areas, or other suitable public purposes.
2. Dedication for suitable public purpose of the conservation space or of a conservation easement in perpetuity to and acceptance by State or Federal agency or by a private, non-profit charitable organization qualified to accept such dedications in accordance with the Federal Internal Revenue Code.

3. The owner of the parcel on record may retain sole ownership of the conservation space provided the conservation space has not been used in calculating residential density. The conservation space shall not be subdivided.

4. The conservation space may become the property of a homeowner's association under the following conditions:

   a. Such conservation space shall remain undivided and no lot or unit owner or any other person shall bring any action for partition or division of any part thereof except as provided in Chapter 47A (Unit Ownership Act) of the General Statutes. Each lot or unit owner's undivided interest shall be preserved through covenants running with the land. Title to such areas shall be encumbered for the perpetual benefit of the public generally or the private properties in the development, and all future use shall be consistent with the conservation space requirements.

   b. All lots or units within the development shall have direct access to all conservation space as provided, by means of dedicated streets or walkways within the development or by the fact of physical contiguity to other public land or lands in common ownership of all residents. The developer shall not place age, race, creed, sex or economic restrictions (other than maintenance assessments) upon lot or unit owners for the use of said conservation space. Land which is restricted in any way so as to be for the use, benefit or enjoyment of a select group within the development shall not qualify as conservation space.

   c. The Homeowner's Association or the non-profit organization shall be established before any lots are sold.

   d. Membership shall be mandatory for each lot buyer, and any successive buyer.

   e. The association shall provide for liability insurance, any taxes and the maintenance of all grounds and facilities.

   f. Any sums levied by the association that remain unpaid shall become a lien upon the lot owner's property.

### F. Design Storm

Stormwater runoff for the entire parcel will be managed by structures appropriately sized such that the peak rate of discharge from the site after completion of development for any storm up to and including the specified design storm, shall not exceed the peak rate of discharge from the site in its previous natural condition for the specified design storm. The design storm is specified as occurring once every ten years and lasting for 24 hours. Industrial, commercial, office or institutional development on a parcel one acre or less in size and with a maximum impervious to gross site area ratio of less than 0.2 shall be exempt from this control. Discharge of run-off from impervious surfaces for the entire parcel directly into natural water bodies shall not be allowed. Runoff shall be routed along vegetated swales, through filter media of vegetation, gravel, sand, or other media, or to detention

ponds for purposes of increasing percolation, settling and filtering out of non-point pollutants and decreasing discharge velocity.

### G. Buffer Strip

Buffer strip, if required in accordance with Section 5.4, Landscaping and Buffering, shall not be extended through conservation space areas.

### H. Historical and Archaeological Sites

**1.** If a developer wishes to develop an historical or archaeological site, the developer shall do one of the following:

**a.** Provide for a thorough site investigation by a professional historian or archaeologist, as appropriate, who shall prepare a written report with the following information:

**1.** Description of site;

**2.** Relevant historical documentation/back-ground research;

**3.** Research design;

**4.** Field studies as actually implemented including any deviation from the design and the reason for the deviation;

**5.** All field observations;

**6.** Analyses and results;

**7.** Information on the location of original data in the form of field notes, photographs, and other materials;

**8.** Proof that adequate creation of artifacts and records to ensure their preservation and access for further study will be provided;

**9.** Recommendation for further study and preservation of the site, given anticipated development; and

**10.** Evaluation of the potential of the site for inclusion in the National Register of Historic Places. If the site is evaluated to have historical or archaeological significance and is eligible for the National Register, every reasonable effort shall be made in the development to preserve it.

**b.** Give access rights for investigating the site and acquisition rights to artifacts to the Planning and Land Use Department or its designated agent for a period of at least 60 days between issuance of the building permit and any development of the property that would impact the site.

**2.** If a developer wishes to develop a site with an abandoned cemetery, or if an abandoned cemetery is discovered during the course of construction, the developer shall provide for the delineation of the abandoned cemetery by a qualified expert, subject to approval by the County.

## 5.7.4. ADDITIONAL PERFORMANCE CONTROLS

In addition to the general performance controls specified in Section 5.7.3, Conservation Space General Performance Controls, additional controls shall be required to protect certain conservation resources in certain zoning districts. Table 5.7.4: Additional Performance Controls, lists for each conservation resource and type of district (residential or non-residential and mixed use), the reference number of the group of additional controls that shall be required. Requirements for each group are set forth in subsections A through D, following the table. If the parcel being developed is associated with two or more conservation re-sources with conflicting performance controls, then the most restrictive controls shall apply. However, improvements as specified in Section 5.7.3.D, Improvements, may be permitted within the conservation space setbacks. Additionally, decks may be allowed to encroach into the conservation space setback up to six feet provided they are uncovered and constructed so that the floorboards are spaced to allow water to flow through directly to the ground. The ground below the deck shall be either left undisturbed or planted with ground cover or other vegetation.

**Table 5.7.4: Additional Performance Controls**

| Conservation Resource | Required Performance Controls (Group number) | |
|---|---|---|
| | Residential Zoning Districts | Non-Residential and Mixed-Use Zoning Districts |
| Swamp Forest (Min 5 acres) | 4 | 3 |
| Pocosin (Minimum 5 acres) | 4 | 3 |
| Savannah (Min 5 acres) | 4 | 3 |
| Natural Pond | 3 | 2 |
| Fresh Marsh (Min 1 acre) | 3 | 3 |
| Brackish Marsh | 2 | 1 |
| Primary Nursery Area | 2 | 1 |
| Barrier Island-Beach Complex | 2 | 1 |
| Maritime Shrub Thickets | 2 | 1 |
| Salt Marsh | 2 | 1 |
| Animal and Plant (Natural) Areas of Special Significance | 2 | 1 |

### A. Group 1 Performance Controls

#### 1. Conservation Space Setbacks

All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least 100 feet.

### 2. Retention of Runoff

In addition to designing the site to control stormwater from a ten-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first one inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the County Engineering Department.

## B. Group 2 Performance Controls

### 1. Conservation Space Setbacks

All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least 75 feet.

### 2. Retention of Runoff

In addition to designing the site to control stormwater from a ten-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first 0.75 inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the County Engineering Department.

## C. Group 3 Performance Controls

### 1. Conservation Space Setbacks

All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least 50 feet.

### 2. Retention of Runoff

In addition to designing the site to control stormwater from a ten-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first 0.5 inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the County Engineering Department.

## D. Group 4 Performance Controls

### 1. Conservation Space Setbacks

All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least 25 feet.

**2. Retention of Runoff**

In addition to designing the site to control stormwater from a ten-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first 0.25 inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the County Engineering Department.

## 5.7.5. VEGETATED BUFFER CONTROLS FOR CONSERVATION

### A. Purpose and Intent

**1.** The establishment of a buffer zone is based upon the stated goals in Policies 3.10 and 3.11 of the 1999 Wilmington-New Hanover County Comprehensive Plan. The buffer zones are intended to promote the comprehensive plan goals of high water quality in the creeks and sounds, to protect the public health, and to ensure the protection of the natural resources of New Hanover County.

**2.** A properly vegetated buffer is essential to filter and biologically process nutrient rich runoff, animal wastes, and sediment before it enters coastal creeks, canals, and rivers. Buffers also function to moderate water temperatures, maintain the desired dissolved oxygen levels in the water, and stabilize the soils immediately adjoining the stream. In urban environments, the function of a buffer is especially critical to the balance of the plant and animal life in fresh and saltwater creeks. Buffers are most effective when they contain native and naturalized plants appropriate in size, adaptability (salt tolerance, wind tolerance, etc.) and hardiness for the area. Plants requiring intensive or routine maintenance should be avoided in buffer areas.

### B. Applicability

The development and improvement of property, including the subdivision of land, shall be subject to the performance controls in this section (5.7.4) if any the following conservation resources are associated with the parcel of record for which the development and improvement are proposed:

**1.** Salt marsh;

**2.** Brackish marsh;

**3.** Freshwater marsh; and

**4.** Primary nursery area.

### C. Buffer Standards

**1.** Buffers shall extend 35 feet measured horizontally from the edge of the conservation resource and on a line perpendicular to and landward of the conversation resource.

**2.** The plant material in the buffer zone must be either retained in a natural, minimally disturbed condition, or properly managed in accordance with

the management standards presented in subsection 5 below. In cases where vegetation does not exist within the buffer, the County shall require restoration efforts which include, but are not limited to, replanting of the buffer zone with plant species as recommended in the "Reference Lists and Publications for Guidance in the Selection of Vegetated Buffer Plants".

**3.** Development activities within the buffer are limited to water dependent structures, except as otherwise provided in subsections 4 through 6 below, and Section 5.7.3.D, Improvements. Examples of water dependent structures include docks, piers, boat ramps, shoreline stabilization, navigation markers and access channels. In order to maintain the functional value of the buffer, excavation, grading, filing, or ditching is not permitted except as otherwise provided herein.

**4.** Passive public recreational facilities such as pervious trails and pathways, where owned by public entities or homeowners associations, may be permitted within the buffer.

**5.** In order to achieve the County goals to preserve, protect and restore water quality and natural resources, the buffer zone shall be vegetated and left in a natural, undisturbed condition, or managed in accordance with the intent of these goals. Management activities compatible with the intent of these goals include, but are not limited to the following:

**a. Shoreline Access Paths**

Pathways which provide access to the shoreline are permissible provided they are a maximum average of six feet in width and follow a path that minimizes erosion within the buffer zone. Pathways may be vegetated with grasses and mowed, or may be surfaces such as crushed stone, shell, or mulch. Elevated wooden walkways and stairs up to six feet in width may also be used, as long as there is spacing between boards and elevation of the walkway to provide for light penetration and rain water to drip through to allow for continued vegetation growth.

**b. View Corridor**

Selective tree removal, thinning, and pruning of natural vegetation within the buffer zone will be allowed to provide for site lines and vistas of the shoreline. Minimal alteration of the natural vegetation is preferred.

**c. Safety and Welfare**

Selective tree removal, thinning, and pruning of natural vegetation within the buffer zone will be allowed at the discretion of the landowner for safety and welfare concerns (e.g. removal of damaged tree in close proximity to a dwelling).

**d. Shoreline Erosion Control**

For necessary shoreline erosion control projects, trees and woody vegetation may be removed and the erosion control measure

employed in a manner which is consistent with the purpose and intent of this section. Areas cleared for erosion control measures may be required to be re-vegetated with plant species as recommended in the "Reference Lists and Publications for Guidance in the Selection of Vegetated Buffer Plants".

**e. Habitat and Species Management**

Management of natural vegetation within the buffer zone to enhance wildlife habitat, and control nuisance and non-native species may be allowed.

**6.** Buffers may be encroached by public roads, bridges, and utilities where no practical alternative exists to avoid encroachment. These structures should be designed consistent with the purpose and intent of this section.

# Section 5.8. Open Space Requirements

*[11-16-2020]*

### 5.8.1. APPLICABILITY

#### A. General

Unless exempted in accordance with subsection B below, all new residential and mixed-use development shall comply with the standards in this section.

#### B. Exemptions

The following development is exempt from the standards in this section:

**1.** Single-family and two-family dwellings and mobile homes on individual lots of record or that are created as part of a minor or exempt subdivision.

**2.** Development where the total minimum open space set-aside required in accordance with this section, including all phases of development, would be 10,000 square feet or less and cannot be combined with designated open space areas, conservation areas, or parks located on adjacent property.

### 5.8.2. OPEN SPACE SET-ASIDE STANDARDS

Except in the EDZD district, all development subject to the standards in this section shall provide the following percent of gross site area as open space set-aside:

**A.** Residential Uses:

**1.** Conventional Subdivision: 10 percent

**2.** Performance Residential Project: 20 percent

**B.** Mixed-Use Developments: 15 percent

### 5.8.3. AREAS COUNTED TOWARDS OPEN SPACE SET-ASIDE STANDARDS

#### A. General

The features and areas identified as counting towards open space set-asides in Table 5.8.4: Open Space Set-Aside Features, shall be credited towards compliance with the amount of open space set-aside requirements outlined in Section 5.8.2, Open Space Set-Aside Standards.

## Table 5.8.4: Open Space Set-Aside Features

| Areas Counted as Common Open Space Set-Asides | Description | Design and Maintenance Requirements |
|---|---|---|
| **Natural Features** | | |
| | Lakes, rivers, streams, ponds, wetlands, other riparian areas, flood hazard areas, natural vegetation, and wildlife habitat areas (see Section 5.7, Conservation Resources; Section 5.3, Tree Retention; and Article 9:, Flood Damage Prevention) | • Preservation of any existing natural features and flood hazard areas shall have highest priority for locating open space set-asides<br>• Maintenance is limited to the minimum removal and avoidance of hazards, nuisances, and unhealthy conditions<br>• Preservation of existing stands of long leaf pine or old growth forest as determined by a certified arborist will count as double the acreage for purposes of meeting the open space requirements in 5.8.2, Open Space Set-Aside Standards |
| **Passive Recreation (Formal Plantings and Gardens)** | | |
| | Formally planned and regularly maintained open areas that provide passive recreation opportunities, including arranged plantings, gardens, community gardens, green roofs, gazebos, and similar structures | Formal plantings and gardens shall have at least one direct access to a building or to a street, bikeway, or walkway accessible to the development's occupants and users |
| **Required Landscape Areas** | | |
| | All areas occupied by required landscape areas, tree protection areas, vegetative screening, and water quality buffers, except landscape areas within parking lots | See Section 5.4, Landscaping and Buffering |

| | | |
|---|---|---|
| **Stormwater Management Areas Treated as Site Amenities** | | |
| | The land area occupied by stormwater management facilities (including retention and detention ponds and other bioretention devices). | Qualifying stormwater management facilities should be designed as much as practicable to support passive recreation uses by including gentle slopes (less than 3:1) and vegetative landscaping and should be accessible to the development's occupants. |
| **Access Easements with Paths or Trails** | | |
| | Access easements that include paths or trails that are available for passive recreational activities such as walking, running, and biking | Such access easements shall include at least one improved access from a street, sidewalk, or trail that includes signage designating the access point |
| **Active Recreational Areas** | | |
| | Land occupied by areas and facilities used for active recreational purposes, such as ballfields, playgrounds, tennis courts, pools, jogging trails, and community buildings and clubhouses, and land dedicated for parks. | • Land shall be contiguous unless used to link or continue an existing or planned open space resource<br>• Areas shall have at least one direct access to a building or to a street, bikeway, or walkway accessible to the public or the development's occupants and users |
| **Community Water Access** | | |
| | Piers, boardwalks, and/or land area associated with approved community boating facilities. | All qualifying access areas shall be available to all residents of the development for use. |

| Squares, Forecourts, and Plazas | | |
|---|---|---|
| | Open areas immediately in front of a building or framed by buildings or streets that provide gathering places, opportunities for outdoor dining, etc. | • A square, forecourt, or plaza shall be at least 200 square feet, but no more than one acre, in area.<br>• A square, forecourt, or plaza shall have at least one direct access to a principal building, or to a street, bikeway, or walkway accessible to the public or the development's occupants and users.<br>• Surrounding principal buildings shall be oriented toward the square, forecourt, or plaza |

### B. Not Counted as Open Space

The following areas shall not be counted as open space set-aside areas:

1. Private yards and all areas within private residential lots;
2. Street rights-of-way or private access easements, including sidewalks located within those rights-of-way or easements;
3. Open parking areas and driveways;
4. Land covered by structures unless designated above in Table 5.8.4;
5. Designated outdoor storage areas;
6. Stormwater conveyance features (e.g., swales and drainage ditches) not incorporated into natural feature areas, landscaping, or passive recreation areas;
7. Parking lot interior landscaping.

### C. Access

The developer shall not place age, religious, sex, or economic restrictions (other than maintenance assessments) upon lot or unit owners for the use of the open space. Land which is restricted in any way for the use, benefit, or enjoyment of a select group within the development shall not qualify as open space.

## 5.8.5. DESIGN STANDARDS

### A. Location

Open space set-asides shall be located so they are readily accessible by occupants and users of the development. In residential subdivisions, open space set-asides shall be located within one-half mile of all residential lots, to the maximum extent practicable.

### B. Accessibility

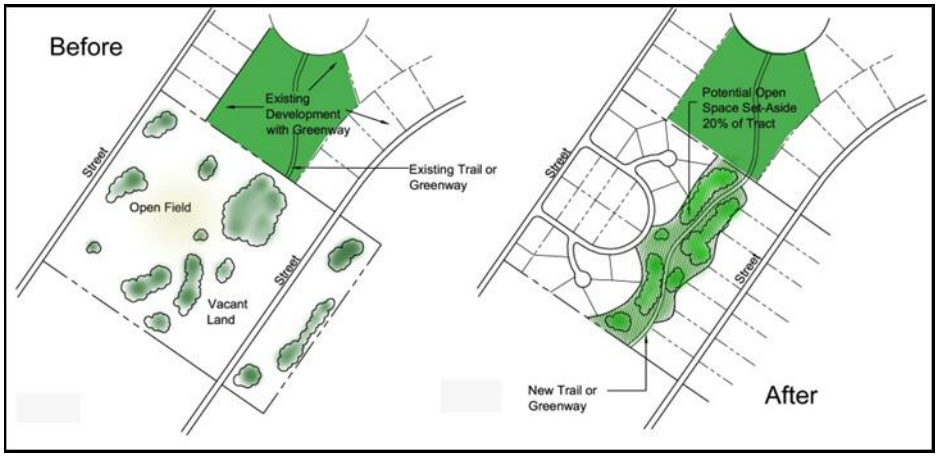
All lots or units created within the development shall have access to all open space and recreational facilities, as provided, by means of dedicated streets or walkways

within the development or by the fact of physical contiguity to other public lands in common ownership of all residents.

### C. Configuration

1. Open space set-asides shall be integrated and contiguous, unless a different configuration is needed to continue an existing trail or accommodate preservation of natural features.
2. If the development site is adjacent to existing or planned public trails, parks, or other public open space area, the open space set-asides shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the trail, park, or other public open space area (see Figure 5.8.5.C: Example Open Space Set-Aside Configuration).
3. Pedestrian access to open space set-asides intended for recreation shall be provided from sidewalks or other pedestrianways within the development.

**Figure 5.8.5.C: Example Open Space Set-Aside Configuration**




### D. Permitted Development within Open Space Set-Asides

Development within an open space set-aside shall be in accordance with the purposes and description of the type(s) of open space set-aside. Where appropriate, such development may include, but is not limited to, walking, jogging, and biking paths or trails; benches or other seating areas; meeting areas; tables, shelters, grills, and other picnic facilities; docks and other facilities for fishing; environmental education guides and exhibits; gazebos and other decorative structures; fountains or other water features; play structures for children; gardens or seasonal planting areas; pools; athletic fields and courts; and associated clubhouses.

### E. Flexibility in Administration Authorized

1. The approval body is authorized to permit minor deviations from amount, size, location, and nature of open space set-aside standards whenever it is determined that: (i) the objectives underlying these standards can be met without strict adherence to them; and (ii) because of peculiarities in the developer's tract of land or the facilities proposed, it would be unreasonable to require strict adherence to these standards.

2. Whenever the approval body authorizes some deviation from the standards set forth in this section, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

### 5.8.6. OWNERSHIP, MANAGEMENT, AND MAINTENANCE

#### A. General

Open space set-asides shall be managed and maintained as permanent open space through one or more of the following options:

1. Retention of open space set aside areas by the developer;
2. Conveyance of open space set-aside areas to a property owners' or homeowners' association established in accordance with the requirements of Section 6.3.4, Property Owners' Association (POA), that holds the land in common ownership and will be responsible for managing and maintain the land for its intended open space purposes.
3. Conveyance of open space set-aside areas to a third party beneficiary such as an environmental or civic organization that is organized for, capable of, and willing to accept responsibility for managing and maintain the land for its intended open space purposes in perpetuity;
4. Transfer to the County, for use as open space or other recreation area, provided the County consents to the transfer; or
5. Establishment of easements on those parts of individually-owned lots including open space set-aside areas that require the areas to be managed consistent with the land's intended open space purposes and prohibit any inconsistent future development, in perpetuity.

#### B. Responsibility

Responsibility for managing and maintaining open space set-asides rests with the owner of the land of the open space set-asides. Failure to maintain open space set-asides in accordance with this section and the development approval or permit shall be a violation of this Ordinance.

### 5.8.7. PAYMENTS IN-LEIU OF DEDICATION

**A.** As part of a conditional rezoning, master development plan, special use permit, or major residential subdivision consideration, the approval body may authorize a payment in-lieu of dedication for all or a portion of the required open space when such is determined to be in the best interest of the citizens of the areas to be served. Criteria to be used in this determination shall include:

1. The value the amount of land required to be retained as open space would provide to residents or the surrounding community;
2. Any limits the shape, topography, or unique site constraints would place on the usability or community benefit of the open space;
3. The impact of insurance and maintenance costs on the affordability of proposed residential units; and
4. The existing recreation and open space available for residents of the proposed development.

**B.** If the approval body authorizes the payment in-lieu of dedication, the amount of such payment shall be the product of the number of acres to be dedicated and the average fair market value of the land being subdivided at the time of the submission of the application. The fair market value of the land shall be determined based on the value of the land for property tax purposes and other relevant information.

**C.** All monies received by the County in accordance with this section shall only be in accordance with the provisions of NCGS 160D, Article 13, Part I. Open Space Acquisition to benefit the general area (northern unincorporated New Hanover County or southern unincorporated New Hanover County) where the proposed projected is located.

**D.** If a payment in-lieu of dedication is authorized, such payment shall be made before final zoning compliance approval of single-property development or before the final plat approval of a subdivision. If a subdivision is developed in phases, a payment relating to each phase must be made prior to the recording of a final plat for each phase.

## Section 5.9. Fire Hydrants

The construction or expansion of any commercial, office, institutional, or industrial project resulting in at least 25,000 square feet of floor space shall include adequate fire protection through the provision of at least one fire hydrant, provided the project has a water system meeting state requirements (see Section 2101 Title 10 - Chapter 10D N.C.A.C.) for fire hydrants. These hydrants shall be connected with the water system serving the project and shall be constructed to specifications established by the County Fire Marshall based on NFPA standards.

## Section 5.10. Airport Height Restriction

### 5.10.1. AUTHORITY

This section is adopted pursuant to the authority conferred by G.S. 63-30--63-37.

### 5.10.2. FINDINGS

**A.** It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Wilmington International Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Wilmington International Airport; and that an obstruction may reduce the size of areas available for landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Wilmington International Airport and the public investment therein. Accordingly, it is declared:

**1.** That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Wilmington International Airport;

**2.** That it is necessary in the interest of public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and

3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of authority invested in the County.

**B.** It is further declared that the prevention of the creation or establishment of hazards to air navigation; the elimination, removal, alteration, or mitigation, of hazards to air navigation; or the marking and lighting of obstructions are public purposes for which a political subdivisions may raise and expend public funds and acquire land or interests in land.

### 5.10.3. JURISDICTION

Pursuant to G.S. 63-31(d), New Hanover County exercises its statutory authority as owner of the Wilmington International Airport, and in order to protect the approaches of said airport, the jurisdiction of this section is extended to all areas depicted on the Wilmington International Airport Height Restriction Map, including areas within the City of Wilmington, Pender County, and Brunswick County.

### 5.10.4. NONCONFORMING USES, STRUCTURES, AND TREES

**A.** The regulations prescribed by this section (5.10) shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations on July 7, 2003, or otherwise interfere with the continuance of any nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to July 7, 2003, and is diligently prosecuted.

**B.** Notwithstanding the subsection A above, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport authority to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport obstructions. Such markers and lights shall be installed, operated, and maintained at the expense of the Board of Commissioners of New Hanover County, State of North Carolina, or the Federal Aviation Administration.

**C.** Notwithstanding any preceding provision of this section, if, by a determination of the FAA, the encroachment of any tree into regulated airspace is such that providing markers and lights is insufficient to protect the life and property of the flying public, New Hanover County shall institute steps to have such trees cut and removed at the expense of New Hanover County if requested in writing by the Airport Authority. If unsuccessful in obtaining the cooperation of the parties involved, the Airport Authority shall petition the County to institute the appropriate legal action as reasonably necessary, to insure the safety of the flying public in airspace regulated by this Ordinance.

**D.** No permit shall be granted that would permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this ordinance or any amendments thereto or than it is when the application for a permit is made.

**E.** Whenever the New Hanover County Building Inspector determines that a nonconforming tree or structure has been abandoned or more than 80 percent damaged, physically deteriorated, or decayed, no permit shall be granted that

would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

### 5.10.5. VARIANCES

**A.** Applications for variances from the provisions of this section (5.10), shall be submitted and reviewed in accordance with Section 10.3.11, Variance – Zoning and Subdivision.

**B.** Any variance granted in accordance with subsection A above, may be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be deemed advisable to effectuate the purpose of this Ordinance and reasonable in the circumstances. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the New Hanover County Airport Authority, at its own expense, to install, operate, and maintain the necessary markings and lights.

### 5.10.6. AIRPORT ZONES

In order to insure compliance with the provisions of this section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Wilmington International Airport. Such zones are shown on the Wilmington International Airport Height Restriction Map consisting of one sheet, prepared by Talbert & Bright, Inc, and dated July 7, 2003. The map referred to in this section is on file in the office of the county clerk. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

**A.** Precision Instrument Runway Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

**B.** Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.

**C.** Horizontal Zone - The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

**D.** Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

### 5.10.7. AIRPORT ZONE HEIGHT LIMITS

#### A. General

**1.** Except as otherwise provided in this section (5.10), no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable

height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question in accordance with subsections B through E below.

**2.** Except as defined in Section 5.10.8, Use Restrictions, nothing in this section (5.10) shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree, to a height of 50 feet above the surface of the land. Such potential obstructions are to be resolved through the purchase of property in easement, or in fee simple. In addition to the height restrictions imposed by the imaginary surfaces, no structure or natural growth shall be erected, altered, allowed to grow, or be maintained within the areas defined in Section IV at such height as would result in the increase of any minimum flight altitude, vectoring altitude, ceiling, minimum descent altitude, or landing or take-off visibility minimum for any category of aircraft as established by the Federal Aviation Administration (FAA), unless approved by the New Hanover County Board of Commissioners or staff.

### B. Precision Instrument Runway Approach Zone

Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline. This applies to existing precision instrument Runway 35 and to existing Runways 6, 24, and 17 for a possible future precision instrument status.

| Runway | End Length | Inner Width | Outer Width | Slope | |
|---|---|---|---|---|---|
| | | | | (0 - 10,000′) | (10,000′ – 40,000′) |
| Runway 6 Approach | 50,000 | 1,000 | 16,000 | 50:1 | 40:1 |
| Runway 24 Approach | 50,000 | 1,000 | 16,000 | 50:1 | 40:1 |
| Runway 17 Approach | 50,000 | 1,000 | 16,000 | 50:1 | 40:1 |
| Runway 35 Approach | 50,000 | 1,000 | 16,000 | 50:1 | 40:1 |

### C. Transitional Zones

Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 182 feet above mean sea level. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

**D. Horizontal Zone**

Established at 150 feet above the airport elevation or at a height of 182 feet above mean sea level.

**E. Conical Zone**

Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

### 5.10.8. USE RESTRICTIONS

Notwithstanding any other provisions of this section (5.10), no use may be made of land or water within any zone established by this section in such a manner as to:

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

**B.** Make it difficult for flyers to distinguish between airport lights and others;

**C.** Result in glare in the eyes of pilots using the airport;

**D.** Impair visibility in the vicinity of the airport;

**E.** Create bird strike hazards; or

**F.** Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

# Article 6: Subdivision Design and Improvements

## Section 6.1. General Purpose

The purpose of this article is to regulate and control the subdivision of land in the unincorporated County to promote the public health, safety, and general welfare of County residents. More specifically, this article is designed to promote the orderly development of New Hanover County by:

**6.1.1.** Coordinating the location and construction of streets and highways within proposed subdivisions with existing or planned streets and highways, and with other public facilities;

**6.1.2.** Coordinating the dedication or reservation of rights-of-way or easements for street and utility purposes;

**6.1.3.** Facilitating the adequate provision of water, sewerage, parks, schools, and playgrounds;

**6.1.4.** Facilitating the further re-subdivision of larger tracts into smaller parcels of land; and

**6.1.5.** Distributing population and traffic so as to avoid congestion and overcrowding which will create conditions essential to public health, safety, and the general welfare.

## Section 6.2. Design Standards

### 6.2.1. GENERAL PROVISIONS

Any land area subject to the standards of this article determined by the County Commissioners to be unsuitable for residential occupancy shall be prohibited for subdivision development. The County Commissioners in making their determination shall be guided by an analysis of available data on topography, soils, flood plains, drainage, and ground and surface water.

The standards and requirements of this Article may be modified by the Planning Board in the case of a plan and program for a group, cluster, or planned unit development, which, in the judgment of the Planning Board provides adequate public spaces and improvements for circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the Land Development Plan.

### 6.2.2. SPECIFIC STANDARDS

#### A. Minimum Requirements

All subdivisions shall comply with the following standards.

##### 1. Alleys

Alleys are permitted in residential districts if the TRC determines special conditions warrant a secondary means of access. Design standards for alleys that are permitted shall be consistent with those recommended by the North Carolina Department of Transportation, Division of Highways (NCDOT).

### 2. Blocks

Blocks within all subdivisions shall comply with the following standards.

#### a. General

The lengths, widths and shapes of blocks shall be determined with regard to provision of adequate building sites suitable to the special needs of the type of use contemplated; the dimensional standards in the district related to lot sizes and dimensions; needs for vehicular and pedestrian circulation, control and safety of street traffic; limitations and opportunities of topography; and convenient access to public recreational areas.

#### b. Block Length

Blocks shall not exceed 1,000 feet in length.

#### c. Block Width

Blocks shall have sufficient width to allow two tiers of lots of minimum depth, except where single tier lots are required to separate residential development from through vehicular traffic, to separate the lots from another type of use, to provide for uncongested traffic flow, to allow for unusual topographic conditions or in instances where the lots are adjacent to subdivision perimeter property lines.

#### d. Pedestrian Access

Where deemed necessary by the TRC, a pedestrian access at least 15 feet in width may be required through a block or connecting streets or cul-de-sacs to provide convenient public access to a public or common area such as a park, open space area, school or a water area.

### 3. Buffer Easements

**a.** The County may require an easement as much as 50 feet in depth, in addition to the normal lot depth, for subdivisions adjacent to railroads, major streets, highways, or thoroughfares, and between various types of developments. This easement shall be part of the platted lots, but shall have the following restriction notice on the face of the plat:

> *This easement is established for the purpose of the planting of trees or other types of vegetation or the preservation of existing vegetation; the erection of structures on the easement and through access by motorized vehicles is prohibited.*

**b.** Buffers shall comply with Section 5.4, Landscaping and Buffering.

### 4. Building Setback

The minimum building setback or the distance between the street right-of-way and the building line shall not be less than that established in the dimensional standards for the district in which the subdivision is located.

Proposed building setbacks shall be measured from the most restrictive right-of-way line as determined by the dedication or reservation of such right-of-way.

**5. Easements**

Easements shall comply with the following standards:

**a. Storm Sewer, Sanitary Sewer, or Water Main Utility Easements**

**1.** Utility easements for storm sewers, sanitary sewers, or water mains shall be separate and distinct from any building area on a lot, and shall be separate from the lot or located along the lot line, or entirely on a lot, as determined by the Cape Fear Public Utility Authority and the County Engineer.

**2.** Easements up to 30 feet or more in width are required for gravity sewer lines.

**3.** Easements of not less than 15 feet are required for water lines, other underground and above ground public utilities, or for piped drainage facilities.

**4.** Shallow swale easements along the perimeter of lots may be less than 30 feet if they are determined safe and adequate by the County Engineer.

**b. Drainage Easements**

Where a subdivision is traversed by a watercourse or drainage way, an easement shall be indicated on all plats of the subdivision. The easement shall conform substantially with the lines of the watercourses or drainage ways and shall be of sufficient width for maintenance purposes, as determined by the County Engineer. The County Engineer may require the subdivider to convey easements to the County providing access to and along watercourses or drainage ways traversing the subdivision for the purpose of maintaining such watercourses or drainage ways. (3/03)

**c. Electrical and Communication Utility Easements**

Electrical and communication utility easements may be required along perimeter lot lines for underground or aboveground public or private utilities. The width of such easements shall be based upon the type of utility installed as required by the design specifications and the area required for adequate maintenance of the utilities. It is recommended that electric power and communications services be placed underground.

**d. Deeds of Easements**

**1.** Easements to be dedicated to the County for the operation, use, replacement and maintenance of public open space and public utilities, including but not limited to water mains, sanitary sewer mains, stormwater management facilities, and all appurtenances, together with the means of access to them, shall be dedicated for

the public use by a separate deed of easement. If such easements are correctly and adequately described on the final subdivision plat, the easements may be described in a separate deed of easement by reference to the recorded final plat. The appropriate governing body shall ascertain that the easements are correctly and adequately described on the final plat.

**2.** The deed of easement shall be in the format as determined and approved by the County Attorney. All utilities, appurtenances, and facilities within the easement to be dedicated shall be constructed to the specifications of the County, and shall remain the property of the subdivider until officially accepted for operation, use. and maintenance as part of the County's system. Official acceptance shall be by resolution of the Board of County Commission. The deed of easement shall be recorded with the Office of the Register of Deeds.

**6. Lots**

Lots shall be laid out as follows:

**a.** A lot's size, and its shape and location on a site shall respect the natural features of the site, including but not limited to topographic conditions, waterways, wetlands, contemplated use, and the surrounding area.

**b.** Lots in subdivisions shall comply with the dimensional standards and other regulations and requirements of the zoning district win which they are located.

**c.** Corner lots for commercial development shall have width sufficient to permit adequate building setback from side streets or driveways.

**d.** Double frontage or reverse frontage lots shall be avoided, to the maximum extent practicable.

**e.** Side lot lines shall be substantially at right angles or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection should not be less than 60 degrees.

**f.** Lots shall not have a depth greater than four times their mean width.

**g.** Each lot in a subdivision shall individually abut or be adjacent to an approved public or approved private street or private access easement. Condominium and townhouse-style subdivisions may be exempted from this requirement at the discretion of the TRC, provided that in all cases each individual lot shall be assured safe and reasonable vehicular access to and from an approved street.

**h.** Every conventional residential lot shall front a public or private street or access easement for a distance of at least 34 feet.

**7. Streets**

**a.** Local streets shall be laid out so that their use by through traffic will be discouraged.

**b.** All streets shall be designated by the subdivider to be either public or private in accordance with North Carolina General Statute 136-102.6. The streets shall comply with the requirements of the N.C.G.S. The subdivider shall submit concurrently with the final plat all disclosure statements required by the General Statute.

**c.** When a planned subdivision is adjacent to an arterial, a marginal access street may be required to provide access for lots fronting on the arterial.

**d.** All streets that are in alignment with other existing and named streets shall bear the existing street name. Names of proposed streets or subdivisions shall not duplicate or be phonetically similar to existing street names. No proper names can be used. It shall be the responsibility of the subdivider to erect official street name signs at all intersections associated with the subdivision in accordance with the *Addressing Standards and Procedures Manual*. The subdivider may acquire and erect official street name signs or may choose to contract with the County to install the street signs, which shall be paid for by the subdivider.

**e. Access to Adjacent Properties**

The arrangement of streets in subdivisions shall make provisions for the continuation of existing streets in adjoining areas, or their proper projection where adjoining land is not subdivided and where they may be deemed necessary for public requirements. For large subdivisions adjacent to large tracts of unsubdivided property, street projections shall be required into the adjacent unsubdivided tracts at a maximum distance of every 1000 feet. The street arrangement shall be such as not to cause a hardship to owners of adjoining property when developed and when they seek to provide for convenient access thereto. The use of residential strips of land in order to prevent the extension of proposed or existing streets or access thereto is prohibited.

**f. Alignment with Thoroughfares**

**1.** When any portion of a proposed major thoroughfare of the urban area runs through or is associated with the tract of land to be subdivided, the pattern of streets within the proposed subdivision shall be in accordance with the proposed alignment of corridors or rights-of-way of said official thoroughfare plan. Such rights-of-way as required by the appropriate governing agency shall be shown on all plats, preliminary and final.

**2.** When any portion of a major or minor thoroughfare that is shown on the Wilmington Urban Area Thoroughfare Plan, as amended, runs through or is associated with the land to be subdivided, the subdivider shall design the street network and shall dedicate the maximum right-of-way width required by NCDOT. The subdivider shall also reserve any additional right-of-way as shown in the Thoroughfare Plan. No buildings or structures shall be constructed the reserved right-of-way area. Such reservations

shall expire 24 months from the date of recordation of the final subdivision plan, unless the right-of-way is acquired by a public agency.

3. When any portion of a proposed major or minor thoroughfare shown on the Wilmington Urban Area Thoroughfare Plan runs through the tract of land to be subdivided, both the preliminary plan and final plat for the subdivision shall disclose the presence of the planned thoroughfare by including a note on the plat stating, "This subdivision crosses a proposed thoroughfare right-of-way; present status should be confirmed with the NC Department of Transportation."

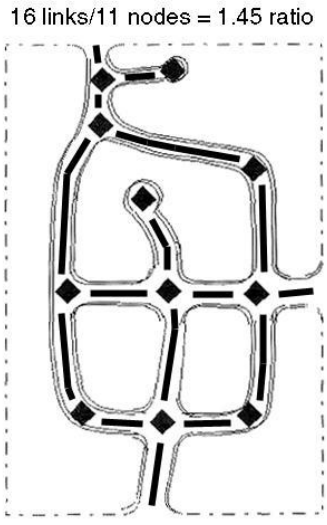
**g. Street Connectivity Standards**

1. Interconnected street systems promote orderly and safe development by ensuring that streets function in an independent manner to provide adequate access for emergency and service vehicles and enhance access by ensuring continuous and connected transportation routes.

2. All proposed streets shall be continuous and connect to existing or platted streets without offset with the exception of cul-de-sacs, as permitted, and except as provided below.

3. The street network for any subdivision shall achieve a connectivity ratio of not less than 1.40. The connectivity ratio shall be defined as the number of street links divided by the number of nodes, including cul-de-sac heads or other vehicle turnarounds. A "node" refers to the terminus of a street or the intersection of two (2) or more. Any curve or bend of a street that has a minimum centerline radius of 100 feet or more shall not be considered a node. Roundabouts also shall not be counted as nodes. A divided entrance is one node.

4. A link shall be any portion of a street, other than an alley, defined by a node at either end. Street projections to adjacent properties shall be considered links. For the purpose of determining the number of links in a development, boulevards, median-divided roadways, and divided entrances shall be treated the same as conventional two-way roadways. Street links and nodes along a collector or arterial street providing access to a proposed subdivision shall not be considered in computing the connectivity ratio.




5. Residential streets shall be designed to minimize the block length of local streets, to provide safe access to residences with minimal need for steep driveways and

to maintain connectivity between and through residential neighborhoods for autos and pedestrians.

6. Where necessary to provide access or to permit the reasonable future subdivision of adjacent land, rights-of-way and improvements shall be extended to the boundary of the development. A temporary turnaround may be required where the dead end exceeds 500 feet in length. The platting of partial width rights-of-way shall be prohibited, except where the remainder of the necessary right-of-way has already been platted, dedicated, or established by other means.

7. New subdivisions may be exempt from the connectivity ratio standard as set forth in this section, provided the Planning Director determines there is no option for providing stub streets or connectivity due to existing documented environmental features such as wetlands or natural water bodies or existing adjacent developed property.

**h. Intersections**

Street intersections shall be laid out as follows:

1. Streets shall intersect as nearly as possible at right angle and no street shall intersect at less than seventy-five (75) degrees.

2. Intersections with a major street shall be at least 800 feet apart, measured from centerline to centerline.

3. Where a public or private street intersects a U.S. or N.C. numbered highway, or a N.C. secondary road, the intersection design shall be in accordance with the standards of the N. C. Department of Transportation, Division of Highways.

4. Street jogs with centerline offsets of less than 200 feet are prohibited.

**i. Cul-de-sacs**

A street designed to be permanently closed at one end shall have a permanent turnaround at the closed end, the right-of-way and pavement of which comply with the requirements specified by NCDOT. Cul-de-sacs shall not be longer than 500 feet. Longer cul-de-sacs may be authorized provided the Planning Director determines there is no option for providing stub streets or connectivity due to existing documented environmental features such as wetlands, natural water bodies, topographical features, environmental conditions or physical conditions such as property shape, property accessibility, or land use relationships.

**j. Public Street Projections**

1. Where there are lots fronting street projections to adjacent properties and services are required, a temporary turnaround that complies with NCDOT specifications shall be constructed at the end of the street at the property line.

2. Where there are no lots fronting street projections to adjacent properties frontage, the frontage being more or less one side lot length, the street (that complies with NCDOT specifications) may be constructed to the property line and dead-ended with no cul-de-sac.

3. In any and all cases, the developer shall be responsible for the cost of and placement of all required dead-end barricades and signs.

4. Additional rights-of-way needed for a temporary turnaround at the end of a street projection to adjacent properties shall be in the form of temporary easements or rights-of-way reserved by the subdivider. Upon extension of the street into the adjacent property, the requirement for a cul-de-sac shall cease and the temporary right-of-way granted for the cul-de-sac construction will revert to the adjacent property owner.

5. Street projections proposed for access to adjacent properties shall have temporary turnarounds installed in accordance with this article and NCDOT specifications.

**k. Temporary Vehicle Turnarounds**

1. In phasing the construction of street improvements within approved subdivisions, the developer shall make provision for vehicle turnarounds at the end of street construction for each phase.

2. If the street end of a particular planned phase of development is within a distance of 250 linear feet, more or less, from the next planned intersection in a succeeding phase, the developer shall construct the street to, and complete all improvements within, the intersection in accordance with requirements for completed intersections, including barricades, as specified by NCDOT. The completed intersection shall then serve as a vehicular turnaround.

**l.** When a lot or lots within a subdivision abut an existing public street, highway, or thoroughfare, the subdivider shall be responsible for the installation of all improvements to that portion adjacent to and which is to be utilized by that subdivision.

**m. Traffic Calming During Preliminary Site Plan Review**

In some cases, the inclusion of traffic calming devices in subdivision design is justified to promote speed limit compliance with posted speed limits and for up-holding the long-term operational safety of residential subdivision streets. Only traffic calming devices recognized by the Institute of Transportation Engineers (ITE) and/or other nationally recognized traffic engineering guidelines, with provisions to minimize impacts on bicyclists, pedestrians, and emergency response time shall be considered by the TRC for approval during the Preliminary Site Plan Review.

**n. Traffic Calming on Existing Public Streets**

Petitions for traffic calming devices on existing publicly designated streets shall be considered by the NCDOT as referenced in NCGS 136-102.8.

**o. Traffic Calming on Existing Private Streets**

No traffic calming devices shall be installed by a property owners association (POA) / homeowners association (HOA) until the following review process is complete:

**1.** The review process for installing traffic calming devices on existing private streets may be initiated by contacting the Planning and Inspections Department to obtain a copy of the most current Traffic Calming Petition Form and other associated informational materials. Petitioners must first obtain signatures from at least 70 percent of parcel owners within the affected area to demonstrate neighborhood support for traffic calming devices. The affected area will be determined by a scoping process involving the petitioner, a representation from the Planning and Inspections Department, County Fire Services office, County Engineering, and the Wilmington Urban Area Metropolitan Planning Organization (WMPO) prior to petition submittal. Only one signature per parcel is counted to determine 70 percent concurrence. County staff will verify that signatures match current tax records. If the required signatures are not obtained within 90 days, the petition will not move forward. If the signatures are determined to be valid, a letter from the Planning and Inspections Department will be sent to the petition contact describing the minimum application requirements to move forward with the review process.

**2.** To qualify for review, an application demonstrating the following shall be provided by the petitioner to the Planning and Inspections Department:

**i.** The road is privately owned and maintained with a functional classification of local road or neighborhood collector;

**ii.** The roadway is “primarily residential”, with at least 75 percent of the properties fronting on the street being located in a Residential zoning district and/or residential land uses;

**iii.** Fifteen (15) percent of present day traffic exceeds 30 mph;

**iv.** Traffic volumes on the affected street must be less than 4,000 vehicles per day;

**v.** The street is not a primary route for emergency response;

**vi.** An active property owners association, as prescribed in Section 6.3.4, Property Owners’ Association (POA), exists to install and maintain traffic calming devices;

**vii.** A previous traffic calming device application has not been denied for the affected area within the last 12 months;

**viii.** Concurrence from a detailed engineering study that the traffic calming devices are warranted and feasible to implement within the affected area.

**3.** As a fundamental component of a complete traffic calming application, the following criteria must be certified by a professional legally recognized by a State of North Carolina licensing board as licensed to perform such activities or undertakings.

**i.** Roadway characteristics including alignment, grade, sight distance, intersection spacing, driveway location, edge treatments (curbing, shoulders, etc.), signage, pavement markings and on-street parking;

**ii.** Vehicle characteristics of existing traffic (based on a three-day vehicle classification study);

**iii.** Traffic speed and volume data (based on a three-day speed and volume study);

**iv.** Three-year crash history;

**v.** Recommended traffic calming devices including typical details (Recommended devices shall follow ITE and/or other nationally recognized traffic engineering guidelines, with provisions to minimize adverse impacts on bicycle, pedestrian safety, and emergency response);

**vi.** A conceptual plan demonstrating the proposed location of traffic calming devices and associated advanced warning signage/pavement markings (as required by the most recent version of the Manual on Uniform Traffic Control Devices);

**vii.** A recommended implementation schedule and preliminary line-item cost estimates.

**4.** Upon submittal of a completed application to the Planning and Inspections Department, the request will be considered by the TRC at their next regularly scheduled meeting. The TRC has the authority to reject an application based on engineering judgment, an absence of documented need and/or concerns with adverse impacts on emergency response, as well as bicycle and pedestrian safety. If approved by the TRC, the petitioner may initiate the final approval process by submitting the following information to the Planning and Inspections Department:

**i.** Final construction plans and details sealed by a professional legally recognized by a State of North Carolina licensing board as licensed to perform such activities and undertakings,

**ii.** Final implementation schedule and line item cost estimates (with associated contingency); and

**iii.** A surety in the form of a certified check and in accordance with Section 6.3.2, Guarantees of Improvements, to guarantee the installation of the traffic calming devices.

5. Petitioners(s) may appeal the Technical Review Committee denial of an application for a Preliminary Plan in accordance with Section 10.3.14, Appeal of Administrative Decision.

**8. Street Trees**

Except for trees in islands within dedicated rights-of-way, if street trees are planted, they shall be planted inside the property lines where they are less subject to injury, decrease the chance of accidents, and enjoy more favorable conditions for growth.

**9. Subdivision Names**

Subdivision names shall not duplicate or be phonetically similar to existing development or subdivision names within the County, except where they are additions to existing developments.

**10. Evacuation Access Design**

Roads within the subdivision shall be designed to provide sufficient capacity for safe and timely evacuation of residents in case of a hurricane if the subdivision or parts of it are located in a V-zone. Factors involved in determining the safety and timeliness of evacuation include the presence of low points, bridges, or other evacuation route bottlenecks, and vehicle capacities of the roads.

**11. Barrier, Riverine and Estuarine Islands**

Subdivisions that are located on riverine, estuarine, or barrier islands that are not connected to the mainland by a permanent network of roads and bridges shall establish a community boating facility on the island and on the mainland with the number of spaces in each facility being equal to or greater than the total number of lots.

**12. Waterfront Access**

Subdivisions that are located on riverine, estuarine, or barrier islands with lots containing beach front or sound front property shall dedicate sufficient property to ensure public access to the beach and sound. Such access shall not be less than 10 percent of the beach frontage and 5 percent of the sound frontage, and shall be spaced at intervals of no more than 1000 feet. Access ways shall not be less than 15 feet in width. These facilities shall be approved by and dedicated to New Hanover County or the State of North Carolina, and shall be directly accessible to a public road. Dedicated streets which run to the mean high water line may count toward meeting these requirements.

**13. Transit Facilities**

Transit system facilities (to include turnout lanes, shelters, signs, and markings), as designated by the County, may be constructed, provided, and installed in accordance with Technical Standards and Specifications, and acceptable traffic engineering specifications and standards.

#### 14. Reservation of Sites for Public Facilities

To ensure orderly development of the County in accordance with the general principles set forth in the Comprehensive Plan, it is recommended that the subdivider reserve open spaces for such public purpose as parks, playgrounds, schools, and fire stations, and to provide the County an opportunity to buy this land at the fair market value for a period of 6 months from the date of submission of the preliminary plan.

#### 15. Mailbox Kiosks

*[11-16-2020]*

Cluster-style mailbox kiosks shall be provided as required by the U.S. Postal Service. A paved area with ingress/egress to allow vehicles to pull off, park, and re-enter the roadway safely shall be required for each kiosk area. Kiosks shall be located in areas that will best allow for vehicle parking, which shall be designed so as not to create pedestrian or vehicle safety issues.

## Section 6.3. Improvements

### 6.3.1. IN GENERAL

**A.** Following approval of the preliminary plan, the sub-divider shall submit to the County Engineer and other appropriate state and local agencies design and construction plans for the installation of the improvements as required by this Ordinance and other specifications and policies of the County (see Section 10.3.7.D.2, Construction Plans Procedure).

**B.** Improvements within all subdivisions shall be installed and designed in accordance with the standards of this article and such other technical standards and specifications as have been adopted by New Hanover County or other entities with responsibility for providing facilities and services. Whenever topographic or other physical conditions of the site require more stringent engineering practices or standards, such standards and practices shall be utilized and followed in the design of a subdivision.

#### 1. Access

All public agencies shall have access to the premises and structures of a subdivision under this article, during reasonable hours, to make those inspections deemed necessary by them to ensure compliance with the provisions of this article.

#### 2. Inspection

Prior to commencing any work within the subdivision the subdivider shall make arrangements with the Planning Director to provide for adequate inspection of the improvements.

#### 3. Erosion Control and Stormwater Management

The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded,

sodded, or otherwise protected to comply with the approved Sedimentation and Erosion Control Plan for the site.

**4. Water Quality Improvement**

The subdivider shall pursue an approved plan for the control and improvement of surface water originating from rainfall running from impervious surfaces created within the development. Such works, which may consist of vegetated swales and retention structures, may be designed in concert with those facilities required under the approved Sediment and Erosion Control Plan, and in accordance with the Storm Water Design Manual and Specifications.

**5. Existing Flora**

The subdivider shall make every effort practically possible to protect and retain all existing vegetation not actually living in public roadways, building foundation sites, private driveways, paths, and trails. Existing trees shall be identified as prescribed in Section 5.4, Landscaping and Buffering, and shall be protected and preserved during construction in accordance with sound conservation practices. Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.

### 6.3.2. GUARANTEES OF IMPROVEMENTS

Final plats of a subdivision shall be approved by the Planning and Inspections Department after the subdivider has complied with one of the following requirements:

**A.** The subdivider has installed all required improvements in accordance with the provisions of this Ordinance; or

**B.** Except in the case of Minor Subdivisions, the subdivider of an approved preliminary project in which the total cost of required improvements and administration does not exceed $8,000,000.00 (the “Surety Limit”), provides a financial guarantee in-lieu of constructing improvements. The surety limits stated in this section shall be adjusted periodically in accordance with an appropriate established index approved by the County Attorney.

**1.** The financial guarantee shall take one of the following forms, at the election of the subdivider:

**a.** A surety bond issued by any company authorized to do business in North Carolina;

**b.** A letter of credit issued by any financial institution licensed to do business in North Carolina; or

**c.** Another form of guarantee that provides equivalent security to a surety bond or letter of credit.

**2.** A financial guarantee may be deposited in escrow with an escrow agent acceptable to the County, provided the subdivider shall file with the County Engineer an agreement between the escrow agent and the subdivider guaranteeing the following:

**a.** The escrow account shall be held in trust until released by the County and shall not be used or pledged by the subdivider in any other matter during the term of escrow; and

**b.** If the subdivider fails to complete the required improvements, the escrow agent shall, upon notification by the County and submission by the County to the escrow agent of an engineer's estimate of the amount needed to complete the required improvements, immediately either pay to the County the funds estimated to complete the required improvements, up to the full balance of the escrow account, or deliver to the County any other instruments fully endorsed or otherwise made payable in full to the County.

**3.** The amount of the financial guarantee shall not exceed 125 percent of the reasonably estimated cost of completion at the time the guarantee is issued. Any extension of the financial guarantee necessary to complete required improvements shall not exceed 125 percent of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

**4.** Conditions and stipulations to plat approval under this section are as follows:

**a.** The subdivider shall furnish a bona-fide estimate of the required improvements for verification by the County Engineer. Upon the County Engineer's determination that the estimate furnished is reasonable, the subdivider shall deposit with the County the surety bond, letter of credit, or other guarantee, as applicable, in the amount of the estimate determined reasonable by the County Engineer.

**b.** In the event the subdivider obtains a surety bond or letter of credit as its form of financial guarantee, such financial guarantee shall be issued by a company authorized to do business in North Carolina.

**c.** Financial guarantees in the form of a surety bond, letter of credit, or cash security may be reduced by the County Engineer if a portion of the required improvements have been installed, inspected, and approved. An addendum or amendment to the original surety bond or letter of credit shall be required.

### 6.3.3. REQUIRED IMPROVEMENTS

*[11-16-2020]*

#### A. Permanent Monuments

Unless previously existing, a minimum of two permanent control monuments of stone or concrete shall be placed at the point of intersection on the centerline of intersecting public or private street rights-of-way or at the point of intersection of the tangents of curves when such point lies within the pavement of the proposed street. Otherwise, monuments may be placed on the centerline at the points of curvature and at the points of tangency of curves which are to be dedicated for street purposes. A table of dimensions, or dimension between control monuments, shall be shown on the map. Metal castings or access boxes for the control monuments mentioned above shall be placed in the pavement prior to release of

final sureties for road construction or final approval of road construction. (Reference N.C.G.S. 39-32.1)

1. Such monuments shall be set a minimum of nine inches below the finished grade of the pavement. A metal casting of approved type will be mounted over the monument with its base flange mounted on a brick foundation with mortar joints of at least two course thickness, the top of which must be a minimum of one and three-quarters inches higher than the highest point of the monument. Permanent monuments shall be at least 30 inches in length, six inches in diameter, and shall have a metal pin or punch-marked metal plate embedded therein marking the point represented on the final plat.
2. In addition to the two required Control Monuments, a control point (i.e. railroad spike, P.K. nail, iron rod, rebar, etc.) shall be set at all other centerline intersections, point of curvature, and points of tangency prior to recordation. In the event that these points are destroyed during initial project construction, it shall be the developer's responsibility to have said points replaced in their original horizontal position.

### B. Lot Corners

All lot corners, other than those marked by permanent monuments as herein described, shall be marked by metal stakes not less than three-quarter inches in diameter, no less than two and one-half feet in length.

### C. Sewage Disposal and Water Supply

#### 1. Water Supply

All subdivisions shall be connected to the water system of the applicable local governmental entity in order to provide water to every lot within the subdivision. Mains shall be constructed in accordance with established standards and policies. Water connections shall be constructed under the supervision and approval of the CFPUA. If a connection cannot be made to the public water system/CFPUA water system, the subdivider shall submit to the County along with the Preliminary Plan, a letter of approval of water supply signed by the appropriate authority. The subdivider shall install these facilities in accordance with the approved plans. Water distribution systems shall be installed in all new subdivisions.

#### 2. Sewer Collection

All subdivisions shall connect to the sewerage system of the County in order to provide sewer service to every lot within the subdivision. Due consideration shall be given for existing or potential sewer lines for adjoining property in the design and arrangement of sewer lines for the proposed subdivision. If a connection cannot be made to the County's sewage system, the subdivider shall submit to the appropriate governing body, along with the Preliminary Plan, a letter of approval of sewage disposal system signed by the appropriate authority. The subdivider shall install these facilities in accordance with the approved plans. Sewage collection systems shall be installed in all new subdivisions.

## D. Streets

All streets shall be constructed, inspected, and approved in accordance with the following requirements.

### 1. Construction

All street right-of-way segments designated as public or private shall be constructed to minimum NCDOT standards. These standards are available for review at the County Planning and Inspections Department, the County Engineering Department, and at the Division Office of the NCDOT.

### 2. Public Streets

**a.** Standards shall include drainage, bridge, right-of-way, and pavement design.

**b.** The classification, and as a result, the construction standards for a public street segment may be upgraded to a higher classification if that street segment will eventually be required to provide access to or collect traffic from future development on adjacent properties.

**c.** All public streets shall be inspected and approved by the District Engineer, NCDOT, Division of Highways.

### 3. Private Streets

**a.** Streets designated as private shall be constructed to minimum construction standards as adopted by New Hanover County and certified by a professional, legally recognized by a State of North Carolina licensing board, as being licensed to perform such activities or undertakings.

**b.** Pavement design shall meet the requirements as specified and shown in the road profiles depicted in Appendix A: Subdivision Appendices and Certificates.

**c.** Streets designated as private may be allowed in subdivisions once they are reviewed and approved by the TRC. In their review, the TRC will consider unique physical conditions of the property, including but not limited to connectivity, topography, geometric design, storm water, tree preservation, ingress and egress, reduction of speed to desirable or safe levels, and other safety measures, and that sufficient language is provided through a legally established POA that the streets will be properly maintained.

**d.** Whenever a private street intersects a U.S. or NC highway, or Secondary Road, an approved NCDOT Driveway Permit signed by the District Engineer is required prior to final plat approval.

**e.** Private road stubs and dead end streets shall be constructed/paved to the property boundary, and shall not contain gates or obstructions to qualify for connectivity standards as stated in Section 6.2.2.A.7.g.6.

**f.** Streets designed as collector roads that accept traffic from local streets shall be required to be designated as public, and adhere to the

standards under public streets, as noted above. (see Table for Private Road ROW Specifications, General Standards, and Road Profiles located in Appendix A: Subdivision Appendices and Certificates).

### E. Surface Water Drainage

All drainage construction within the area of the proposed subdivision shall be reviewed by the County Engineer for conformance with the County's Stormwater Management Ordinance and the Storm Water Management Design Manual. Sufficient calculations shall be included with the preliminary plan to review hydraulic computations. The subdivider shall do all grading and install all drainage structures shown on the construction plans for the area specified by the final plat.

1. Wetlands, natural depressions, and areas of good draining soils shall be used in the development of drainage plans, if they exist.
2. Discharge of runoff from impervious surfaces directly into natural water bodies shall not be allowed. Runoff shall be routed along vegetated swales, through filter media of vegetation, gravel, sand, or other media, or to detention ponds for the purpose of increasing percolation and settling and filtering out non-point pollutants.

### F. Street Name Signs

The sub-divider shall be responsible for erecting street name signs at all intersections within the subdivision. Signs on public streets shall conform with existing NCDOT regulations.

### G. Fire Hydrants

The subdivider shall be responsible for providing adequate fire protection for the subdivision through the provision of fire hydrants. These fire hydrants shall be constructed to specifications established by County Fire Services, based on the current NC Fire Code standards. Hydrants shall be required as follows:

1. Subdivision with central water system:

   For any major subdivision served by a central water system meeting state requirements (Section .2101, Title 10, Chapter 10D NCAC) for fire hydrants, the subdivider shall be required to install a fire hydrant at the entrance to the subdivision and additional hydrants equal either to the total linear feet of roadway divided by 1000 or the total number of lots/units divided by 40, whichever is greater. These additional hydrants shall be spaced evenly through the subdivision in order to provide maximum fire protection coverage, as determined by the County Fire Services. In no case shall a lot/unit be located more than 500 feet from a hydrant.

2. Subdivision with surface water bodies:

   For any major subdivision without a central water system meeting state requirements, but either including or adjacent to an adequate permanent surface water body, the subdivider shall do one of the following:

   a. Install a dry fire hydrant as close to the water source as possible, with the adequacy of the water source and the location of the dry fire hydrant to be determined by County Fire Services; or

**b.** Establish an easement or road to the water source providing permanent all-weather access that is adequate for fire-fighting equipment and vehicles as determined by County Fire Services.

### H. Street Lights

The County, as applicable, shall install streetlights within subdivisions in accordance with the standards of the County. In instances where underground wiring is required, the subdivider shall be responsible for the initial contribution required under the utility company's street lighting service schedule (customer participation) at the time of installation.

### I. Entrance Signs and Lighting

Signs delineating the subdivision name and any lighting associated with such sign shall be constructed in compliance with Section 5.6.2.J.1, Subdivision Identification Signs. Sign location shall be shown on the preliminary plan for subdivision.

### J. Sidewalks, Trails and Bikeways

Sidewalks, walkways, and other pedestrian ways shall be provided by the subdivider within or adjacent to a subdivision, upon reasonable evidence that the sidewalks, walkways, or other pedestrian ways would be essential for pedestrian access to community facilities, that such is necessary to provide safe pedestrian movement outside the street or street rights-of-way area, or that such is an extension or could reasonably become an extension of existing sidewalks, walkways, and other pedestrian ways. All sidewalks, walkways, and other pedestrian ways shall be aligned as required by this Ordinance, and designed and constructed to conform to NCDOT specifications. Sidewalks shall be indicated on all preliminary plans.

**1.** Sidewalks shall be required to be constructed in the following circumstances:

**a.** On a minimum of one side of the right-of-way of all arterial or collector streets that are adjacent to the property to be developed;

**b.** On each side of the right-of-way of all arterial or collector streets that run through property to be developed if the subdivider intends to construct any portion of the thoroughfare as access to the subject development; and

**c.** On one side of the right-of-way of all local streets extending through the property to be developed in the R-15 and R-10 zoning districts.

**d.** On both sides of the right-of-way of all local streets extending through the property to be developed in the R-7, and R-5 zoning districts.

**e.** Except as required above, low density developments in R-20 shall be exempt from the sidewalk requirement.

**2.** The TRC may exempt sidewalk installation in specific cases upon a finding that sidewalks are unnecessary for the protection of the public safety or welfare due to conditions peculiar to the site.

### 3. Bikeways

The TRC may require the subdivider to make provisions for bikeways within subdivisions, i.e., increased right-of-way, etc. If the subdivider incorporates bikeways within a subdivision, the subdivider shall be responsible for providing the required markings and the acquisition and erection of all signs, signals, or other items in order to create safe bicycling conditions as deemed necessary by the County.

## 6.3.4. PROPERTY OWNERS' ASSOCIATION (POA)

A property owners' association (POA) shall be established for each subdivision containing private streets and drainage systems. The final plat for each such subdivision shall contain a certificate indicating the book and page number of the POA covenants, conditions, and restrictions. The covenants, conditions, and restrictions shall specify lot owners' responsibilities for maintenance of streets, utilities, storm water management facilities, drainage ditches or swales, or other areas designated as private areas or as common areas, and shall provide for assessments to finance all maintenance activities. Final plats for subdivisions containing private streets and drainage improvements will not be approved until the subdivider's owners' association documents have been submitted and approved by the Planning and Inspections Department.

### A. Required Conditions of Property Owners Associations (POAs):

Property owners associations (POAs) or similar legal entities that own and maintain park, recreation, and open space areas, streets, utilities, storm water management facilities, drainage ditches or swales, or other areas designated as private areas, or as common areas, shall be established in such a manner that:

1. Provision for the establishment of the association or similar entity shall be made before any lot in the development is sold or any building occupied.
2. Membership is mandatory for each property owner within the subdivision.
3. The association is responsible for the liability insurance, local taxes, and the maintenance of the areas.
4. Any sums levied by the association that remain unpaid become a lien on the individual property owner's property.
5. If all or any portion of the property held by the association is being disposed of, or if the association is dissolved, the passive and active recreation and open space is first offered to the County.
6. The right of use of the passive and active recreation or open space and all private improvements is guaranteed to each resident of the subdivision.
7. The declaration of covenants and restrictions that govern the association is submitted for review by the County Attorney and recorded prior to the recording of any final plat for the subdivision, and reference to the deed book and page provided on the plat.

**B. Responsibilities:**

Property owners' associations (POAs) shall be responsible for continuing upkeep and proper maintenance of all private infrastructure facilities and common areas within the respective subdivision.

# Article 7: Stormwater Management

RESERVED

# Article 8: Erosion and Sedimentation Control

*[11-16-2020]*

## Section 8.1. Title

This Article may be cited as the “New Hanover County Soil Erosion and Sedimentation Control Ordinance.”

## Section 8.2. Purposes

This Article is adopted for the purposes of:

**A.** Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and

**B.** Establishing procedures through which these purposes can be fulfilled.

## Section 8.3. Definitions

**ACCELERATED EROSION**
Any increase over the rate of natural erosion as a result of land-disturbing activity.

**ACT**
The Sedimentation Pollution Control Act of 1973 in G.S. 113A-50, et seq. and all rules and orders adopted pursuant to it.

**ADEQUATE EROSION CONTROL DEVICES, OR STRUCTURES**
Erosion control devices or structures that control the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

**AFFILIATE**
A person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

**APPROVING AUTHORITY**
The Division or other State or a Local Government agency that has been delegated erosion and sedimentation Plan review responsibilities in accordance with the provisions of the Act.

**BEING CONDUCTED**
A land-disturbing activity has been initiated and not deemed complete by the approving authority.

**BORROW**
Fill material that is required for on-site construction and is obtained from other locations.

**BUFFER ZONE**
The strip of land adjacent to a lake or natural watercourse.

**COASTAL COUNTIES**
The following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington.

**COMMISSION**
The North Carolina Sedimentation Control Commission.

**COMMON PLAN OF DEVELOPMENT**
A contiguous area where multiple separate and distinct land-disturbing activities may be taking place at different times and on different schedules under one common plan. The "Common Plan" of development or sale indicates construction activities are planned to occur on a specific plot regardless of ownership of the parcels.

**COMPLETION OF CONSTRUCTION OR DEVELOPMENT**
No further land-disturbing activity is required on a phase of a project except that which, as determined by the approving authority, is necessary for establishing a permanent ground cover.

**DEPARTMENT**
The North Carolina Department of Environmental Quality.

**DIRECTOR**
The Director of the Division of Energy, Mineral, and Land Resources of the N.C. Department of Environmental Quality.

**DISCHARGE POINT**
That point at which stormwater runoff leaves a tract of land where a land-disturbing activity has occurred or enters a lake or natural watercourse.

**DISTRICT**
The New Hanover County Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes.

**DIVISION OR DEMLR**
The Division of Energy, Mineral, and Land Resources of the Department of Environmental Quality.

**ENERGY DISSIPATER**
A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

**EROSION**
The wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.

**GROUND COVER**
Any natural vegetative growth or other material that renders the soil surface stable against accelerated erosion.

**HIGH QUALITY WATER**
Those described in 15A NCAC 02B .0224, which is incorporated by reference to include subsequent amendments and editions.

**HIGH QUALITY WATER (HQW) ZONES**
Areas in the Coastal Counties that are within 575 feet of High Quality Waters, and for the remainder of the State, areas that are within one mile of and draining to HQW's

**LAKE OR NATURAL WATERCOURSE**
Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond.

**LAND-DISTURBING ACTIVITY**
Any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway or road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

**LOCAL GOVERNMENT**
Any County, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.

**NATURAL EROSION**
Any wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man as defined in G.S. 113A-52(5).

**PARENT**
An affiliate that directly, or indirectly through one or more intermediaries, controls another person.

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

**PERSON CONDUCTING LAND-DISTURBING ACTIVITY**
Any person who may be held responsible for a violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

**PERSON RESPONSIBLE FOR THE VIOLATION**

**A.** The developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity; or

**B.** The landowner or person in possession or control of the land that has directly or indirectly allowed the land-disturbing activity, or has benefited from it or failed to comply with a duty imposed by any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

**PERSON WHO VIOLATES OR VIOLATOR**
Any land owner or other person who has financial or operational control over the land-disturbing activity; or who has directly or indirectly allowed the activity, and who has failed to comply with any provision of the Act, or Ordinance adopted pursuant to the Act, as it imposes a duty upon that person as used in G.S. 113A-64.

**PLAN**
An erosion and sedimentation control Plan.

**SECRETARY**
The Secretary of Environmental Quality.

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

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

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

**STORM DRAINAGE FACILITIES**
The system of inlets, conduits, channels, ditches, and appurtenances that serve to collect and convey stormwater through and from a given drainage area.

**STORMWATER RUNOFF**
The surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.

**SUBSIDIARY**
An affiliate that is, directly or indirectly through one or more intermediaries, controlled by another person.

**TEN-YEAR STORM**
A rainfall of an intensity that is based on historical data, is predicted, by a method acceptable to the approving authority, to be equaled or exceeded, on the average, once in 10 years, and of a duration that will produce a maximum peak rate of runoff from the watershed of interest under average antecedent wetness conditions.

**TRACT**
All continuous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

**TWENTY-FIVE YEAR STORM OR Q25**
A rainfall of an intensity that, based on historical data is predicted, by a method acceptable to the approving authority to be equaled or exceeded, on the average, one in 25 years, and of a duration that will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

**UNCOVERED**
The removal of ground cover from, on, or above, the soil surface.

**UNDERTAKEN**
The initiating of any activity, or phase of activity, that results or will result in a change in the ground cover or topography of a tract of land.

**VELOCITY**
The speed of flow through a cross-section perpendicular to the direction of the main channel at peak flow of the storm of interest but not exceeding bank full flows.

**WASTE**
Surplus materials resulting from on-site land-disturbing activities, to be disposed of offsite.

**WORKING DAYS**
Days exclusive of Saturday and Sunday and Federal and State holidays unless work is being conducted on these holidays, during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

## Section 8.4. Scope and Exclusions

**A.** This Ordinance shall apply to land-disturbing activities within the following territorial jurisdiction of New Hanover County and to the extraterritorial jurisdiction of New Hanover County as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

**B.** Notwithstanding the general applicability of this Ordinance to all land-disturbing activity, this Article shall not apply to the following types of land-disturbing activity:

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

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

**b.** Dairy animals and dairy products;

**c.** Poultry and poultry products;

**d.** Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules and goats, including the breeding and grazing of any or all such animals;

**e.** Bees and apiary products;

**f.** Fur producing animals;

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

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

**3.** An activity for which a permit is required under the Mining Act of 1971; Article 7 of Chapter 74 of the General Statutes;

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

**5.** An activity which is essential to protect human life during an emergency;

**6.** Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigations to offset impacts permitted under Section 404 of the Clean Water Act and;

**7.** Activities undertaken pursuant to National Resources Conservation Service Standards to restore the wetland functions of a converted wetland defined in Title 7 Code of Federal Regulations § 12.2.

## Section 8.5. General Requirements

**A. Plan Approval Required:** No person shall undertake any land-disturbing activity subject to this Ordinance that uncovers an acre, or more than one acre, without first having an erosion control Plan approved by the County. No land-disturbing activity may be initiated until the County is notified of the date that the land-disturbing activity will begin.

**B. Protection of Property:** Persons conducting land-disturbing activity shall take measures to protect all public and private property from damage caused by sedimentation and erosion damage caused by land-disturbing activities.

**C. More Restrictive Rules Shall Apply:** Whenever conflicts exist between Federal, State, or local laws, Ordinance, or rules, the more restrictive provision shall apply.

**D. Plan Approval Exceptions:** Notwithstanding the general requirement to obtain a Plan approval prior to undertaking land-disturbing activity, a Plan approval shall not be required for land-disturbing activity, that does not exceed 43,560 square feet in surface area and is not considered a part of a common plan of development. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

**E. Building Permits:** No building permit, unless excluded by Section 8.17, Permits, shall be issued without an erosion control sign-off pursuant to G.S. 153A-357 and G.S. 160A-417 as amended.

**F. Inspections:** Any and all applicable intermediate inspections may be held in any trade (building, mechanical, electric, and/or plumbing) if any land-disturbing activity, on a tract, including single family residences, is found not to be in compliance with any part of this Ordinance.

**G. Building Finals:** Building finals and/or certificates of occupancy may not be issued if any land-disturbing activity, including single-family residences, is found not to be in compliance with any part of this Ordinance.

## Section 8.6. Basic Control Objectives

**A.** An erosion and sedimentation control Plan may be disapproved pursuant to Section 8.18, Erosion and Sedimentation Control Plans, if the Plan fails to address the following control objectives:

1. **Identify critical areas:** On-site areas which are subject to accelerated erosion, and off-site areas vulnerable to damage from erosion and/or sedimentation are to be identified and receive special attention.
2. **Limit time of exposure:** All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time specified in G.S. 113A-57 or as directed by the approving authority.
3. **Limit exposed area:** All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
4. **Control surface water:** Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

5. **Control sedimentation:** All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
6. **Manage stormwater runoff:** Plans shall be designed so that any increase in velocity of stormwater runoff resulting from a land-disturbing activity will not result in accelerated erosion of the receiving stormwater conveyance or at the point of discharge. Plans shall include measures to prevent accelerated erosion within the project boundary and at the point of discharge.

**B.** Preconstruction conferences are optional. In the event, a preconstruction conference is required, it must be included on the plan.

**C.** No person may initiate a land-disturbing activity before notifying the County of the date that land-disturbing activity will begin and when the initial erosion control measures are installed.

**D.** A Plan approval issued under this Ordinance shall be prominently displayed at either the primary entrance of the job site or at another location that is observable to the public and inspectors until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A paper copy of the approved Plan shall be kept on file at the job site.

## Section 8.7. Mandatory Standards for Land-Disturbing Activity

No land-disturbing activity subject to the control of this Ordinance shall be undertaken except in accordance with G.S. 113A-57 and the following mandatory standards:

**A. Buffer Zone:**

1. No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within 25% of the buffer zone nearest the land-disturbing activity. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.
2. The width of a buffer zone shall be measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25% of the strip nearest the land-disturbing activity containing natural or artificial means of confining visible siltation.

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

**C. Fill Material:** Unless a permit from the Department's Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding

12 inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.

**D. Ground Cover:** Whenever land-disturbing activity that will disturb one or more than one acre is undertaken on a tract, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices that are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in Section 8.8.B.5 of this Ordinance, provisions for a ground cover sufficient to restrain erosion must be accomplished within 90 calendar days following completion of construction or development.

**E. Prior Plan Approval:** No person shall initiate any land-disturbing activity that will disturb one or more than one acre on a tract unless, 30 or more days prior to initiating the activity, an erosion and sedimentation control Plan for the activity has been both filed with and approved by the County pursuant to G.S. 113A-57(4) and G.S. 113A-54(d)(4). The land-disturbing activity shall be conducted in accordance with the approved Plan once the Plan has been approved.

**F.** All individuals that obtain a locally-approved erosion and sedimentation control plan that disturbs one acre or more of land, are required by the U.S. Environmental Protection Agency to obtain coverage under the N. C. Department of Environmental Quality Construction General Permit No. NCG010000 (NCG01). The requirements in NCG01 for temporary or permanent ground cover, or stabilization requirements, may differ from the ground cover, or stabilization, requirement in this Ordinance. It is the responsibility of the person conducting the land-disturbing activity to ensure compliance with the NCG01.

## Section 8.8. Design and Performance Standards

**A.** Except provided in Subsection B.2 of this Section, erosion and sedimentation control devices and structures shall be planned, designed and constructed as to provide protection from the calculated maximum peak rate of runoff from the 10-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture, Natural Resources Conservation Services “National Engineering Field Handbook 630 for Conservation Practices”.

**B.** In High Quality Water (HQW) zones, the following design standards shall apply:

**1.** Uncovered areas in HQW zones shall be limited at any time to a maximum total area of 20 acres within the boundaries of the tract. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director upon providing engineering justification with a construction sequence that considers phasing, limiting exposure, weekly submitted self-inspection reports, and more conservative design than the 25-year storm. The Director may also stipulate the inclusion of other conditions in the plan as necessary, based on specific site conditions.

**2.** Erosion and sedimentation control devices, and structures within HQW zones shall be so planned, designed, and constructed to provide protection from the runoff of the 25-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of

Agriculture, National Resources Conservation Services “National Engineering Field Handbook 630 for Conservation Practices”. Other methodologies may be used if based on generally accepted engineering standards that are shown to the County to be equivalent to or improved over the procedures in Handbook 630. The County shall determine acceptability of an alternative methodology based upon a showing that the runoff model was based on observed data in agreement with the predictive model.

3. In order to provide for water quality protection in the HQW zones, sediment basins that discharge to those areas shall be designed and constructed to meet the following criteria:
    a. Use a surface withdrawal mechanism, except when the basin area is less than 1 acre;
    b. Have a minimum of 1,800 cubic feet of storage area per acre of disturbed area;
    c. Have a minimum surface area of 325 square feet per cfs of Q25 peak inflow;
    d. Have a minimum dewatering time of 48 hours; and
    e. Incorporate 3 baffles, unless the basin is less than 20 feet in length, in which case 2 baffles shall be sufficient.
4. Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontals to one vertical if a vegetative cover is used for stabilization, unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices, or other forms of ditch liners proven to the County as being effective in restraining accelerated erosion. The angle for side slopes shall be sufficient to restrain accelerated erosion.
5. Upon a written request of the applicant, the Director may allow alternative design or control measures in lieu of meeting the conditions required in Subparagraph 3(b) through 3(e) of this Section if the applicant demonstrates that meeting all of those conditions will result in design or operational hardships and that the alternative measures will provide an equal or more effective level of erosion and sedimentation control on the site. Alternative measures may include, quicker applications of ground cover, use of sediment flocculants, and use of enhanced ground cover practices.

## Section 8.9. Stormwater Outlet Protection

A. **Intent:** Stream banks and channels downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-disturbing activity.

B. **Performance Standards:** Persons shall provide a design and conduct land-disturbing activity so that the post-construction velocity of the 10-year storm runoff in the receiving watercourse to, and including the discharge point, does not exceed the greater of:
    1. The velocity established by the Maximum Permissible Velocities table in subsection E of this section; or

2. The projected velocity of the 10-year stormwater runoff in the receiving stormwater conveyance prior to development.

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

1. Avoid increases in stormwater discharge velocities by designing measures to promote infiltration to compensate for increased runoff from areas rendered impervious; or
2. Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high-velocity paved sections; or
3. Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge; These may range from simple rip-rapped sections to complex structures; or
4. Protect stormwater conveyance subject to accelerated erosion by improving cross sections or providing erosion-resistant lining; and
5. Upgrade or replace the receiving device structure, or stormwater conveyance such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity;

**D. Exceptions:** This rule shall not apply where it can be demonstrated to the County that stormwater discharge velocities will not result in accelerated erosion in the receiving stormwater conveyance or discharge point.

**E. Maximum Permissible Velocities:** The following is a table for maximum permissible velocity for storm water discharges in feet per second (F.P.S.) and meters per second (M.P.S.):

**Table 8.9.E: Maximum Permissible Velocities**

| Material | F.P.S. | M.P.S. |
|---|---|---|
| Fine sand (non-colloidal) | 2.5 | 0.8 |
| Sandy loam (non-colloidal) | 2.5 | 0.8 |
| Silt loam (non-colloidal) | 3.0 | 0.9 |
| Ordinary firm loam | 3.5 | 1.1 |
| Fine gravel | 5.0 | 1.5 |
| Stiff clay (very colloidal) | 5.0 | 1.5 |
| Graded, loam to cobbles (non-colloidal) | 5.0 | 1.5 |
| Graded, silt to cobbles (colloidal) | 5.5 | 1.7 |
| Alluvial silts (non-colloidal) | 3.5 | 1.1 |
| Alluvial silts (colloidal) | 5.0 | 1.5 |
| Course gravel (non-colloidal) | 6.0 | 1.8 |
| Cobbles and shingles | 5.5 | 1.7 |
| Shales and hard pans | 6.0 | 1.8 |

| Table 8.9.E: Maximum Permissible Velocities | | |
|---|---|---|
| **Material** | **F.P.S.** | **M.P.S.** |
| Source: Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels. | | |

## Section 8.10. Borrow and Waste Areas

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971; Article 7 of Chapter 74 of the General Statutes, and waste areas for surplus materials other than landfills regulated by the Department's Division of Waste Management shall be considered as part of the land-disturbing activity. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

## Section 8.11. Access and Haul Roads

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

## Section 8.12. Operations in Lakes, Natural Watercourses

Land-disturbing activity in connection with construction in, on, over or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize changes in the stream flow characteristic.

## Section 8.13. Responsibility for Maintenance

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan, or any provision of this Ordinance, the Act, or any order adopted pursuant to the Ordinance or the Act. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement, accepted for maintenance by a governmental agency.

## Section 8.14. Restoration of Areas Affected by Failure to Comply

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

## Section 8.15. Additional Measures

Whenever the County determines that accelerated erosion and sedimentation continues as a result of land-disturbing activity, despite installation of protective practices and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action necessary to achieve compliance with the conditions specified in this Ordinance or the Act.

## Section 8.16. Areas Not Otherwise Covered

Notwithstanding previous provisions, when it is determined that severe off-site erosion and/or sedimentation has occurred as a result of any land-disturbing activity, regardless of the size of the site, and despite application and maintenance of protective practices, remedial action shall be taken within a reasonable time period after notification. A notice shall be served upon that person by any means authorized under G.S. 1A-1 Rule 4. The notice shall specify a date by which the person must comply with the Ordinance or rules adopted by this Ordinance. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided by this Ordinance.

## Section 8.17. Permits

**A.** No person shall undertake any land-disturbing activity subject to this Ordinance without first obtaining a hardcopy or electronic permit from the County, except that no permit shall be required for any land-disturbing activity:

**1.** For the purpose of fighting fires;

**2.** For the stock piling of raw or processed sand, stone or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage; or

**3.** That does not exceed 43,560 square feet in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated. (Note: This exclusion from permits should allow land-disturbing activities for construction of a single-family residence on a single lot, but may not exceed one acre or be part of a common plan of development).

**B.** The County may establish a fee schedule for the review and approval of erosion control Plans. In establishing the fee schedule, the County shall consider the administrative and personnel cost incurred by the department for reviewing the Plans and for related compliance activities.

**C.** The permit fees as seen in Table 8.17.C include review and land disturbance fees:

| Table 8.17.C: Permit Fees | | | |
|---|---|---|---|
| **Residential** | | | |
| **Review** | $200<br>New Projects<br>(Paid at time of application) | $200<br>Active Projects<br>(Adding new acreage) | $200<br>Previously permitted inactive projects<br>(With modification) |
| **Land Disturbance** | $300 per acre disturbed or any increment of an acre.<br>Due prior to Plat Recordation. Builders in a subdivision with active permits where the developer previously paid review and land-disturbing fees will not owe fees. | | |
| **Commercial** | | | |
| **Review** | $200<br>New Projects<br>(Paid at time of application) | $200<br>Active Projects<br>(Adding new acreage) | $200<br>Previously permitted inactive projects<br>(With modification) |
| **Land Disturbance** | $300 per acre disturbed or any increment of an acre.<br>Due prior to issuance of a Certificate of Occupancy. | | |
| **Other** | | | |
| **Review** | $200<br>(Paid at time of application) | | |
| **Land Disturbance** | $300 per acre or increment of an acre.<br>Due prior to issuance of the land-disturbing permit | | |

**D.** Permits will expire one year from the date of issue if no construction activity begins on site. If activity ceases on a permitted site for a period of 12 months, the permit will expire.

## Section 8.18. Erosion and Sedimentation Control Plans

**A.** An erosion control Plan shall be prepared for all land-disturbing activities subject to this Ordinance whenever the proposed activity will disturb one or more than one acre on a tract. The Plan shall be filed with the County Engineering Department, the New Hanover Soil and Water Conservation District, and for areas outside municipal corporate limits, the County Planning Department, at least 30 days prior to the commencement of the proposed activity.

**B.** Persons conducting land-disturbing activity on a tract which covers one or more than one acres shall file three copies of the erosion control Plan or a digital copy, with the County at least 30 days prior to beginning such activity and shall keep another paper copy of the approved Plan and a posted copy of the permit prominently displayed at either the primary entrance of the job site or at another location that is observable to the public and inspectors until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. After approving the Plan, if the County either upon review of such Plan or inspection of the job site, determines that the Plan is inadequate to meet the requirements of the Act and of this Ordinance, the County shall require a revised Plan. Pending the preparation of the

revised Plan, work shall cease or shall continue under conditions outlined by the appropriate authority.

**C.** Erosion control Plans shall be disapproved unless accompanied by an authorized statement of financial responsibility and documentation of property ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his or her attorney-in-fact. The statement shall include the mailing and street addresses of the principle place of business of the person financially responsible, and of the owner of the land, or registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or noncompliance with the Plan, the Act, this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance. Except as provided in subsection D and K of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control Plan must include the owner's notarized written consent for the applicant to submit a draft erosion and sedimentation control Plan and to conduct the anticipated land-disturbing activity.

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

**E.** The New Hanover Soil and Water Conservation District and the County Planning Department within 20 days of receipt of any Plan, shall review such Plan and submit its comments and recommendations to the County Engineering Department. Failure of the Soil and Water Conservation District and the County Planning Department to submit its comments and recommendations within 20 days or within the prescribed additional time will not delay final action on the Plan.

**F.** The County will review each complete Plan submitted to them and within 30 days of receipt. The person submitting the Plan, will be notified that it has been approved, approved with modifications, or disapproved. The County shall condition approval of an erosion control plan upon the applicant's compliance with Federal and State Water Quality laws, regulations, and rules. The County shall also disapprove an erosion control plan if implementation of the Plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. Failure to approve, approve with modifications, or disapprove a complete erosion and sedimentation control Plan within 30 days of receipt shall be deemed approval. Disapproval of an erosion control Plan or a revised erosion control Plan must specifically state in writing the reasons for disapproval. The County must approve, approve with modifications, or disapprove a revised Plan within 15 days of receipt, or it is deemed to be approved. If, following commencement of a land-disturbing activity pursuant to an approved Plan, the County determines that the Plan is inadequate to meet the requirements of the Act and of this Ordinance, either upon review of such Plan or inspection of the job site, the County shall require a revised Plan. Pending the preparation of the revised Plan, work shall cease or shall continue under conditions outlined by the appropriate authority. Approval with modification or disapproval of any proposed plan shall entitle the person submitting the Plan to a public hearing in accordance with the provisions of G.S. 113A-61(c).

**G.** Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy G.S. 113 Article 1, and the

Department rules set forth in 15A NCAC 01C. shall be deemed incomplete until a complete environmental document is available for review. The County shall notify the person submitting the Plan that the 30-day time limit for review of the Plan pursuant to subsection F of this Section shall not begin until the environmental document is available for review.

**H.** The County shall approve a Plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control. The County shall condition approval of Plans upon the applicant's compliance with the Federal and State water quality laws, regulations and rules. Approval assumes the applicant's compliance with the Federal and State water quality laws regulations, and rules.

**I.** The Plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this Ordinance. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for Plan preparation may be obtained from the County, on request. The Plan shall contain a schedule for inspections after each phase has been completed.

**J.** The County may disapprove an erosion and sedimentation control Plan or disapprove a transfer of a Plan under subsection K of this Section upon a finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:

**1.** Is conducting or has conducted land-disturbing activity without an approved Plan, or has received notice of violation of a Plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice;

**2.** Has failed to pay a civil penalty assessed pursuant to the Article or a local Ordinance adopted pursuant to this Article by the time the payment is due;

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

**4.** Has failed to substantially comply with State rules or local Ordinances and regulations adopted pursuant to this Article.

For purposes of Subsection J an applicant's record or the proposed transferee's record may be considered for only two (2) years prior to the application date.

In the event that an erosion and sedimentation control Plan or transfer of a Plan is disapproved by the county pursuant to subsection J of this Section, the County shall notify the Director of the Division of Energy, Mineral, and Land Resources of such disapproval within 10 days of the disapproval. The County shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the Plan was disapproved. Notwithstanding the provisions of Section 8.19.A, the applicant may appeal the local government's disapproval of the Plan directly to the Commission.

**K.** The County administering an erosion and sedimentation control program may transfer an erosion and sedimentation control Plan approved pursuant to this Section without the consent of the Plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.

**1.** The County may transfer a Plan if all the following conditions are met:

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

**b.** The County finds all the following:

1. The Plan holder is one of the following:

i. A natural person who is diseased.

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

iii. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.

iv. A person who has sold the property on which the permitted activity is occurring or will occur.

**2.** The Plan holder shall comply with all terms and conditions of the Plan until such time as the Plan is transferred.

**3.** The successor-owner shall comply with all terms and conditions of the Plan once the Plan has been transferred.

**4.** Notwithstanding changes to law made after the original issuance of the Plan, the County may not impose new or different terms and conditions in the Plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the County from requiring a revised Plan pursuant to G.S. 113A-54.1 (b).

**L.** No person may initiate a land-disturbing activity before notifying the agency that issued the Plan approval of the date that the land-disturbing activity will begin. The County shall also be notified when the initial erosion control measures are installed, if no preconstruction meeting is held. If preconstruction meetings become a requirement it must be included on the plan.

**M.** Applications for amendment of an erosion control Plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the County, the land-disturbing activity shall not proceed except in accordance with the erosion control Plan as originally approved.

**N.** Any person engaged in land-disturbing activity who fails to file a Plan in accordance with the Ordinance or who conducts a land-disturbing activity except in accordance with provisions of an approved Plan shall be deemed in violation of this Ordinance.

**O.** All land-disturbing activities required to have an approved erosion and sedimentation control plan under G.S. 113A-54.1(e) and Sec. 8.18 (A) shall conduct self-inspections for initial installation or modification of any erosion and sedimentation control devices and practices described in an approved Plan. In addition, weekly and rain-event self-inspections are required by Federal regulations, that are implemented through the NPDES Construction General Permit No. NCG010000.

Where self-inspections are required by G.S. 113A-54.1(e) and Section 8.18.O of this Ordinance, the following apply:

1. The person who performs the inspections shall make a record of the site inspection by documenting the following items: The inspection shall be performed during or after each of the following phases of the Plan;
    a. Initial installation of the erosion and sedimentation control measures;
    b. Clearing and grubbing of existing ground cover;
    c. Completion of any grading that requires ground cover;
    d. Completion of all land-disturbing activity, construction, or development, including permanent ground cover establishment and removal of all temporary measures; and
    e. Transfer of ownership or control of the tract of land where the erosion and sedimentation control Plan has been approved and work has begun. The new owners or person in control shall conduct and document inspections until the project is permanently stabilized as set forth in Sub-Item 1(c) of this Section.
2. Documentation of self-inspections performed under Section 1 shall include:
    a. Visual verification of ground stabilization and other erosion control measures and practices as called for in the approved Plan;
    b. Verification by measurement of settling basins, temporary construction entrances, energy dissipaters, and traps;
    c. The name, address, organization affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection shall be included, whether on a copy of the approved erosion and sedimentation control Plan or an inspection report. A template for an example of an inspection and monitoring report is provided on the DEMLR website at https://deq.nc.gov/about/divisions/energy-mineral-land-resources/erosion-sediment-control/forms. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control Plan shall occur on a single copy of the Plan and the Plan shall be made available on the site.
    d. A record of any significant deviation from any erosion or sedimentation control measure from that on the approved Plan. For the purpose of this Section, a “significant deviation” means an omission, alternation, or relocation of an erosion or sedimentation control measure that prevents it from performing as intended. The record shall include measures required to correct the significant deviation, along with documentation of when those measures were taken. Deviations from the approve Plan may also be recommended to enhance the intended performance of the sedimentation and erosion control measures.

## Section 8.19. Plan Review Appeals

**A.** Except as provided in subsection B of this section, the appeal of a disapproval or approval with modifications of a Plan shall be governed by the following provisions:

1. The disapproval or modification of any proposed erosion control Plan by the County, shall entitle the person submitting the Plan or applying for the permit, to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modifications.
2. Hearings held pursuant to this section shall be conducted by the County Engineer within ten (10) days after the date of the appeal or request for a hearing.
3. The County Engineer shall make recommendations to the New Hanover County Board of Commissioners, within ten days (10) after the date of the hearing on any erosion control Plan.
4. The Board of Commissioners will render its final decision on any Plan upon which a hearing is requested within 30 days of conducting the hearings.
5. If the Board of Commissioners upholds the disapproval or modification of a proposed Plan following the hearing, the person submitting the Plan shall then be entitled to appeal the Board of Commissioners decision to the Commission. The Commission shall direct the Secretary to appoint employees of the Department as provided in G.S. 113A-61(c) and Title 15A NCAC 4B.0118 (d), to a Plan review committee, to hear appeals from the disapproval or modification of erosion and sedimentation control Plans by local governments. Within 30 days following receipt of notification of the appeal, department employees shall complete the review and shall notify the County and the person appealing the County decision that the Plan should be approved, approved with modifications, or disapproved.
6. If either the local government or the person submitting the Plan disagrees with the decision reached by the Department, the applicants right under G.S. 113A-54.1(d) to appeal the Director's disapproval of an erosion control Plan under G.S. 113 A-54.1(c) gives rise to a right to an appeal to the Commission by filing a notice within 15 days with the Director of the Division of Energy, Mineral, and Land Resources. A Plan review committee consisting of three members of the Commission will be appointed to review the Department's decision. Within 10 days following receipt of the notification of appeal, the Commissions erosion and sedimentation Plan review committee shall notify the local government and the person submitting the plan of a place and time for a hearing for consideration of the appeal. Both parties shall be given at least 15 days' notice of the hearing and an opportunity to present written or oral arguments. The erosion and sedimentation Plan review committee shall notify both parties of its decision concerning the approval, disapproval, or modification of the proposed Plan within 30 days following the hearing.
7. An applicant desiring to appeal the Commission's disapproval of an erosion control Plan shall file with the Office of Administrative Hearings a contested case petition under G.S. 150B, Article 3.

**B.** If an erosion control Plan is disapproved pursuant to Section 8.18.H, of this Ordinance. The applicant may appeal the County disapproval of the Plan directly to the State Sedimentation Control Commission.

## Section 8.20. Inspections and Investigations

**A.** Agents, officials, or other qualified persons authorized by the County, will periodically inspect land-disturbing activity to ensure compliance with the Act, this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance, and to determine whether the measures required in the Plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the notification of each Plan approval.

**B.** If the County determines that a person engaged in land-disturbing activity has failed to comply with the Act, this Ordinance, or rules, or orders adopted or issued pursuant to this Ordinance, or has failed to comply with an approved Plan, a notice of violation shall be served upon that person by any means authorized under in G.S. 1A-1 Rule 4 to give actual notice. The notice shall set forth the measures necessary to achieve compliance with the, Act, this Ordinance, or rules, or orders adopted or issued pursuant to this Ordinance, specify a reasonable time period within which such measures must be completed, and warn that failure to correct the violation within the time period specified in the notice of violation may result in additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this Ordinance. However, no time period for compliance need be given for failure to submit an erosion control Plan for approval or for willfully obstructing, hampering or interfering with an authorized representative, while in the process of carrying out his official duties. If the person engaged in land-disturbing activity fails to comply within the time specified, enforcement action may be initiated.

**C.** The County shall have power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity. No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection and who presents appropriate credentials;

**D.** The County shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity including self-inspections, engineering design reports, or Notices of Violation (NOVs), as necessary to carry out duties specified in the Act or this Ordinance.

## Section 8.21. Penalties

**A. Civil Penalties:**

**1.** Any person who violates any of the provisions of this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance, or order adopted or issued pursuant to this Ordinance, or who initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, shall be subject to a civil penalty. The maximum civil penalty amount that the county may assess per is five thousand dollars ($5,000.00) per calendar day. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. The person alleged to be in violation will be notified of the violation by any means authorized under G.S. 1A-1 Rule 4 to give actual notice. The notice shall describe the violation, state the reason for accessing the penalty, request the illegal activity cease, specify the actions to be taken, specify a reasonable

time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action pursuant to G.S. 113A-64. If, after the allotted time period has expired, the violator has not completed corrective action, a civil penalty may be assessed from the date of the notice of violation. However, no time period for compliance need be given for failure to submit an erosion control Plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties. Each day of continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation, and the person abated the continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control Plan is required is twenty-five thousand dollars ($25,000).

**2.** The County Manager or his designee shall determine the amount of the civil penalty to be assessed under this subsection and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. In determining the amount of the penalty the County Manager or his designee shall consider the severity of the violation, the type(s) of violation; the duration; the cause; the extent of any off-site damage which may have resulted; effectiveness of action taken by the violator; adherence to the Plan submitted by the violator; effectiveness of the Plan submitted by the violator; estimated cost of taking corrective sediment control actions; staff investigative cost; the amount of money the violator saved by noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this Ordinance, the Commission, or the Act. The County shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4. The notice of assessment shall direct the violator to either pay the civil penalty assessment, or contest the assessment within 30 days after receipt of the notice of assessment, by filing a written petition for a hearing before the Board of County Commissioners, or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the North Carolina General Statutes and a stipulation of the facts on which the assessment was based. Notice of the assessment shall be served by any means authorized under G.S.1A-1, Rule 4 to give actual notice.

**3.** Any appeals from the determination of the Board of County Commissioners must be filed with the Superior Court of the County within 30 days following the Board's issuance of its final determination. If payment is not received or equitable settlement reached within 60 days after demand for payment is made, the matter shall be referred to the County Attorney for institution of a civil action in the name of the County in Superior Court where the violation occurred, or the violators residence or principle place of business. A civil action must be filed within three (3) years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An

assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

4. The clear proceeds of civil penalties collected pursuant to this Ordinance shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Penalties collected by the County may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection cost by each County for the prior fiscal year. (In any event, the cost percentage shall not exceed twenty percent (20%) of penalties collected).

**B. Criminal Penalties:** Any person who knowingly or willfully violates any provision of this Ordinance, or rule or order adopted or issued pursuant to this Ordinance, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control Plan is required except in accordance with terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed five thousand dollars ($5,000.00) per calendar day as provided in G.S. 113A-64.

## Section 8.22. Injunctive Relief

**A.** Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved Plan, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the County, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of the County in which the violation is occurring or is threatened.

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

## Section 8.23. Severability

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

## Section 8.24. Effective Date

November 16, 2020

## Section 8.25. Reserved

# Article 9: Flood Damage Prevention

## Section 9.1. Statutory Authorization

The Legislature of the state of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A, N.C.G.S., delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Board of Commissioners of New Hanover County, North Carolina, does ordain as follows:

## Section 9.2. Findings of Fact

**9.2.1.** The flood prone areas within the unincorporated County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

**9.2.2.** These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

## Section 9.3. Purpose

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

**9.3.1.** Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards, or that result in damaging increases in erosion, flood heights, or velocities;

**9.3.2.** Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

**9.3.3.** Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

**9.3.4.** Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

**9.3.5.** Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

## Section 9.4. Objectives

The objectives of this article are to:

**9.4.1.** Protect human life, safety, and health;

**9.4.2.** Minimize expenditure of public money for costly flood control projects;

**9.4.3.** Minimize the need for rescue and relief efforts associated with flooding that are generally undertaken at the expense of the general public;

**9.4.4.** Minimize prolonged business losses and interruptions;

**9.4.5.** Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

**9.4.6.** Minimize damage to private and public property due to flooding;

**9.4.7.** Make flood insurance available to the community through the National Flood Insurance Program;

**9.4.8.** Maintain the natural and beneficial functions of floodplains;

**9.4.9.** Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

**9.4.10.** Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

## Section 9.5. Definitions

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

**ACCESSORY STRUCTURE (APPURTENANT STRUCTURE)**
A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

**ADDITION (TO AN EXISTING BUILDING)**
An extension or increase in the floor area or height of a building or structure.

**ALTERATION OF A WATERCOURSE**
A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**APPEAL**
A request for a review of the Floodplain Administrator's interpretation of any provision of this article.

**AREA OF SHALLOW FLOODING**
A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD.**
See "Special Flood Hazard Area (SFHA)".

**BASE FLOOD**
The flood having a one percent chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE)**
A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Regulatory Flood Protection Elevation.

**BASEMENT**
Any area of the building having its floor subgrade (below ground level) on all sides.

**BOARD OF ADJUSTMENT**
The New Hanover County Board of Adjustment charged with the responsibility of hearing and deciding appeals and requests for variance from the requirements of this article.

**BREAKAWAY WALL**
A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building of the supporting foundation system.

**BUILDING**
See "Structure".

**CHEMICAL STORAGE FACILITY**
A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

**COASTAL AREA MANAGEMENT ACT (CAMA)**
North Carolina's Coastal Area Management Act. This act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through the North Carolina Department of Environmental Quality's (NCDEQ's) Division of Coastal Management (DCM).

**COASTAL A ZONE (CAZ)**
An area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LiMWA))

**COASTAL BARRIER RESOURCES SYSTEM (CBRS)**
The undeveloped portions of coastal barrier islands and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

**COASTAL HIGH HAZARD AREA**
A Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in this article, as Zone VE.

**COUNTY**
New Hanover County, North Carolina, a political subdivision of the state of North Carolina.

**DESIGN FLOOD:**
See "Regulatory Flood Protection Elevation."

**DEVELOPMENT**
Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**DEVELOPMENT ACTIVITY**
Any activity defined as development which will necessitate a floodplain development permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

**DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)**
The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

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

**ELEVATED BUILDING**
A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**ENCROACHMENT**
The advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

**EXISTING BUILDING AND EXISTING STRUCTURE**
Any building and/or structure for which the "start of construction" commenced before April 3, 1978.

**EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION**
A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the initial effective date of the floodplain management regulations adopted by the community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION**
The preparation of additional sites by the construction of facilities for serving the lot on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

**FLOOD OR FLOODING**
A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and/or

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

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)**
An official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

**FLOOD HAZARD BOUNDARY MAP (FHBM)**
An official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

**FLOOD INSURANCE**
The insurance coverage provided under the National Flood Insurance Program.

**FLOOD INSURANCE RATE MAP (FIRM)**
An official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

**FLOOD INSURANCE STUDY (FIS)**
An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

**FLOOD PRONE AREA**
See “Floodplain”

**FLOOD ZONE**
A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

**FLOODPLAIN**
Any land area susceptible to being inundated by water from any source.

**FLOODPLAIN ADMINISTRATOR**
The individual appointed to administer and enforce this article. The Floodplain Administrator is Planning Director.

**FLOODPLAIN DEVELOPMENT PERMIT**
Any type of permit that is required by this article, prior to the commencement of any development activity.

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

**FLOODPLAIN MANAGEMENT REGULATIONS**
This article, this LDC, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state, or local regulations, in any combination, which provide standards for preventing and reducing flood loss and damage.

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

**FLOOD-RESISTANT MATERIAL**
Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

**FLOODWAY**
The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**FLOODWAY ENCROACHMENT ANALYSIS**
An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

**FREEBOARD**
The height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

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

**HAZARDOUS WASTE MANAGEMENT FACILITY**
As defined in Section 30A, Article 9, N.C.G.S., a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**HIGHEST ADJACENT GRADE (HAG)**
The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

**HISTORIC STRUCTURE**

Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or

(d) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the state Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended.

**LETTER OF MAP CHANGE (LOMC)**

An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

(a) **Letter of Map Amendment (LOMA):** An official amendment, by letter, to an effective National Flood Insurance Program Map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(b) **Letter of Map Revision (LOMR):** A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(c) **Letter of Map Revision Based on Fill (LOMR-F)**: A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(d) **Conditional Letter of Map Revision (CLOMR):** A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

**LIGHT DUTY TRUCK**
Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

(a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(c) Available with special features enabling off-street or off-highway operation and use.

**LIMIT OF MODERATE WAVE ACTION (LIMWA)**
The boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

**LOWEST ADJACENT GRADE (LAG)**
The lowest elevation of the ground, sidewalk, or patio slab immediately next to the building, or deck support, after completion of the building.

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

**MANUFACTURED HOME**
A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

**MANUFACTURED HOME PARK OR SUBDIVISION**
A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

**NEW CONSTRUCTION**
Structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

**NON-ENCROACHMENT AREA (NEA)**
The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

**OTHERWISE PROTECTED AREA (OPA).**
See "Coastal Barrier Resources System (CBRS)".

**POST-FIRM**
Construction or other development for which the "start of construction" occurred on or after July 17, 1978, the effective date of the initial Flood Insurance Rate Map.

**PRE-FIRM**
Construction or other development for which the "start of construction" occurred before July 17, 1978, the effective date of the initial Flood Insurance Rate Map.

**PRIMARY FRONTAL DUNE (PFD)**
A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

**PRINCIPALLY ABOVE GROUND**
At least 51 percent of the actual cash value of the structure is above ground.

**PUBLIC SAFETY AND/OR NUISANCE**
Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**RECREATIONAL VEHICLE (RV)**
A vehicle, which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and

(e) Is fully licensed and ready for highway use.

**REFERENCE LEVEL**
The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

**REGULATORY FLOOD PROTECTION ELEVATION**
The "Base Flood Elevation" plus the "Freeboard". In Special Flood Hazard Areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In Special Flood Hazard Areas where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

**REMEDY A VIOLATION**
To bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this article or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

**RIVERINE**
Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**SALVAGE YARD**
Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

**SAND DUNES**
Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**SHEAR WALL**
Walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

**SOLID WASTE DISPOSAL FACILITY**
Any facility involved in the disposal of solid waste, as defined in Section130A-290(a) (35), N.C.G.S.

**SOLID WASTE DISPOSAL SITE**
As defined in Section 130A-290(a) (36), N.C.G.S., any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

**SPECIAL FLOOD HAZARD AREA (SFHA)**
The land in the floodplain subject to a one percent or greater chance of being flooded in any given year, as determined by this article.

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

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

**SUBSTANTIAL DAMAGE**
Damage of any origin sustained by a structure during any five-year period whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement."

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

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

(b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 9.7.5, Variance Procedures.

**TEMPERATURE CONTROLLED**
Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

**VARIANCE**
A grant of relief from the requirements of this article.

**VIOLATION**
The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 9.7, Administration, and Section 9.8, Provisions for Flood Hazard Reduction, is presumed to be in violation until such time as that documentation of compliance is provided.

**WATER SURFACE ELEVATION (WSE)**
The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

# Section 9.6. General Provisions

## 9.6.1. APPLICABILITY AND BASIS FOR SPECIAL FLOOD HAZARD AREAS

**A.** This article applies to all land and development in the Special Flood Hazard Areas within unincorporated New Hanover County, as identified under the Cooperating Technical state (CTS) agreement between the state of North Carolina and FEMA in its FIS dated December 6, 2019 for New Hanover County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this Ordinance.

**B.** Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the unincorporated County are also adopted by reference and declared a part of this Ordinance. Any subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within three months.

### 9.6.2. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required prior to the commencement of any development activities prior to development within a Special Flood Hazard Area, to ensure any proposed development activities are in conformance with the provisions of this article, and other applicable regulations of this Ordinance and the County Code of Ordinances

### 9.6.3. COMPLIANCE

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

### 9.6.4. ABROGATION AND GREATER RESTRICTIONS

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

### 9.6.5. INTERPRETATION

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

**A.** Considered as minimum requirements;

**B.** Liberally construed in favor of the County; and

**C.** Deemed neither to limit nor repeal any other powers granted under state statutes.

### 9.6.6. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this article is considered reasonable for regulatory purposes, and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This article does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of New Hanover County or by any officer or employee of the County for any flood damages that result from reliance on this article or any administrative decision lawfully made in accordance with this article.

### 9.6.7. PENALTIES FOR VIOLATIONS

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to Section 143-215.58, N.C.G.S. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction, be fined not more than $100.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing

herein contained shall prevent New Hanover County from taking such other lawful action as is necessary to prevent or remedy any violation.

# Section 9.7. Administration

### 9.7.1. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Planning Director hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this article. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this article, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this article.

### 9.7.2. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION

#### A. Application Requirements

Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

1. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
    - **a.** The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
    - **b.** The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map, or a statement that the entire lot is within the Special Flood Hazard Area;
    - **c.** Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map;
    - **d.** The boundary of the floodway(s) or non-encroachment area(s);
    - **e.** The Base Flood Elevation (BFE);
    - **f.** The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
    - **g.** The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable; and
    - **h.** The certification of the plot plan by a registered land surveyor or professional engineer.
2. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

**a.** Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;

**b.** Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and

**c.** Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

**3.** If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

**4.** A Foundation Plan, drawn to scale, which includes details of the proposed foundation system to ensure all provisions of this article are met. These details include but are not limited to:

**a.** The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

**b.** Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 9.8.2.D.4.d, when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.

**c.** The following, in Coastal High Hazard Areas, in accordance with the provisions of Section 9.8.2.D.4.e, and Section 9.8.6, Coastal High Hazard Area (Zone VE). and Section 9.8.7, Standards for Coastal A Zones (Zone CAZ) LiMWA, if applicable:

**1.** V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs;

**2.** Plans for open wood, plastic, or other latticework or insect screening, if applicable; and

**3.** Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.

**5.** Usage details of any enclosed areas below the lowest floor.

**6.** Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

**7.** Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.

**8.** Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of Sections 9.8.2.F, Additions/Improvements. and 9.8.2.G, Recreational Vehicles, are met.

**9.** A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on the plot plan) showing the location of the proposed watercourse alteration or relocation.

### B. Permit Requirements

The floodplain development permit shall include, but not be limited to:

**1.** A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).

**2.** The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 9.6.1, Applicability and Basis for Special Flood Hazard Areas.

**3.** The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.

**4.** The Regulatory Flood Protection Elevation required for the protection of all public utilities.

**5.** All certification submittal requirements with timelines.

**6.** A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 9.8.5, Floodways and Non-Encroachment Areas, have been met.

**7.** The flood openings requirements, if in Zones A, AE, AH, AO, A99.

**8.** Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).

**9.** A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.

**10.** A statement, if in Zone VE, that there shall be no fill used for structural support.

**11.** A statement, that all materials below BFE/RFPE must be flood resistant materials.

### C. Certification Requirements

#### 1. Elevation Certificates

**a.** An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven day calendar period and prior

to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

**b.** A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least two photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section 9.7.2.A, Application Requirements. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.

**2. Floodproofing Certificate**

**a.** If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in

accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

**b.** A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

**3.** If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 9.8.2.C.2.

**4.** If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

**5.** Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in subsections 1 and 2 above:

**a.** Recreational vehicles meeting requirements of Section 9.8.2.G.1;

**b.** Temporary structures meeting requirements of Section 9.8.2.H, Temporary Non-Residential Structures; and

**c.** Accessory structures that are 150 square feet or less or $3,000 or less and meeting requirements of Section 9.8.2.I, Accessory Structures.

**6.** A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a floodplain development permit within Coastal High Hazard Areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this article are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted

standards of practice for meeting the provisions of this article. This certification is not a substitute for an Elevation Certificate.

**D. Determinations for Existing Buildings and Structures**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the North Carolina Building Code and this article is required.

### 9.7.3. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

**A.** Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this article have been satisfied.

**B.** Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

**C.** Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

**D.** Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

**E.** Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 9.8.5, Floodways and Non-Encroachment Areas, are met.

**F.** Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 9.7.2.C, Certification Requirements.

**G.** Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 9.7.2.C, Certification Requirements.

**H.** Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 9.7.2.C, Certification Requirements.

**I.** When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions Section 9.7.2.C, Certification Requirements, and Section 9.7.2.B.3 and Section 9.8.2.B.

**J.** Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

**K.** When BFE data has not been provided in accordance with the provisions of Section 9.6.1, Applicability and Basis for Special Flood Hazard Areas, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Section 9.8.3.B.3, in order to administer the provisions of this article.

**L.** When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 9.6.1, Applicability and Basis for Special Flood Hazard Areas, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this article.

**M.** When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. However, if the property is to be removed from the V Zone it must not be located seaward of the landward toe of the primary frontal dune. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

**N.** Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

**O.** Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this article and the terms of the permit. In exercising

this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

**P.** Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

**Q.** Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

**R.** Make periodic inspections throughout the Special Flood Hazard Areas within the unincorporated County. The Floodplain Administrator and each member of the inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

**S.** Follow through with the corrective procedures of Section 9.7.4, Corrective Procedures.

**T.** Review, provide input, and make recommendations for variance requests.

**U.** Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 9.6.1, Applicability and Basis for Special Flood Hazard Areas, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify state and FEMA of mapping needs.

**V.** Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

### 9.7.4. CORRECTIVE PROCEDURES

#### A. Violations to be Corrected

When the Floodplain Administrator finds violations of applicable state and local laws; it shall be the Administrator's duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

#### B. Actions in Event of Failure to Take Corrective Action

If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

1. That the building or property is in violation of the floodplain management regulations;
2. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel, and to present arguments and evidence pertaining to the matter; and
3. That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

**C. Order to Take Corrective Action**

If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator finds that the building or development is in violation of this article, the Administrator shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, the Administrator may order that corrective action be taken in such lesser period as may be feasible.

**D. Appeal**

1. Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the Floodplain Administrator within 30 days following the written notice. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify, and affirm, or revoke the order.
2. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the superior court within 30 days of the signing of the order of the Board. Such appeal shall be in the nature of certiorari.

**E. Failure to Comply with Order**

If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to Section 143-215.58, N.C.G.S., and shall be punished at the discretion of the court.

### 9.7.5. VARIANCE PROCEDURES

**A.** The Board of Adjustment shall hear and decide requests for variances from the requirements of this article.

**B.** Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Court, as provided in Chapter 7A, N.C.G.S.

**C.** Variances may be issued for:

1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's

continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

2. Functionally dependent facilities, if determined to meet the definition as stated in the County's Stormwater Management Ordinance, provided subsections 2, 3, and 5 of Section 9.7.5.I, Conditions for Variances, are satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

3. Any other type of development provided it meets the requirements of this section.

**D.** In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location as defined in the County's Stormwater Management Ordinance, as a functionally dependent facility, where applicable;

6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

**E.** A written report addressing each of the above factors shall be submitted with the application for a variance.

**F.** Upon consideration of the factors listed above and the purposes of this article, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this article.

**G.** Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

**H.** The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.

**I. Conditions for Variances**

**1.** Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

**2.** Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

**3.** Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**4.** Variances shall only be issued prior to floodplain development permit approval.

**5.** Variances shall only be issued upon:

**a.** A showing of good and sufficient cause;

**b.** A determination that failure to grant the variance would result in exceptional hardship; and

**c.** A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**6.** A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

**a.** The use serves a critical need in the community.

**b.** No feasible location exists for the use outside the Special Flood Hazard Area.

**c.** The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.

**d.** The use complies with all other applicable federal, state and local laws.

**e.** New Hanover County has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

# Section 9.8. Provisions for Flood Hazard Reduction

### 9.8.1. GENERAL STANDARDS

Development in all Special Flood Hazard Areas shall comply with the following:

**A.** All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

**B.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the most current version of FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, which is incorporated herein by reference.

**C.** All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

**D.** All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the Regulatory Flood Protection Elevation (RFPE), or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.

**E.** Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

**F.** Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location, provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

**G.** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

**H.** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

**I.** On-site waste disposal systems shall be located and constructed to avoid impairment to them, or contamination from them, during flooding.

**J.** Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article.

**K.** New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance in accordance with subsection 6 of Section 9.7.5.I, Conditions for Variances. A structure or tank for chemical or fuel storage incidental to an allowed use, or to the operation of a water treatment plant or wastewater treatment facility, may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation (RFPE), and certified in accordance with the provisions of Section 9.7.2.C, Certification Requirements.

**L.** All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

**M.** All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

**N.** All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

**O.** All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

**P.** When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

**Q.** When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

### 9.8.2. SPECIFIC STANDARDS

In all Special Flood Hazard Areas where BFE data has been provided, the following provisions, in addition to the provisions of Section 9.8.1, General Standards, are required:

#### A. Residential Construction

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation (RFPE).

#### B. Non-Residential Construction

New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation (RFPE). Structures located in Zones A, AE, AH, AO, or A99 may be floodproofed to the Regulatory Flood Protection Elevation in-lieu of elevation, provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation, are watertight with walls substantially impermeable to the passage of water, using structural components having the

capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with 9.8.8, Standards for Areas of Shallow Flooding (Zone AO). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator, along with the operational plan and the inspection and maintenance plan.

### C. Manufactured Homes

1. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation (RFPE).
2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by a certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance in accordance with N.C.G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
3. All enclosures or skirting below the lowest floor shall meet the requirements of Section 9.8.2.D, Elevated Buildings.
4. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

### D. Elevated Buildings

The fully enclosed area of new construction and substantially improved structures, which is below the lowest floor or below the lowest horizontal structural member in VE zones:

1. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
2. Shall not be temperature-controlled or conditioned with equipment below the Regulatory Flood Protection Elevation.
3. Shall be constructed entirely of flood resistant materials, at least to the Regulatory Flood Protection Elevation; and

4. Shall include, in Zones A, AE, AH, AO, and A99, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect, or meet or exceed the following minimum design criteria:

    **a.** A minimum of two flood openings on different sides of each enclosed area subject to flooding;

    **b.** The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

    **c.** If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

    **d.** The bottom of all required flood openings shall be no higher than one foot above the higher of the interior or exterior adjacent grade;

    **e.** Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

    **f.** Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

5. Shall, in Coastal High Hazard Areas (Zone VE), either be free of obstruction or constructed with breakaway walls, open wood, plastic or other latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:

    **a.** Material shall consist of open wood, plastic, or other latticework or insect screening; or

    **b.** Breakaway walls shall meet the following design specifications:

        **1.** Breakaway walls may have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, in accordance with subsections a through f of Section 9.8.2.D.4 above; and

        **2.** Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or

        **3.** Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by state or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and

supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

**c.** For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:

**1.** Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and

**2.** Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately four feet x four feet) that will easily break up during the base flood event, or score concrete in four feet x four feet maximum segments is acceptable to meet this standard).

**3.** Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and

**i.** Pad thickness shall not exceed four inches; or

**ii.** Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.

**4.** The provisions above shall not apply to non-residential or multi-family construction that is designed by a professional engineer and constructed with self-supporting structural slabs capable of remaining intact and functional under base flood conditions, including expected erosion.

### E. Fill/Grading

**1.** Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios, and walkways.

**2.** The fill material must be similar and consistent with the natural soils in the area.

**3.** The placement of site-compatible, non-structural, fill under or around an elevated building is limited to two feet. Fill greater than two feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave run-up, and

wave reflection that would increase damage to adjacent elevated buildings and structures.

4. Nonstructural fill with finished slopes that are steeper than five units horizontal to one unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

**F. Additions/Improvements.**

1. Additions and/or improvements to pre-Flood Insurance Rate Map (FIRM) structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

   a. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.

   b. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

2. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

3. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

   a. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.

   b. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

4. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a five year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started, must comply with the standards for new construction. For each building or structure, the five year period begins on the date of the first improvement or repair of that building or structure. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs

are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

**a.** Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to assume safe living conditions.

**b.** Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

### G. Recreational Vehicles

Recreational vehicles shall comply with either the standards for temporary placement or the standards for permanent placement as follows:

**1. Temporary Placement**

**a.** Be on site for fewer than 180 consecutive days; or

**b.** Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)

**2. Permanent Placement**

Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

### H. Temporary Non-Residential Structures

Prior to the issuance of a Floodplain Development Permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

**1.** A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

**2.** The name, address, and phone number of the individual responsible for the removal of the temporary structure;

**3.** The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

**4.** A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

**5.** Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

## I. Accessory Structures

1. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
    a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas);
    b. Accessory structures shall not be temperature-controlled;
    c. Accessory structures shall be designed to have low flood damage potential;
    d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
    e. Accessory structures shall be firmly anchored in accordance with the provisions of Section 9.8.1.A;
    f. All service facilities such as electrical shall be installed in accordance with the provisions of Section 9.8.1.D; and
    g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 9.8.2.D.4.
2. An accessory structure with a footprint less than 150 square feet or that is a minimal investment of $3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or flood-proofing standards of Section 9.8.2.D.2. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 9.7.2.C, Certification Requirements.

## J. Tanks

When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

1. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
2. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
3. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 9.8.2.D.2 shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist

the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

4. Tank inlets and vents. Tank inlets, fill openings, outlets, and vents shall be:

   a. At or above the Regulatory Flood Protection Elevation, or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

   b. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

**K. Other Development**

1. Fences in regulated floodways and Non-Encroachment Areas (NEAs) that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 9.8.5, Floodways and Non-Encroachment Areas.

2. Retaining walls, sidewalks, and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 9.8.5, Floodways and Non-Encroachment Areas.

3. Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 9.8.5, Floodways and Non-Encroachment Areas.

### 9.8.3. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 9.6.1, Applicability and Basis for Special Flood Hazard Areas, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Section 9.8.2.D, Elevated Buildings, shall apply:

**A.** No encroachments, including fill, new construction, substantial improvements, or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

**B.** The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

1. When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this article, and shall be elevated or floodproofed in accordance with standards in Sections 9.8.1, General Standards, and 9.8.2, Specific Standards.

2. When floodway or non-encroachment data is available from a Federal, state, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Section 9.8.2, Specific Standards, and Section 9.8.5, Floodways and Non-Encroachment Areas.

3. All subdivision, manufactured home park, and other development proposals shall provide BFE data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Section 9.8.2, Specific Standards, and utilized in implementing this article.

4. When BFE data is not available from a Federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation. All other applicable provisions of Section 9.8.2, Specific Standards, shall also apply.

### 9.8.4. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where BFE data is provided by FEMA or is available from another source, but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

**A.** Compliance with the standards in Sections 9.8.1, General Standards, and 9.8.2, Specific Standards; and

**B.** Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

### 9.8.5. FLOODWAYS AND NON-ENCROACHMENT AREAS

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 9.8.1, General Standards, and 9.8.2, Specific Standards, shall apply to all development within such areas:

**A.** No encroachments, including fill, new construction, substantial improvements, and other developments, shall be permitted unless:

1. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the

Floodplain Administrator prior to issuance of a Floodplain Development Permit; or

**2.** A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

**B.** If subsection A above, is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.

**C.** Manufactured homes may be permitted provided the following provisions are met:

**1.** The manufactured home complies with the anchoring and the elevation standards of Section 9.8.2.C, Manufactured Homes; and

**2.** The encroachment standards of subsection A above.

### 9.8.6. COASTAL HIGH HAZARD AREA (ZONE VE).

Coastal High Hazard Areas are Special Flood Hazard Areas and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Sections 9.8.1, General Standards, and 9.8.2, Specific Standards:

**A.** All new construction and substantial improvements shall:

**1.** Be located landward of the reach of mean high tide;

**2.** Comply with all applicable Coastal Area Management Act (CAMA) setback requirements.

**B.** All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.

**C.** All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor free of obstruction, so as not to impede the flow of flood waters, with the following exceptions:

**1.** Open wood, plastic, or other latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only, and must be designed to wash away in the event of wave impact and in accordance with the provisions of Section 9.8.2.D.5.a. Design plans shall be submitted in accordance with the provisions of Section 9.7.2.A.4.c.2; or

**2.** Breakaway walls may be permitted provided they meet the criteria set forth in Section 9.8.2.D.1,2,3, and 9.8.2.D.5.b. Design plans shall be submitted in accordance with the provisions of Section 9.7.2.A.4.c.1.

**D.** All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

1. Water loading values used shall be those associated with the base flood.
2. Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.

**E.** For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:

1. They shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
2. Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately four feet x four feet) that will easily break up during the base flood event, or score concrete in four feet x four feet maximum segments is acceptable to meet this standard); and
3. Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
4. Pad thickness shall not exceed four inches; or
5. Provide a design professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.
6. The provisions above shall not apply to non-residential or multi-family construction that is designed by a professional engineer and constructed with self-supporting structural slabs capable of remaining intact and functional under base flood conditions, including expected erosion.

**F.** Swimming pools and spas shall comply with the following:

1. Be designed to withstand all flood-related loads and load combinations.
2. Be elevated so that the lowest horizontal structural member is elevated above the Regulatory Floodplain Elevation (RFPE); or
3. Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
4. Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
5. Registered design professionals must certify to the Floodplain Administrator that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
6. Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.

**G.** All elevators, vertical platform lifts, chair lifts, etc., shall comply with the following:

1. Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces, as well as erosion, scour, and waves.

2. Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.

3. The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.

4. Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls to provide increased protection from flood damage. Drainage must be provided for the elevator pit.

5. Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Only stainless steel doors and door frames shall be used below the BFE. Grouting in of door frames and sills is recommended.

6. If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.

**H.** A registered professional engineer or architect shall certify that the design, specifications, and plans for construction are in compliance with the provisions of Section 9.8.2, Specific Standards, and Section 9.8.6.C. and D on the current version of the North Carolina V-Zone Certification form or equivalent local version.

**I. Fill/Grading**

1. Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios, and walkways.

2. The fill material must be similar and consistent with the natural soils in the area.

3. The placement of site-compatible, non-structural fill under or around an elevated building is limited to two feet. Fill greater than two feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave run-up and wave reflection that would increase damage to adjacent elevated buildings and structures.

4. Nonstructural fill with finished slopes that are steeper than five units horizontal to one unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

**J.** There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.

**K.** No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a

lot in an existing manufactured home park or subdivision, provided the anchoring and elevation standards of this section have been satisfied.

**L.** Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the recreational vehicle criteria of Section 9.8.2.G.1.

**M.** A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Section 9.7.2.C.6.

**N.** A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

**O.** In Coastal High Hazard Areas, development activities other than buildings and structures shall be permitted only if they are also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

**1.** Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

**2.** Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood, or otherwise function to avoid obstruction of floodwaters.

### 9.8.7. STANDARDS FOR COASTAL A ZONES (ZONE CAZ) LIMWA

Structures in Coastal A Zones (CAZs) shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the National Flood Insurance Program (NFIP) regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms, or if anticipated wave loading does not occur, with the base flood.

**A.** All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in CAZs to satisfy the regulatory flood protection elevation requirements.

**B.** All new construction and substantial improvements shall have the space below the lowest horizontal structural member free of obstruction so as not to impede the flow of flood waters, with the following exceptions:

**1.** Open wood, plastic or other latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only, and must be designed to wash away in the event of wave impact and in accordance with the provisions of Section 9.8.2.D.5.a. Design plans shall be submitted in accordance with the provisions of Section 9.7.2.A.4.c.2; or

**2.** Breakaway walls may be permitted provided they meet the criteria set forth in Section 9.8.2.D.5.b. Design plans shall be submitted in accordance with the provisions of Section 9.7.2.A.4.c.2.

**C.** All new construction and substantial improvements shall include, in CAZs, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the design criteria in Section 9.8.2.D.4.

**D.** Concrete pads, including patios, decks, parking pads, walkways, driveways, etc. must meet the provisions of Section 9.8.6.E.

**E.** All new construction and substantial improvements shall meet the provisions of Section 9.8.6.C.

**F.** A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Section 9.7.2, Floodplain Development Application, Permit and Certification, and Section 9.8.6.C and D, on the current version of the North Carolina V-Zone Certification form or a locally developed V-Zone Certification form.

**G.** Recreational vehicles may be permitted in Coastal A Zones provided that they meet the Recreational Vehicle criteria of Section 9.8.2.G.1.

**H.** Fill/Grading must meet the provisions of Section 9.8.2.K.

**I.** Decks and patios must meet the provisions of Section 9.8.6.M and N.

**J.** In Coastal High Hazard Areas, development activities other than buildings and structures must meet the provisions of Section 9.8.6.O.

### 9.8.8. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)

Located within the Special Flood Hazard Areas, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist, and where the path of flooding is unpredictable and indeterminate. In addition to Sections 9.8.1, General Standards, and 9.8.2, Specific Standards, all new construction and substantial improvements shall meet the following requirements:

**A.** The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade if no depth number is specified.

**B.** Non-residential structures may, in-lieu of elevation, be floodproofed to the same level as required in subsection A of this section, so that the structure, together with

attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 9.7.2.B, Permit Requirements, and Section 9.8.2.B, Non-Residential Construction.

**C.** Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

### 9.8.9. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted April 3, 1978 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of New Hanover County enacted on April 3, 1978, as amended, which are not reenacted herein are repealed. The date of the initial Flood Damage Prevention Ordinance for each municipal jurisdiction within New Hanover County is as follows: City of Wilmington: April 4, 1978; Town of Carolina Beach: May 12, 1987; Town of Kure Beach: January 6, 1982; Town of Wrightsville Beach: November 21, 1974.

### 9.8.10. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a Floodplain Development Permit has been granted by the Floodplain Administrator or a professional-level designee, before the passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the permit, construction or use shall be in conformity with the provisions of this article.

# Article 10: Administrative Procedures

## Section 10.1. Advisory and Decision-Making Bodies

### 10.1.1. GENERAL

**A.** The following bodies and County staff have powers and responsibilities in administering and reviewing development applications under this Ordinance:

1. Board of Commissioners;
2. Planning Board;
3. Board of Adjustment;
4. Technical Review Committee (TRC);
5. Planning Director;
6. Building Safety Director; and
7. County Engineer.

**B.** Table 10.1.1: Summary Table of Development Review Responsibilities, summarizes the specific review responsibilities of advisory and decision-making bodies and County staff for each type of development approval or permit.

**Table 10.1.1: Summary Table of Development Review Responsibilities**

R = review and recommendation or report; D = decision; A = appeal; <> = hearing

| Type of Application | Board of Commissioners | Planning Board | Board of Adjustment | Technical Review Committee (TRC) | County Engineer | Planning Director |
|---|---|---|---|---|---|---|
| **Discretionary Review** | | | | | | |
| Text Amendment | <D> | <R> [1] | | | | R |
| Zoning Map Amendment | <D> | <R> [1] | | | | R |
| Conditional Zoning | <D> | <R> [1] | | R [2] | | R |
| Master Planned Development | <D> | <R> [1] | | R [2] | | R |
| Special Use Permit | <D> | <R> | | R [2] | | R |
| **Site Plans and Subdivision** | | | | | | |
| Site Plan | | | | | | |
| Major Site Plan | | | <A> | D | | |
| Minor Site Plan | | | <A> | R [2] | | D |
| Subdivision | | | | | | |
| Major Subdivision | | | | | | |
| Preliminary Plan [3] | | | <A> | D | | |
| Construction Plans | | | <A> | D | | |

| Table 10.1.1: Summary Table of Development Review Responsibilities<br>R = review and recommendation or report; D = decision; A = appeal; <> = hearing | | | | | | |
|---|---|---|---|---|---|---|
| **Type of Application** | **Board of Commissioners** | **Planning Board** | **Board of Adjustment** | **Technical Review Committee (TRC)** | **County Engineer** | **Planning Director** |
| Final Plat [3] | | | <A> | | | D |
| Minor Subdivision Plat | | | <A> | | | D |
| **Permits** | | | | | | |
| Zoning Compliance Approval | | | <A> | | | D |
| Tree Removal Permit | | | <A> | | | D |
| Floodplain Development Permit | *See Article 9: Flood Damage Prevention* | | | | | |
| **Relief** | | | | | | |
| Variance – Zoning and Subdivision | | | <D> | | | R |
| Variance – Zoning and Subdivision | | <D> | | | | |
| Variance – Floodplain | *See Article 9: Flood Damage Prevention* | | | | | |
| Reasonable Accommodation | | | <D> | | | R |
| **Other Procedures** | | | | | | |
| Interpretation | | | <A> | | | D |

NOTES:

[1] If the Planning Board's decision is to recommend denial of the application, the applicant must submit written notice to the Planning Director of the applicant's intent to proceed with the hearing before the Board of Commissioners within 10 calendar days of the Planning Board's decision. If the applicant does not provide such notice within that time period, the application shall be deemed withdrawn.

[2] The applicant may request, at the applicant's option, that the TRC review and provide comments on the application. In such cases, the TRC does not make a recommendation on the application.

[3] The decision may be appealed directly to the Superior Court of New Hanover County (see N.C.G.S. § 153A-336).

### 10.1.2. BOARD OF COMMISSIONERS

To exercise the authority granted to the Board of Commissioners by state law, the Board shall have the following powers and duties under this Ordinance:

**A.** To review and make a decision on applications for the following:

1. Text amendments (Section 10.3.1);
2. Zoning map amendments (Section 10.3.2);
3. Conditional zonings (Section 10.3.3);
4. Planned developments (Section 10.3.4); and
5. Special use permits (Section 10.3.5).

**B.** To adopt a schedule of fees governing applications for development approvals and permits reviewed under this Ordinance, and civil penalties for violations of this Ordinance; and

**C.** To take any other action not delegated to the Planning Board, Board of Adjustment, Technical Review Committee (TRC), Planning Director, Building Safety Director, or County Engineer as the Board of Commissioners may deem desirable and necessary to implement the provisions of this Ordinance, in accordance with state law.

**D.** To enter into private development agreements as provided in NCGS 153A-Part 3A after conducting a public hearing. These development agreements may require a commitment of public and private resources for large scale projects containing at least 25 acres or more exclusive of wetlands, mandatory buffers, and other portions of the property precluded from development. In entering into such agreements, the County may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.

### 10.1.3. PLANNING BOARD

The Planning Board is hereby established in accordance with state law.

#### A. Powers and Duties

The Planning Board shall have the following powers and duties:

**1.** To review and make a recommendation on the following applications:

**a.** Text amendments (Section 10.3.1);

**b.** Zoning map amendments (Section 10.3.2);

**c.** Conditional zonings (Section 10.3.3);

**d.** Planned Developments (Section 10.3.4);

**e.** Special use permits (Section 10.3.5); and

**f.** Subdivision variances (Section 10.3.11).

**2.** To make recommendations to the Board of Commissioners on studies, plans, and ordinances regarding growth, development, and redevelopment in the County, including comprehensive land use plans and development regulations; and

**3.** Any other powers and duties delegated to it by the Board of Commissioners, consistent with state law.

#### B. Membership, Appointment, and Terms of Office

**1.** The Planning Board shall consist of seven members appointed by the Board of Commissioners.

**2.** Planning Board members shall be residents of the County.

**3.** Planning Board members shall be appointed to three-year, staggered terms, except that in case of vacancy occurring during a term, the same shall be filled by the Board of Commissioners for the unexpired portion of such term.

4. Planning Board members shall be appointed to three-year terms that are staggered such that the terms of not more than three members expire in any given year. Members may be appointed to successive terms without limitation.

5. The Board of Commissioners shall appoint Planning Board members to fill vacancies occurring for reasons other than expiration of terms for the period of the unexpired term only.

6. Any Planning Board member may be removed at any time with or without cause by the Board of Commissioners.

### C. Officers and Rules of Procedure

The Planning Board shall elect its own officers and shall adopt the rules of procedure under which it will operate, including establishing the time(s) and place(s) of meetings. Copies of the rules of procedure shall be made available for public inspection in the Planning Department.

### D. Staff

The Planning Director shall serve as the professional staff liaison to the Planning Board and provide it with administrative support.

### E. Meetings

1. Regular meetings of the Planning Board shall be open to the public. There shall be no secret or executive meetings.

2. The Planning Board shall keep minutes of its meetings, in which shall be recorded all actions taken by the Board on all matters considered. Such minutes shall be public records.

## 10.1.4. BOARD OF ADJUSTMENT

The Board of Adjustment is hereby established in accordance with state law.

### A. Powers and Duties

The Board of Adjustment shall have the following powers and duties:

1. To review and make a decision on the following:

   a. Zoning variances (Section 10.3.11);

   b. Reasonable accommodations (Section 10.3.13); and

   c. Appeals of administrative decisions made under authority of this Ordinance (including interpretations) (Section 10.3.13); and

2. Any other powers and duties delegated to it by the Board of Commissioners, consistent with state law.

### B. Membership, Appointment, and Terms of Office

1. The Board of Adjustment shall consist of five regular members and three alternate members, appointed by the Board of Commissioners.

2. Members of the Board of Adjustment shall be residents of the County.

3. Members of the Board of Adjustment shall be appointed to three-year terms that are staggered such that the terms of not more than two regular members and one alternate member expire in any given year. Members may be appointed to successive terms without limitation.

4. The Board of Commissioners shall appoint Board of Adjustment members to fill vacancies occurring for reasons other than expiration of terms for the period of the unexpired term only.

5. Any Board of Adjustment member may be removed for cause by the Board of Commissioners upon written charges and after a public hearing.

### C. Officers and Rules of Procedure

1. The Board of Adjustment shall elect one of its members as Chair and another as Vice Chair, each of whom shall serve one-year terms.

2. The Board of Adjustment shall adopt the rules of procedure under which it will operate, including establishing the time(s) and place(s) of meetings. Copies of the rules of procedure shall be made available for public inspection in the Planning Department.

### D. Staff

The Planning Director shall serve as the professional staff liaison to the Board of Adjustment and provide it with administrative support.

### E. Meetings

1. Regular meetings of the Board of Adjustment shall be open to the public.

2. The Board of Adjustment shall keep minutes of its meetings, in which shall be recorded all actions taken by the Board of Adjustment, including the vote of each member upon every question, or indicating the member's absence or failure to vote, and all records of its examination and any other official actions. Such minutes shall be public records.

## 10.1.5. TECHNICAL REVIEW COMMITTEE (TRC)

The Technical Review Committee (TRC) is hereby established in accordance with state law.

### A. Powers and Duties

The TRC shall have the following powers and duties:

1. To review and make a decision on the following applications:
   a. Major site plans (Section 10.3.6.D);
   b. Major subdivision preliminary plans (Section 10.3.7.D.1); and
   c. Major subdivision construction plans (Section 10.3.7.D.2);
2. To review and make a recommendation on the following applications:
   a. Conditional zonings, at the applicant's request (Section 10.3.3);
   b. Planned developments, at the applicant's request (Section 10.3.4);
   c. Minor site plans, at the applicant's request (Section 10.3.6.E); and

**d.** Major subdivision final plats (Section 10.3.7.D.3); and

**3.** To provide its expertise and technical assistance to the County's other decision-making bodies, upon request.

### B. Membership

The TRC shall consist of representatives from County departments and agencies involved with development review, including the following:

**1.** Planning;

**2.** Engineering;

**3.** Fire Services;

**4.** Cape Fear Public Utility Authority; and

**5.** Environmental Health.

### C. Chair

The Planning Director shall serve as Chair of the TRC, and shall schedule committee meetings, coordinate the committee's activities, preside over committee meetings, prepare committee reports, and serve as the liaison to the departments and agencies involved in the TRC review process.

### D. Meetings

**1.** The Planning Director shall establish a regular meeting schedule to allow the TRC to take action as expeditiously as reasonably possible on matters before it. The TRC may make recommendations and decisions on applications at its regular meetings or by other means established by the Planning Director to ensure an efficient review process.

**2.** The purpose of TRC meetings is to allow for discussion of comments provided by the TRC on specific development applications or conceptual proposals with the applicant, and for the TRC to make a decision or recommendations on the application, as appropriate.

### E. Review and Comment by Other Departments or Agencies

Representatives from county departments and from non-county regulatory agencies involved with development review may participate in the TRC review process and provide comments on development applications. These agencies include, but are not limited to:

**1.** The North Carolina Department of Transportation;

**2.** The Wilmington Metropolitan Planning Organization;

**3.** The North Carolina Department of Environmental Quality; and

**4.** The United States Army Corps of Engineers.

## 10.1.6. PLANNING DIRECTOR

**A.** The Planning Director shall have the following powers and duties under this Ordinance:

**1.** To review and make a decision on the following applications:

**a.** Minor site plans (Section 10.3.6.E);

**b.** Major subdivision final plats (Section 10.3.7.D.3);

**c.** Minor subdivision plats (Section 10.3.7.E);

**d.** Zoning compliance approvals (Section 10.3.7.E);

**e.** Tree removal permits (Section 10.3.9); and

**f.** Interpretations (Section 10.3.15);

**2.** To review and prepare reports and/or recommendations, as appropriate, to advisory and decision-making bodies on the following applications:

**a.** Text amendments (Section 10.3.7.D.3);

**b.** Zoning map amendments (Section10.3.2);

**c.** Conditional zonings (Section 10.3.3);

**d.** Planned developments (Section 10.3.4);

**e.** Special use permits (Section 10.3.5);

**f.** Major site plans (Section 10.3.6.D);

**g.** Major subdivision preliminary plans (Section 10.3.7.D.1);

**h.** Zoning and subdivision variances (Section 10.3.11); and

**i.** Reasonable accommodations (Section 10.3.13);

**3.** To conduct pre-application conferences in accordance with Section 10.2.2, Pre-Application Conference;

**4.** To establish requirements for the content, format, and submission schedule for development applications reviewed under this Ordinance;

**5.** To compile and maintain an Administrative Manual that supplements procedures for development review required by this Ordinance, and which may include detailed submittal and procedural requirements for development applications, a schedule of application fees (as established by the Board of Commissioners), and detailed specifications and illustrations identifying how this Ordinance's standards for landscaping, infrastructure, and other aspects of development may be met;

**6.** To maintain the Official Zoning Map and related materials;

**7.** To serve as the Floodplain Administrator;

**8.** To serve as professional staff to the Planning Board and the Board of Adjustment;

**9.** To provide expertise and technical assistance to the County's review and decision-making bodies;

**10.** To enforce this Ordinance in accordance with Article 12: Violations and Enforcement;

**11.** To carry out any other activities necessary for the administration of this Ordinance that are not delegated to other bodies or officials; and

**12.** To prepare and implement studies, plans, and ordinances regarding growth, development, and redevelopment in the County, including comprehensive land use plans and development regulations.

**B.** The Planning Director may delegate any act authorized by this Ordinance to be carried out by the Planning Director to professional-level staff under the Planning Director's direction.

**C.** The designated Planning Director for the purposes of this Ordinance is the Director of the Planning Department, or the head of the equivalent department that carries out the County's planning and zoning functions.

### 10.1.7. COUNTY ENGINEER

The County Engineer shall have the following powers and duties:

**A.** To accept applications for construction plans and to issue approval letters for the installation of the required improvements in accordance with the approved plans and the design standards specified in this Ordinance.

## Section 10.2. Standard Review Procedures

### 10.2.1. GENERAL

**A.** This section sets forth the standard procedural steps that are generally required for development applications reviewed under this Ordinance. Where a procedural step is not required for a particular type of application, or where alternative procedures are required, Section 10.3, Application-Specific Procedures, specifies the variations from the standard review procedures. The procedural flow charts in Section 10.3 generally depict the procedural steps that apply to the review of each type of application.

**B.** The County has prepared an Administrative Manual that includes information and requirements for submitting applications for development review under this Ordinance. That manual includes application submittal requirements, review schedules, and additional details on application review procedures.

### 10.2.2. PRE-APPLICATION CONFERENCE

#### A. Purpose

The purpose of a pre-application conference is to provide an opportunity for the applicant and staff to review submittal requirements, procedures, and schedules for an anticipated development application. A pre-application conference is also intended for the applicant and staff to discuss the scope, features, and impacts of the proposed development.

#### B. Applicability

A pre-application conference is required for applications for planned development (see Section 10.3.4). A pre-application conference may be requested and held at the applicant's option for any other development application reviewed under this Ordinance.

### C. Effect

The pre-application conference is intended as a means of facilitating the review process. Discussions held in accordance with this section are not binding on the County or the applicant. Official reviews of development applications do not begin until a formal application is submitted and determined to be complete.

## 10.2.3. COMMUNITY INFORMATION MEETING

### A. Purpose

The purpose of a community information meeting is to inform owners and residents of nearby lands about a proposed development application, and to provide the applicant an opportunity to hear comments and concerns about the development proposal as a means of resolving conflicts and outstanding issues, where possible.

### B. Applicability

1. Unless a report is submitted in accordance with subsection 2 below, a community information meeting that complies with the requirements in this section is required prior to submittal of any of the following applications:
   a. Conditional rezonings;
   b. Planned developments; and
   c. Special use permits for uses classified as intensive industry.
2. A applicant may submit an application identified in subsection 1 above without first holding a community information meeting if the applicant submits with the application a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held.
3. The adequacy of a meeting held or report submitted shall be considered by the Planning Board and Board of Commissioners, as appropriate, in their decisions, but shall not be subject to judicial review.
4. For applications other than those identified in subsection 1 above, a community information meeting may be held in accordance with this section at the option of the applicant.

### C. Procedure

If a community information meeting is conducted, the applicant shall comply with the requirements in subsections 1 and 2 below.

1. **Notification**
   a. The applicant shall provide written notice by mail or other agreed upon measure at least ten days prior to the date of the community information meeting. Notice shall be provided to the Planning Department and to each owner of record of land within 500 feet of and on the property subject to the application.
   b. The County shall provide notice of the community information meeting by e-mail to the Sunshine List.

**2. Conduct of Meeting and Written Summary**

**a.** The community information meeting shall be open to the public. At the meeting, the applicant shall explain the development proposal and application, inform attendees about the application review process, respond to questions or concerns neighbors raise about the proposed application, and discuss ways to resolve any conflicts or concerns.

**b.** The applicant shall prepare a written summary of the meeting. The summary shall be included with the application materials and contain the following information:

**1.** Date, time, and location of the meeting;

**2.** List of meeting attendees;

**3.** Summary of issues discussed;

**4.** Description of any changes or adjustments made to the proposal as a result of the comments and concerns received by the applicant; and

**5.** Any other information the applicant deems appropriate.

## 10.2.4. APPLICATION SUBMITTAL AND ACCEPTANCE

### A. Authority to File Applications

**1.** Unless expressly stated otherwise in this Ordinance, development applications reviewed under this Ordinance shall be submitted by:

**a.** The owner, contract purchaser, or any other person having a recognized property interest in the land on which development is proposed; or

**b.** A person authorized to submit the application on behalf of the owner, contract purchaser, or other person having a recognized property interest in the land, as evidence by a letter or document signed by the owner, contract purchaser, or other person having a recognized property interest in the land.

**2.** Applications for text amendments and zoning map amendments may be submitted by any person, organization, or interested party, including the Board of Commissioners, the Planning Board, or County staff.

### B. Application Content

**1.** The Planning Director shall establish the requirements for the content and form of each type of specific development application reviewed under this Ordinance and shall include the requirements in the Administrative Manual.

**2.** The Planning Director may amend and update application requirements as necessary to ensure effective and efficient review.

**3.** The applicant bears the burden of ensuring that an application contains sufficient information to demonstrate compliance with all applicable standards in this Ordinance.

### C. Application Fees

The Board of Commissioners shall establish application fees and may amend and update those fees as necessary. The Planning Director shall include a schedule of application fees in the Administrative Manual.

### D. Schedule for Application Submittal and Review

1. The Planning Director shall establish a submittal and review schedule (including submittal deadlines and time frames for review) for the various types of development applications, and shall include the schedule in the Administrative Manual.
2. The Planning Director may amend and update the submittal and review schedule to ensure effective and efficient review under this Ordinance.

### E. Application Submittal

Applications shall be submitted to the Planning Director in the form and having the content established by the Planning Director, along with the appropriate application fee.

### F. Determination of Application Completeness

#### 1. Completeness Review

After submittal of an application in accordance with this Ordinance, the Planning Director shall determine whether the application is complete or incomplete. A complete application is one that:

**a.** Contains all information and materials required by this Ordinance, including the requirements for the submittal of the particular type of application established by the Planning Director in the Administrative Manual;

**b.** Is in the form required by the Planning Director for the particular type of application;

**c.** Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate standards of this Ordinance; and

**d.** Is accompanied by the fee established for the particular type of application.

#### 2. Application Incomplete

**a.** If the Planning Director determines that the application is incomplete, the Planning Director shall notify the applicant of the deficiencies in the application. The applicant may correct the deficiencies and resubmit the application for completeness determination.

**b.** The Planning Director shall not process an application for further review until it is determined to be complete.

**c.** Applications fees shall not be accepted for applications determined to be incomplete.

### 3. Application Complete

If the Planning Director determines that the application is complete, the Planning Director shall accept the application for review in accordance with the procedures and standards of this Ordinance.

### G. Application Withdrawal

1. An applicant may withdraw a complete application at any time by submitting a written notice to the Planning Director.
2. Applications fees shall not be refunded for withdrawn applications.

## 10.2.5. STAFF REVIEW AND ACTION

### A. Staff Review

1. Applications shall be reviewed during the appropriate review cycle in place when the application is determined to be complete.
2. The Planning Director shall distribute the application to all appropriate staff and review agencies for review and comment.
3. In considering the application, the Planning Director, the TRC, or other County staff (as appropriate), shall review the application, relevant support material, and any comments or recommendations from other staff and review agencies to which the application was referred.
4. If deficiencies in complying with the applicable development standards are identified, the Planning Director shall notify the applicant of such deficiencies and provide the applicant a reasonable opportunity to discuss the deficiencies and revise the application to address them. The Planning Director may also offer the applicant comments or suggestions regarding possible improvements to the proposed development that are not required by this Ordinance.

### B. Applications Subject to Decision by the Planning Director or TRC

1. If an application is subject to review and final decision by the Planning Director or the TRC, the Planning Director or TRC, as appropriate, shall either approve the application, approve the application subject to conditions (as appropriate), or require that the application be revised to address deficiencies in complying with applicable development standards.
2. If an application is subject to review and final decision by the TRC, the application shall be approved or approved subject to conditions, if all members of the TRC find that it complies with the standards each individual member is responsible for administrating.
3. Conditions of approval shall be limited to those deemed necessary to ensure compliance with the standards of this Ordinance. They shall be related in both type and scope to the anticipated impacts of the proposed development. All conditions of approval shall be expressly set forth in the development approval or permit.

### C. Applications Subject to a Public Hearing

#### 1. Staff Report

If a public hearing is required for the application (see Table 10.1.1: Summary Table of Development Review Responsibilities), the TRC shall review and make a recommendation on the application if required by Table 10.1.1, and the Planning Director shall review the application, and TRC's recommendation, as applicable, and prepare a written staff report on the application. The staff report may recommend one of the decisions authorized for the particular type of application, as set forth in Section 10.3, Application-Specific Procedures, and may identify and recommend conditions of approval, as appropriate.

#### 2. Distribution and Availability of Application and Staff Report

Within a reasonable time period before the public hearing or meeting at which an application is scheduled for review by an advisory or decision-making body, the Planning Director shall:

**a.** Schedule the public hearing or meeting and verify any required public notification of the hearing in accordance with Section 10.2.6, Public Hearing Scheduling and Public Notification;

**b.** Transmit the application, related materials, and the staff report to the appropriate advisory or decision-making body;

**c.** Transmit a copy of the staff report to the applicant; and

**d.** Make the application, related materials, and staff report available for examination by the public on the County's website and/or in the Planning Department during normal business hours, at a reasonable cost.

## 10.2.6. PUBLIC HEARING SCHEDULING AND PUBLIC NOTIFICATION

If a public hearing is required for the application (see Table 10.1.1: Summary Table of Development Review Responsibilities), the scheduling and public notification of the public hearing shall comply with the requirements in this section.

### A. Scheduling of Public Hearing

#### 1. General

**a.** If a public hearing is required for an application (see Table 10.1.1: Summary Table of Development Review Responsibilities), the Planning Director shall ensure that the public hearing on the application is scheduled for a regularly scheduled meeting or a meeting specially called for that purpose by the advisory or decision-making body reviewing the application.

**b.** A required public hearing on the application shall be scheduled so there is sufficient time for a staff report to be prepared and for the public notification requirements to be satisfied under state law.

### 2. Deferral of Hearing upon Applicant's Request

An applicant may request that an advisory or decision-making body's consideration of a development application at a public hearing be deferred by submitting a written request for deferral to the Planning Director.

#### a. Request Before Notification Provided

If mailed or published notice has not been provided in accordance with this Ordinance, the Planning Director shall consider and decide the deferral request. An application may be deferred by the Planning Director for a time not to exceed six months, for good cause. Applications that are not considered by the advisory or decision-making body after a six-month administrative deferral shall be considered withdrawn.

#### b. Request After Notification Provided

If mailed or published notice has been provided in accordance with this Ordinance, the deferral request shall be considered by the advisory or decision-making body at the public hearing for which notice was provided and may be granted at the discretion of the advisory or decision-making body for good cause, for a period of time determined appropriate by the body. If a deferral is granted, the applicant shall be responsible for any additional fees in accordance with the adopted fee schedule. Applications that are not considered by the advisory or decision-making body within six months after the advisory or decision-making body grants a deferral shall be considered withdrawn.

## B. Public Notification

All development applications shall comply with the North Carolina General Statutes (N.C.G.S), the provisions of this section, and the other provisions of this Ordinance with regard to public notification.

### 1. Required Type and Timing of Public Notification

Public notification of a public hearing on a development application shall be provided in accordance with the requirements in Table 10.2.6.B.1: Required Type and Timing of Public Notification, for the type of application and the type of notice. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.

| Table 10.2.6.B.1: Required Type and Timing of Public Notification | | | | |
|---|---|---|---|---|
| Application Type | Required Type and Timing of Public Notification | | | |
| | Sunshine List/Website | Published Notice | Mailed Notice [1] | Posted Notice |
| Zoning Map Amendment | None | Once a week for 2 successive calendar weeks, with the first notice being between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |
| Conditional Rezoning (CZD) | None | Once a week for 2 successive calendar weeks, with the first notice being between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |
| Planned Development [2] | None | Once a week for 2 successive calendar weeks, with the first notice being between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |
| Special Use Permit (SUP) | Within 10 business days of the submittal deadline | Once a week for 2 successive calendar weeks, with the first notice being between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |
| Text Amendment | None | Once a week for 2 successive calendar weeks, with the first notice being between 10 and 25 days before hearing | [3] | None |
| Variance | None | Once a week for 2 successive calendar weeks, with the first notice being between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |
| Appeal | None | Once a week for 2 successive calendar weeks, with the first notice being between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |

NOTES:

[1] Expanded published notice may substitute for mailed notice in cases where a rezoning application directly affects more than 50 properties, owned by at least 50 different property owners in accordance with state law.

[2] Apples to the UMXZ, RFMU, EDZD, and PD zoning districts.

[3] Applications that would change the range of allowable uses within five miles of a military base require mailed notice by certified mail to the military base commander between 10 and 25 days before the hearing.

### 2. Sunshine List and Website Posted Notice Requirements

**a.** The Planning Director shall post the application materials and the date, time, and location of the initial public hearing for which the application is scheduled to the Planning Department's website within ten business days of the application submittal deadline established in the Administrative Manual.

**b.** After the application has been posted to the Planning Department's website, the Planning Director shall send notice of the posting to the

Sunshine List (see Section 2.3, Definitions and Terms) within the same timeframe stated above.

**c.** Additional materials submitted by the applicant after the application submittal deadline shall be posted to the Planning Department's website when received by the Planning Director.

**3. Published Notice Requirements**

The Planning Director shall be responsible for providing published notice of a public hearing in accordance with this section. Notice shall be published in a newspaper that has general circulation in the County.

**4. Mailed Notice Requirements**

**a.** Except for community information meetings, the Planning Director shall be responsible for mailing notice in accordance with this section. Notice shall be mailed to:

**1.** The owners of the land subject to the application;

**2.** The applicant, if different from the land owner;

**3.** The owners, as shown on the County tax listing, of land within 500 feet of the land subject to the application (including owners of land located outside of the County) whose address is known by reference to the latest ad valorem tax records; and

**4.** Commanders of military bases located within five miles of the land subject to the application when the application proposes:

**i.** Changes to the Official Zoning Map;

**ii.** Changes that affect the range of allowable uses of land;

**iii.** Changes relating to telecommunication towers or windmills; or

**iv.** Changes to proposed major subdivision preliminary plats or an increase of an approved subdivision by more than 50 percent of the subdivision's land area, including developed and undeveloped land.

**b.** Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The content and form of the notice shall comply with Section 10.2.6.B.6, Notice Content, and state law.

**c.** The Planning Director shall prepare an affidavit affirming that notice of the public hearing meeting these standards was mailed. The affidavit shall be conclusive that notice is given in accordance this section.

**d.** A copy of the mailed notice shall be maintained in the Planning Department for public inspection during normal business hours.

**5. Posted Notice Requirements**

**a.** The Planning Director shall be responsible for posting notice required by this section.

**b.** The posted notice shall be located on the land subject to the application or on an adjacent public street right-of-way in a conspicuous location so as to be clearly visible to the traveled portion of the respective street. If no part of the subject land is visible from a public right-of-way, the notice shall be posted in the public right-of-way of the nearest street. When multiple parcels are included within an application, a posting on each individual parcel is not required, but the Planning Director shall post sufficient notices to provide reasonable notification to interested persons.

**c.** The content and form of the notice shall be established by the Planning Director in accordance with state law.

**6. Notice Content**

All notices for public hearings provided by mail (mailed notice), or publication (publishing in a newspaper of general circulation in the County) shall:

**a.** Identify the date, time, and location of the public hearing;

**b.** Identify the location of the land subject to the application; and

**c.** Describe the nature of the proposed development or action.

**7. Constructive Notice**

**a.** Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to:

**1.** Errors in a legal description; and

**2.** Typographical or grammatical errors that do not impede communication of the notice to affected parties.

**b.** Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and location of a public hearing and the location of the subject property shall be strictly adhered to.

**c.** If questions arise at the hearing regarding the adequacy of notice, the body conducting the hearing shall direct the Planning Director to make a formal finding as to whether there is substantial compliance with the notice requirements of this Ordinance.

## 10.2.7. PUBLIC HEARING PROCEDURES

If a public hearing is required for the application (see Table 10.1.1: Summary Table of Development Review Responsibilities), the public hearing shall comply with the requirements in this section.

### A. General

**1.** The burden of demonstrating that an application complies with applicable review and approval standards of this Ordinance is on the applicant.

2. Any person may appear at a public hearing and submit testimony, documents, and materials, either individually or as a representative of a person or an organization. Each person who speaks at a public hearing shall identify themselves, state their home or business address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization they represent.

3. The body conducting the public hearing may place reasonable time restrictions on the presentation of testimony and the submission of documents and other materials. The body conducting the hearing may exclude testimony that it finds to be irrelevant, immaterial, or unduly repetitious.

4. The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time, and place.

5. The body conducting the public hearing shall record the proceedings by any appropriate means. The written or taped record of oral proceedings, the hearing minutes, all applications, exhibits, and papers submitted in any proceeding before the body conducting the public hearing, the staff report, and the recommendation or decision shall constitute the record. All records of public hearings conducted by an advisory or decision-making body shall be a public record, and open for inspection at the County offices during normal business hours upon reasonable notice.

## B. Order of Proceeding for Standard Public Hearings

The order of proceedings at a standard public hearing shall be as follows:

### 1. Presentation of Staff Report

The Planning Director shall provide a brief introductory narrative and/or graphic description of the application and present the staff report and any review body findings and recommendations.

### 2. Applicant Presentation

The applicant shall present any information the applicant deems appropriate.

### 3. Public Comment

Public comments shall be heard. Any person other than the applicant or applicant's representatives may be permitted to speak in accordance with the advisory or decision-making body's rules of procedure, or at their discretion, as appropriate, in support of or in opposition to the application.

### 4. Response to Comments and Presentation

The applicant, public, and Planning Director may respond to any comments, documents, or materials presented as deemed appropriate by the body conducting the meeting.

#### 5. Close of Hearing

The person chairing the body conducting the hearing shall close the hearing. After the hearing is closed, no additional testimony, evidence, or public comments will be heard or considered.

### C. Quasi-Judicial Public Hearings

Quasi-judicial public hearings shall comply with the following requirements in addition to the requirements in subsections A and B above:

#### 1. *Ex Parte* Communication

*Ex parte* communication between an applicant or an affected party and a member of the body holding the hearing on the application is prohibited, and must be disclosed during the hearing, if it occurs.

#### 2. Sworn Testimony

All persons who will testify at the hearing shall be sworn in prior to their submission of testimony and evidence.

#### 3. Opportunity to Present Testimony and Evidence

Any person may present testimony and evidence, subject to Section 10.2.7.A.3 above.

#### 4. Cross Examination

Cross-examination by members of the body conducting the hearing shall be allowed. Cross-examination by the County, the applicant or applicant's representatives, and affected parties is also allowed, subject to the authority of the chair of the body holding the hearing.

#### 5. Consideration of Testimony and Evidence

The body conducting the hearing shall make its recommendation or decision based on findings of fact supported by competent, substantial, and material evidence presented at the hearing.

## 10.2.8. ADVISORY BODY REVIEW AND ACTION

If review by an advisory body (the Planning Board) is required for the application (see Table 10.1.1: Summary Table of Development Review Responsibilities), the body shall review and act on the application in accordance with the following procedures.

### A. Review and Recommendation

**1.** The advisory body shall conduct a public hearing on the application in accordance with 10.2.7, Public Hearing Procedures, and shall consider the application, relevant support materials, the staff report, and any public comments made during the public hearing. Following the public hearing, the body shall recommend one of the decisions authorized for the particular type of application, based on the applicable review standards.

2. The advisory body's recommendation shall be in writing and shall clearly state the factors considered in making the recommendation and the basis or rationale for the recommended decision.

3. If permitted for the particular type of application in accordance with Section 10.3, Application-Specific Procedures, the advisory body may recommend conditions of approval. Conditions of approval must relate in both type and extent to the anticipated impacts of the proposed development.

4. Unless the hearing is deferred or subject to a continuance, the advisory body shall take action as promptly as reasonably possible in consideration of the applicant, affected parties, and citizens of the County.

### B. Revision of Application

Prior to the advisory body's action on an application, the advisory body may continue the public hearing to allow the applicant to make minor modifications to the application that directly respond to specific requests or suggestions made by the staff or the advisory body.

## 10.2.9. DECISION-MAKING BODY REVIEW AND ACTION

If an application is subject to a final decision by the Board of Commissioners or the Board of Adjustment (see Table 10.1.1: Summary Table of Development Review Responsibilities), such decision-making body shall review and act on the application in accordance with the following procedures.

### A. Review and Decision

1. The decision-making body shall conduct a public hearing on the application in accordance with 10.2.7, Public Hearing Procedures, and shall consider the application, relevant support materials, the staff report, any advisory body recommendation, and any public comments made during the public hearing. Following the public hearing, the body shall make one of the decisions authorized for the particular type of application, based on the applicable review standards.

2. The decision-making body may remand the application to the appropriate advisory body or County staff for further consideration of new information or specified issues or concerns raised by the staff or the advisory body.

3. The decision-making body's decision shall clearly state the factors considered in making the recommendation and the basis or rationale for the decision.

4. Unless deferred or subject to a continuance, the decision-making body shall take action as promptly as reasonably possible in consideration of the applicant, affected parties, and citizens of the County.

5. Any conditions of approval shall be expressly set forth in the approval, and shall relate in both type and scope to the anticipated impacts of the proposed development.

### B. Revision of Application

Prior to the decision-making body's action on an application, the decision-making body may continue the public hearing on the application to allow the applicant to make minor modifications to the application that directly respond to specific requests or suggestions made by staff, the advisory body, as applicable, or the decision-making body.

## 10.2.10. POST-DECISION LIMITATIONS AND ACTIONS

### A. Notification to Applicant

Within a reasonable time after a final decision on an application, the Planning Director shall provide the applicant written notice of the decision or action and shall make a copy of the decision available to the public in the offices of the Planning Department during normal business hours. If the application is denied, the written notice of the decision or action shall state the reason(s) for the denial.

### B. Effect of Approval

1. Approval of an application in accordance with this Ordinance authorizes only the particular use, plan, or other specific development or activity approved, and not any other development or activity requiring separate approval.
2. In the event one development approval or permit is a prerequisite to another development approval or permit (e.g., variance approval prior to site plan approval), development may not take place until all required development approvals and permits are obtained. Approval of one application does not necessarily guarantee approval of any subsequent application.

### C. Amendment of Approval

Unless otherwise provided in the specific procedure description in Section 10.3, Application-Specific Procedures, an amendment of a permit or approval may only be reviewed in accordance with the procedures and standards established for its original approval.

### D. Expiration of Approval

1. Approval of an application shall be valid as authorized for the approved development activity until the end of the expiration time period provided in Section 10.3, Application-Specific Procedures, for the particular type of application, subject to subsection 4 below.
2. If no expiration period is provided in Section 10.3, Application-Specific Procedures, for a specific type of development approval or permit, the development approval or permit shall expire if a building permit or zoning compliance approval authorizing the approved development is not obtained with two years.
3. A change in ownership of the land shall not affect the established expiration time period of an approval.
4. Failure to comply with the terms of a development approval or permit, including any conditions of approval, shall constitute a violation of this

Ordinance (see Article 12: Violations and Enforcement) and shall render the development approval or permit void and of no effect. No building permits for further construction or certificates of occupancy under the development approval or permit shall be permitted, and all completed structures shall be regarded as nonconforming uses subject to Article 11: Nonconforming Situations.

### E. Termination of Site Specific Development Plans

1. Any site specific development plan approved by the County pursuant to this Ordinance shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.
2. Site specific development plans may terminate with the written consent of the affected landowner.
3. A site specific development plan may be terminated following recommendations by the Planning Board and upon findings by the Board of County Commissioners, by ordinance after notice and public hearing, that natural or manmade hazards on or in the immediate vicinity of the property, if uncorrected would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan.
4. A site specific development plan may be terminated following recommendations by the Planning Board and upon findings by the Board of County Commissions, by ordinance after notice and public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan.
5. A site specific development plan may be terminated upon the enactment or promulgation of a State or Federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.
6. A site specific development plan may be terminated upon payment to the affected landowner of compensation of all costs, expenses, and other losses incurred by the landowner, but not limited to all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the County, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action.

### F. Limitation on Subsequent Similar Applications

If an application requiring a public hearing is denied, no application proposing the same or similar development on all or part of the same land shall be submitted within one year after the date of the denial unless the Planning Director determines that:

1. There has been a substantial change in the circumstances relevant to the issues or facts considered during review of the prior application that might reasonably affect the action of the decision-making body;
2. New or additional information is available that was not available at the time of review of the prior application that might reasonably affect the action of the decision-making body;
3. The new application proposed to be submitted is materially different from the prior application; or
4. The final decision on the prior application was based on material mistake of fact.

# Section 10.3. Application-Specific Procedures

## 10.3.1. TEXT AMENDMENT

### A. Applicability

The procedure in this section is required for any amendment of the text of this Ordinance, unless the amendment is part of a conditional zoning (see Section 10.3.3), or a planned development (see Section 10.3.4).

### B. Text Amendment Procedure

Figure 10.3.1.B summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to text amendments. Subsections 1 through 6 below, specify the required procedure for a text amendment, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.1.B: Summary of Text Amendment Procedure**

#### 1. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance.

#### 2. Staff Review and Action

The Planning Director shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 10.2.5, Staff Review and Action.

### 3. Public Hearing Scheduling and Public Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 10.2.6, Public Hearing Scheduling and Public Notification.

### 4. Advisory Body Review and Action

**a.** The Planning Board shall conduct a public hearing on the application and make a recommendation on the application in accordance with Section 10.2.8, Advisory Body Review and Action, and Section 10.3.1.C, Text Amendment Review Standards. The Planning Board's recommendation shall address whether the proposed amendment is consistent with the Comprehensive Plan.

**b.** If the Planning Board's decision is to recommend denial of the application, the applicant must submit written notice to the Planning Director of the applicant's intent to proceed with a hearing before the Board of Commissioners within 10 calendar days of the Planning Board's decision. If the applicant does not provide such notice within that time period, the application shall be deemed withdrawn and no further review of the application shall occur.

### 5. Board of Commissioners Review and Action

**a.** The Board of Commissioners shall conduct a public hearing on the application and make a decision on the application in accordance with Section 10.2.9, Decision-making Body Review and Action, and Section 10.3.1.C, Text Amendment Review Standards. The decision of the Board of Commissioners shall be one of the following:

**i.** Adopt the text amendment as proposed;

**ii.** Adopt a revised text amendment;

**iii.** Deny the text amendment; or

**iv.** Remand the text amendment application to the Planning Board for further consideration.

**b.** Prior to deciding to adopt or deny a text amendment, the Board of Commissioners shall adopt a statement that:

**1.** Addresses the consistency of the amendment with the Comprehensive Plan by either:

**i.** Describing the consistency or inconsistency of the amendment with Comprehensive Plan; or

**ii.** If the amendment is approved, declaring that the approval is also deemed an amendment to the Comprehensive Plan, and providing an explanation of the change in conditions Board of Commissioners took into account in approving the amendment to meet the development needs of the community. No additional request or application for amendment to the Comprehensive Plan shall be required.

**2.** Explains why the decision is reasonable and in the public interest.

#### 6. Post-Decision Limitations and Actions

**a.** The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions apply.

**b.** Approval of a text amendment authorizes the approved revisions to the text of this Ordinance. Such approval does not itself authorize specific development activity.

**c.** A text amendment shall not expire and shall remain valid unless and until the revised text of this Ordinance is subsequently amended in accordance with this section.

### C. Text Amendment Review Standards

The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny a proposed text amendment, the Board of Commissioners may consider many factors, including but not limited to, the proposed text amendment's consistency with the Comprehensive Plan and whether it is reasonable and in the public interest.

## 10.3.2. ZONING MAP AMENDMENT

### A. Applicability

**1.** The procedure in this section is required for any amendment of the Official Zoning Map, unless the amendment is part of a conditional zoning (see Section 10.3.3), or a planned development (see Section 10.3.4).

**2.** If the proposed Zoning Map amendment involves a rezoning to a Conditional Use Zoning District (see Section 3.5.6, Conditional Use Zoning (CUD) Districts), the provisions in subsections a and b below, apply:

**a.** The Zoning Map amendment application must be submitted and reviewed concurrently with a special use permit application (see Section 10.3.5, Special Use Permit). The Zoning Map amendment for the proposed Conditional Use Zoning District rezoning is considered first, then the companion special use permit application, except, if the Zoning Map amendment is denied, the special use permit is not considered.

**b.** If the Zoning Map amendment to the Conditional Use Zoning District is approved but the special use permit is denied, then the Board of Commissioners shall immediately rescind its approval of the Zoning Map amendment.

### B. Zoning Map Amendment Procedure

Figure 10.3.2.B summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to Zoning Map amendments. Subsections 1 through 6 below, specify the required procedure for a Zoning Map amendment, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.2.B: Summary of Zoning Map Amendment Procedure**

### 1. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance.

### 2. Staff Review and Action

The Planning Director shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 10.2.5, Staff Review and Action.

### 3. Public Hearing Scheduling and Public Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 10.2.6, Public Hearing Scheduling and Public Notification.

### 4. Planning Board Review and Action

**a.** The Planning Board shall conduct a public hearing on the application and make a recommendation on the application in accordance with Section 10.2.8, Advisory Body Review and Action, and Section 10.3.2.C, Zoning Map Amendment Review Standards. The Planning Board's recommendation shall address whether the proposed amendment is consistent with the Comprehensive Plan.

**b.** If the Planning Board's decision is to recommend denial of the application, the applicant must submit written notice to the Planning Director of the applicant's intent to proceed with a hearing before the Board of Commissioners within 10 calendar days of the Planning Board's decision. If the applicant does not provide such notice within that time period, the application shall be deemed withdrawn and no further review of the application shall occur.

### 5. Board of Commissioners Review and Action

**a.** If appropriate, the Board of Commissioners shall conduct a public hearing on the application and make a decision in accordance with Section 10.2.9, Decision-making Body Review and Action, and Section 10.3.2.C, Zoning Map Amendment Review Standards. The decision of the Board of Commissioners shall be one of the following:

**i.** Approve the Zoning Map amendment as proposed;

**ii.** Approve the Zoning Map amendment with a reduction in the area proposed to be rezoned, or to a more restrictive district, with the applicant's consent;

**iii.** Deny the Zoning Map amendment; or

**iv.** Remand the Zoning Map amendment application back to the Planning Board for further consideration.

**b.** Prior to deciding to adopt or deny a Zoning Map amendment, the Board of Commissioners shall adopt a statement that:

**1.** Addresses the consistency of the amendment with the Comprehensive Plan by either:

**i.** Describing the consistency or inconsistency of the amendment with the Comprehensive Plan; or

**ii.** If the amendment is approved, declaring that the approval is also deemed an amendment to the Comprehensive Plan, and providing an explanation of the change in conditions Board of Commissioners took into account in approving the amendment to meet the development needs of the community. No additional request or application for amendment to the Comprehensive Plan shall be required.

**2.** Explains why the decision is reasonable and in the public interest. This explanation may consider, among other factors,

**i.** The size, physical conditions, and other attributes of the area proposed to be rezoned;

**ii.** The benefits and detriments to the landowners, the neighbors, and the surrounding community;

**iii.** The relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;

**iv.** Why the action taken is in the public interest; and

**v.** Any changed conditions warranting the amendment.

**c.** Conditions of approval are not allowed.

**6. Post-Decision Limitations and Actions**

**a.** The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions apply.

**b.** Approval of a Zoning Map amendment reclassifies the land that is subject of the application to the approved zoning district classification(s) and subjects it to the development regulations applicable to the district(s). Such approval does not itself authorize specific development activity.

**c.** A Zoning Map amendment shall not expire and shall remain valid unless and until the land that was subject of the amendment is

subsequently reclassified to a different zoning district in accordance with this section, Section 10.3.3, Conditional Zoning, or Section 10.3.4, Master Planned Development.

### C. Zoning Map Amendment Review Standards

The advisability of amending the Official Zoning Map is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny a proposed Zoning Map amendment, the Board of Commissioners may consider many factors, including but not limited to, the proposed Zoning Map amendment's consistency with the Comprehensive Plan and whether it is reasonable and in the public interest.

## 10.3.3. CONDITIONAL ZONING

### A. Purpose

The purpose of this section is to provide a uniform means for amending the Official Zoning Map to establish a Conditional Zoning (CZ) district. In cases where the standards of a general use zoning district are inadequate to ensure that development allowed by the district will conform to the County's adopted plans or to appropriately address the impacts expected to be generated by development, an applicant may apply for a conditional zoning. Conditional zoning establishes a parallel CZ district that is equivalent to a corresponding general use zoning district, but is subject to additional conditions or restrictions that the applicant and County mutually agree are necessary to ensure conformance to adopted plans and adequately address expected development impacts.

### B. Applicability

The procedure in this section is required for land to be classified to the Conditional Zoning (CZ) District (see Section 3.5.5).

### C. Conditional Zoning Procedure

Figure 10.3.3.C summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to conditional zonings. Subsections 1 through 7 below, specify the required procedure for a conditional zoning, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.3.C: Summary of Conditional Zoning Procedure**

**1. Community Information Meeting**

The applicant shall conduct a community information meeting in accordance with Section 10.2.3, Community Information Meeting.

**2. Application Submittal and Acceptance**

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance. The application shall include the following, together will all other information required by the Administrative Manual:

**a.** A conceptual development plan depicting the proposed development configuration that conforms to the application requirements for conditional zonings in the Administrative Manual; and

**b.** Any other conditions of approval proposed by the applicant.

**3. Staff Review and Action**

**a.** If requested by the applicant, the TRC shall review the application and provide any comments on the proposed conditional zoning to the Planning Director, who shall transmit any comments received from the TRC in writing to the applicant.

**b.** The Planning Director shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 10.2.5, Staff Review and Action.

**4. Public Hearing Scheduling and Public Notification**

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 10.2.6, Public Hearing Scheduling and Public Notification. After the public notice of scheduled hearing before the Planning Board is delivered to the newspapers, the conditions of approval proposed by the applicant shall not be amended so they are less restrictive, including but not limited to less setback, more dwelling units, greater height, more access points, new uses, or fewer improvements.

**5. Planning Board Review and Action**

**a.** The Planning Board shall conduct a public hearing on the application in accordance with Section 10.2.8, Advisory Body Review and Action. Planning Board members may propose additional conditions and requirements beyond those proposed by the applicant.

**b.** After the public hearing on the application is concluded, the Planning Board shall make a recommendation on the application in accordance with Section 10.2.8, Advisory Body Review and Action, and Section 10.3.3.D, Conditional Zoning Review Standards. The Planning Board's recommendation shall address whether the proposed conditional zoning is consistent with the Comprehensive Plan.

**c.** If the Planning Board's decision is to recommend denial of the application, the applicant must submit written notice to the Planning Director of the applicant's intent to proceed with a hearing before the

Board of Commissioners within 10 calendar days of the Planning Board's decision. If the applicant does not provide such notice within that time period, the application shall deemed withdrawn and no further review of the application shall occur.

**6. Board of Commissioners Review and Action**

**a.** The Board of Commissioners shall conduct a public hearing on the application in accordance with Section 10.2.9, Decision-making Body Review and Action. One or more Commissioners may propose additional conditions or requirements beyond those proposed by the applicant.

**b.** After the public hearing on the application is concluded, the Board of Commissioners shall make a decision on the application in accordance with Section 10.2.9, Decision-making Body Review and Action, and Section 10.3.3.D, Conditional Zoning Review Standards. The decision of the Board of Commissioners shall be one of the following:

**i.** Approve the application as submitted, subject to conditions of approval, including a conceptual development plan;

**ii.** Approve the application, subject to revised conditions of approval, including a conceptual development plan;

**iii.** Remand the application to the Planning Board for further consideration; or

**iv.** Deny the application.

**c.** Prior to deciding to approve or deny a conditional zoning, the Board of Commissioners shall adopt a statement that:

**1.** Addresses the consistency of the conditional zoning with the Comprehensive Plan by either:

**i.** Describing the consistency or inconsistency of the conditional zoning with the Comprehensive Plan; or

**ii.** If the conditional zoning is approved, declaring that the approval is also deemed an amendment to the Comprehensive Plan, and providing an explanation of the change in conditions Board of Commissioners took into account in approving the conditional zoning to meet the development needs of the community. No additional request or application for amendment to the Comprehensive Plan shall be required.

**2.** Explains why the decision is reasonable and in the public interest.

**d.** Conditions of approval shall comply with the following requirements:

**1.** Only conditions of approval mutually agreed to by both the applicant and the Board of Commissioners are allowed.

**2.** Conditions of approval shall be limited to those that address the conformance of the development and use of the site to the County

Code and to the Comprehensive Plan or other adopted County plans, and those that address the impacts reasonably expected to be generated by the development or use of the site.

3. Conditions that are less restrictive than the standards of the corresponding general use zoning district, applicable overlay district(s), or other standards of this Ordinance are prohibited.

### 7. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply, in addition to subsections a through c below.

#### a. Effect of Approval

Lands rezoned to a CZ district shall be subject to the standards applicable to the parallel general use zoning district, as modified by the more restrictive conditions approved by the applicant and imposed as conditions of approval by the Planning Board or the Board of Commissioners, as applicable. These standards and modifying conditions are binding on the land as an amendment to this Ordinance and the Zoning Map.

#### b. Minor Deviations

Subsequent applications for development within a conditional zoning district may include minor modifications from the approved conceptual site plan, provided such modifications have no material effect on the character of the approved development. Changes in the following constitute minor modifications that may be approved by the Planning Director:

1. Modifications in building placement, provided the placement complies with the setbacks of the corresponding base zoning, and does not decrease the setbacks agreed to and approved during the conditional rezoning process by more than 10 percent;
2. Increases to building size and height not to exceed 10 percent provided all other applicable standards of this Ordinance are met;
3. Modifications to structure floor plans;
4. Modifications to the driveway locations not exceeding 10 percent of the length of the subject property line, or as required by the North Carolina Department of Transportation; and
5. Modifications to the proportion of housing type not to exceed 10 percent.

#### c. Expiration

1. If no building permit has been issued for the subject tract within two years after the date of approval of the conditional zoning, the Planning Director may, at the Planning Director's discretion, schedule a hearing for the Planning Board to consider whether active efforts are proceeding in accordance with the approved

conditional zoning. If the Planning Board determines that such efforts are not proceeding, the Board may, at the Board's discretion, initiate a Zoning Map amendment in accordance with Section 10.3.2, Zoning Map Amendment, to rezone the land within the CZ district to its classification prior to approval, or to another zoning district the Board determines is appropriate.

2. A landowner may request, and the Planning Director may grant, one, one-year extension of the two-year time period established in subsection 1 above, if the Planning Director determines that site conditions have not substantially changed since the approval of the conditional zoning. The applicant must submit the request in writing prior to the expiration of the time period.

3. If site conditions have substantially changed since the approval of the CZ district, a landowner may request, and the Board of Commissioners may grant, at a regularly-scheduled public hearing, one extension, not to exceed three years, of the two-year time period established in subsection 1 above. The applicant must submit the request in writing prior to the expiration of the time period.

4. If any condition of approval of the CZ district is found to be illegal by a court of law, the approval of the CZ district shall be null and void, and the land within the district shall be rezoned to its classification prior to the approval of the conditional zoning in accordance with Section 10.3.2, Zoning Map Amendment.

5. If a violation of a condition of approval is not corrected within a reasonable time period after notice is provided in accordance with Article 12: Violations and Enforcement, the Planning Director may, at the Planning Director's discretion, submit an application to rezone lands in the CZ district to their classification prior to approval of the CZ district in accordance with Section 10.3.2, Zoning Map Amendment.

### D. Conditional Zoning Review Standards

Adopting a CZ district is a matter committed to the legislative discretion of the Board of Commissioners. In determining whether to adopt or deny the proposed CZ district, the Board of Commissioners shall consider the review standards that apply to Zoning Map amendments in Section 10.3.2, Zoning Map Amendment.

## 10.3.4. MASTER PLANNED DEVELOPMENT

*[09-08-2020]*

### A. Purpose

The purpose of this section is to provide a uniform means for amending the Official Zoning Map to establish a master planned development district. A master planned development (MPD) is a development under unified control with more flexible standards and procedures that are conducive to creating a more mixed-use, pedestrian-oriented development than could be achieved through general use zoning district regulations.

## B. Applicability

The procedure in this section is required for any amendment of the Official Zoning Map that rezones land to a master planned development district, including the UMXZ, RFMU, EDZD, or PD districts, or for major modifications to an already approved master planned development district. Any modification to an approved master planned development district that is not a minor deviation as set forth in Section 10.3.4.C.8.b, Minor Deviations, is a major modification. *[09-08-2020]*

## C. Master Planned Development Procedure

Figure 10.3.4.C summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to master planned developments. Subsections 1 through 8 below, specify the required procedure for a master planned development, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.4.C: Summary of Planned Development Procedure**

### 1. Pre-Application Conference

A pre-application conference in accordance with Section 10.2.2, Pre-Application Conference, is required.

### 2. Community Information Meeting

The applicant shall conduct a community information meeting in accordance with Section 10.2.3, Community Information Meeting.

### 3. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance. In addition to all other application requirements set forth in the Administrative Manual, the application shall include the following:

**a.** An MPD Master Plan meeting the requirements of Section 3.3.3.A, MPD Master Plan, depicting the general configuration and relationship of the principal elements of the proposed development, including uses, general building types, density/intensity, resource protection, pedestrian and vehicular circulation, open space, public facilities, and phasing;

**b.** An MPD Terms and Conditions document meeting the requirements of Section 3.3.3.B, MPD Terms and Conditions Document, specifying

terms and conditions defining development parameters, providing for environmental mitigation, and outlining how public facilities will be provided to serve the master planned development; and

**c.** To ensure unified control, a copy of the title to all land that is part of the proposed master planned development district or land that is affected by a major modification to an existing master planned development district.

**4. Staff Review and Action**

**a.** If requested by the applicant, the TRC shall review the application and provide any comments on the proposed master planned development to the Planning Director, who shall transmit any comments received from the TRC in writing to the applicant.

**b.** The Planning Director shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 10.2.5, Staff Review and Action. The Planning Director may recommend revisions to the proposed MPD Master Plan and MPD Terms and Conditions document.

**c.** If the proposed master planned development involves a rezoning to or major modification of an EDZD District, the staff report shall address each of the following:

**1.** The suitability of the proposal for the general type of function, the physical characteristics of the land, and relation of the proposed development to surrounding areas and existing and probable future development;

**2.** The sufficiency of supporting evidence in the application showing that the proposed location can meet the basic criteria for exceptional design;

**3.** The relation to major roads and mass transit facilities, utilities, and other facilities and services;

**4.** The adequacy of evidence of unified control and the suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guarantees, or other instruments, or the need for such instruments, or for amendments in those proposed;

**5.** The suitability of plans proposed or the suggestion of conditions; and

**6.** The consistency with the Comprehensive Plan and other adopted plans for development in the vicinity, and how the EDZD district might be reasonable and in the public interest if approved.

**5. Public Hearing Scheduling and Public Notification**

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 10.2.6, Public Hearing Scheduling and Public Notification.

**6. Planning Board Review and Action**

**a.** The Planning Board shall conduct a public hearing on the application and make a recommendation on the application in accordance with Section 10.2.8, Advisory Body Review and Action, and Section 10.3.4.D, Master Planned Development Review Standards. The Planning Board's recommendation shall address whether the proposed master planned development is consistent with the Comprehensive Plan.

**b.** If the Planning Board's decision is to recommend denial of the application, the applicant must submit written notice to the Planning Director of the applicant's intent to proceed with a hearing before the Board of Commissioners within 10 calendar days of the Planning Board's decision. If the applicant does not provide such notice within that time period, the application shall be deemed withdrawn and no further review of the application shall occur.

**7. Board of Commissioners Review and Action**

**a.** If appropriate, the Board of Commissioners shall conduct a public hearing on the application and make a decision on the application in accordance with Section 10.2.9, Decision-making Body Review and Action, and Section 10.3.4.D, Master Planned Development Review Standards. The decision of the Board of Commissioners shall be one of the following:

**1.** Approve the master planned development district subject to the MPD Master Plan and MPD Terms and Conditions document in the application;

**2.** Approve the master planned development district subject to additional or revised conditions related to the MPD Master Plan or MPD Terms and Conditions document;

**3.** Deny the master planned development district; or

**4.** Remand the master planned development application back to the Planning Board for further consideration.

**b.** Prior to deciding to adopt or deny a master planned development, the Board of Commissioners shall adopt a statement that:

**1.** Addresses the consistency of the master planned development with the Comprehensive Plan by either:

**i.** Describing the consistency or inconsistency of the master planned development with the Comprehensive Plan; or

**ii.** If the master planned development is approved, declaring that the approval is also deemed an amendment to the Comprehensive Plan, and providing an explanation of the change in conditions Board of Commissioners took into account in approving the master planned development to meet the development needs of the community. No additional request or application for amendment to the Comprehensive Plan shall be required.

2. Explains why the decision is reasonable and in the public interest.

c. Only conditions of approval mutually agreed to by both the applicant and the Board of Commissioners are allowed.

**8. Post-Decision Limitations and Actions**

The post-decision limitations and actions in Section 10.2.10 apply, in addition to the provisions in subsections a through c below.

**a. Effect of Approval**

1. Lands classified to master planned development district shall be subject to the approved MPD Master Plan and MPD Terms and Conditions document. Such approval does not itself authorize specific development activity, but allows the property owner to obtain subsequent development approvals and permits necessary to implement the MPD Master Plan and MPD Terms and Conditions document, in accordance with the applicable procedures and standards set forth in this Ordinance. Subsequent development approvals and permits shall comply with the MPD Master Plan and MPD Terms and Conditions document.

2. Approval of an MPD Master Plan shall establish a vested right in accordance with N.C.G.S. §§ 153A-344.1(c) and (d).

**b. Minor Deviations**

Subsequent applications for development within a master planned development district may include minor modifications from the approved MPD Master Plan and MPD Terms and Conditions document, provided such modifications have no material effect on the character of the approved development. Changes in the following constitute minor modifications that may be approved by the Planning Director:

1. Modifications in building placement, provided the placement does not decrease approved setbacks by more than 10 percent;

2. Increases to building size and height not to exceed 10 percent provided all other applicable standards of this Ordinance are met;

3. Modifications to structure floor plans;

4. Modifications to the driveway locations not exceeding 10 percent of the length of the subject property line, or as required by the North Carolina Department of Transportation; and

5. Modifications to the proportion of housing type not to exceed 10 percent.

**c. Expiration**

1. If no building permit has been issued for the land approved as a master planned development district within two years of the date of approval, the Planning Director may, at the Planning Director's discretion, schedule a hearing for the Planning Board to consider

whether active efforts are proceeding in accordance with the approved master planned development. If the Planning Board determines that such efforts are not proceeding, the Board may, at the Board's discretion, initiate a Zoning Map amendment in accordance with Section 10.3.2, Zoning Map Amendment, to rezone the master planned development district to its classification prior to approval, or to another zoning district the Board determines is appropriate.

2. A landowner may request, and the Planning Director may grant, one, one-year extension of the two-year time period established in subsection 1 above if the Planning Director determines that site conditions have not substantially changed since the approval of the master planned development district. The applicant must submit the request in writing prior to the expiration of the time period.

3. If site conditions have substantially changed since the approval of the master planned development district, a landowner may request and the Board of Commissioners may grant, at a regularly-scheduled public meeting, one extension not to exceed three years, of the two-year time period established in subsection 1 above. The applicant must submit the request in writing prior to the expiration of the time period.

### D. Master Planned Development Review Standards

The advisability of establishing a master planned development district is a matter committed to the legislative discretion of the Board of Commissioners. In determining whether to approve a proposed master planned development district, the Board of Commissioners shall consider the review standards for Zoning Map amendments in Section 10.3.2.C, Zoning Map Amendment Review Standards. The Board of Commissioners shall not approve a master planned development district unless it complies with the requirements in Section 3.3.3, General Requirements for Mixed Use Zoning Districts, and the standards that apply to the specific master planned development district set forth in Section 3.3, Mixed Use Zoning Districts.

## 10.3.5. SPECIAL USE PERMIT

### A. Purpose

A use designated as a special use in Table 4.2.1: Principal Use Table, in a particular zoning district, is a use that may be appropriate in the district, but because of its nature, extent, and external impacts, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this section is to establish a uniform mechanism for the review of special uses to ensure they are appropriate for the location and zoning district where they are proposed.

## B. Applicability

Approval of a special use permit in accordance with this this section is required before development of any use identified as a special use in Table 4.2.1: Principal Use Table.

## C. Special Use Permit Procedure

Figure 10.3.5.C summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to special use permits. Subsections 1 through 7 below, specify the required procedure for a special use permit, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.5.C: Summary of Special Use Permit Procedure**

*Special use permits for single-family dwellings, including mobile homes, shall not require Planning Board review prior to the Board of Commissioners Hearing & Decision.

### 1. Community Information Meeting

If the proposed use is classified as intensive industry, the applicant shall conduct a community information meeting in accordance with Section 10.2.3, Community Information Meeting. In all other cases, the applicant may conduct a community information meeting in accordance with Section 10.2.3 at the applicant's option.

### 2. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance. The required completeness review must be completed within five business days after the application submittal date.

### 3. Staff Review and Action

**a.** If requested by the applicant, the TRC shall review the application and provide any comments on the proposed special use permit to the Planning Director, who shall transmit any comments received from the TRC in writing to the applicant.

**b.** In preparation for the Planning Board's public hearing on the application, the Planning Director shall review the application and prepare a staff report in accordance with Section 10.2.5, Staff Review and Action, which the Clerk to the Planning Board shall publish in the agenda package for the Planning Board meeting for which the public hearing on the application is scheduled. The staff report shall:

1. Summarize the proposed development and preliminary findings of fact; and

2. Address the review standards in Section 10.3.5.D, Special Use Permit Review Standards, stating whether each standard is met or identifying, in staff's view, any additional information necessary for the Planning Board to provide a recommendation to the Board of Commissioners whether each standard is met.

**c.** In preparation for the Board of Commissioners' public hearing on the application, the Planning Director shall prepare a staff report in accordance with Section 10.2.5, Staff Review and Action, which the Clerk to the Board of Commissioners shall publish in the agenda package for the Board of Commissioners meeting for which the public hearing on the application is scheduled. The staff report shall:

1. Summarize the special use permit request, the information and materials provided in the application package and presented at the Planning Board public hearing(s), the Planning Board's recommendations, and preliminary findings of fact; and

2. Address the review standards in Section 10.3.5.D, Special Use Permit Review Standards, stating whether each standard is met or identifying, in staff's view, any additional information necessary for the Board of Commissioners to be able to determine whether each standard is met.

**4. Public Hearing Scheduling and Public Notification**

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 10.2.6.

**5. Planning Board Review and Action**

**a.** The Planning Board shall conduct a public hearing on the application and make a recommendation on the application in accordance with Section 10.2.8, Advisory Body Review and Action, and Section 10.3.5.D, Special Use Permit Review Standards.

**b.** Following the hearing and the Planning Board's recommendation, the Planning Director shall prepare a report to inform the Board of Commissioners of whether the standards in Section 10.3.5.D, Special Use Permit Review Standards, have been met or to identify, from staff's perspective, issues or areas that the Board of Commissioners may need more information on in order to reach a required conclusion. The report shall summarize the special use permit request, the information and materials provided in the application package and presented at the Planning Board public hearing(s), the Planning Board's recommendations, and preliminary findings of fact.

**6. Board of Commissioners Review and Action**

**a.** The Board of Commissioners shall conduct a quasi-judicial public hearing on the application and make a decision in accordance with Section 10.2.9, Decision-making Body Review and Action, and

Section 10.3.5.D, Special Use Permit Review Standards. The decision of the Board of Commissioners shall be one of the following:

**i.** Approve the special use permit application as submitted;

**ii.** Approve the approve the special use permit application, subject to conditions of approval; or

**iii.** Deny the planned development.

**b.** A motion to approve, approved with conditions, or deny the application must include findings of fact and conclusions as to whether the application complies with each of the required standards in Section 10.3.5.D, Special Use Permit Review Standards.

**c.** The Board of Commissioners may attach conditions of approval, including time limits for completion of development or for the start or end of certain uses or activities. Conditions of approval shall meet or exceed the minimum requirements of this Ordinance.

### 7. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply, except the limitation on subsequent submittal of applications proposing the same or similar development if the initial application is denied in Section 10.2.10.F, Limitation on Subsequent Similar Applications, is not limited to one year but applies in perpetuity. Additionally, the provisions in subsections a through c below, apply.

#### a. Appeal

A decision by the Board of Commissioners on a special use permit may be appealed to the Superior Court of New Hanover County in accordance with state law.

#### b. Minor Deviations

Subsequent applications for development pursuant to an approved special use permit may include minor modifications from the approved special use permit, provided such modifications have no material effect on the character of the approved development. Changes in the following constitute minor modifications that may be approved by the Planning Director:

**1.** Modifications in building placement, provided the placement does not decrease approved setbacks by more than 10 percent;

**2.** Increases to building size and height not to exceed 10 percent provided all other applicable standards of this Ordinance are met;

**3.** Modifications to structure floor plans;

**4.** Modifications to the driveway locations not exceeding 10 percent of the length of the subject property line, or as required by the North Carolina Department of Transportation; and

**5.** Modifications to the proportion of housing type not to exceed 10 percent.

The Planning Director may approve minor deviations in the location and size of structures of an approved special use permit if the applicant demonstrates that the deviation is necessary and would not cause or contribute to any of the following:

**1.** A change in the character of the development;

**2.** A change of design for, or an increase in the hazards to pedestrian and vehicle circulation; or

**3.** A modification in the originally approved setbacks from roads or property lines exceeding ten percent.

**c. Expiration**

**1.** A special use permit shall automatically expire and become null and void if construction or occupancy of the proposed use as specified on the special use permit is not commenced within two years after the date of issuance, unless the applicant submits a written request for an extension to the Planning Director prior to the expiration, and the request is granted in accordance with subsection 2 or 3 below.

**2.** A landowner may request, and the Planning Director may grant, one, one-year extension of the two-year time period established in subsection 1 above, if the Planning Director determines that site conditions have not substantially changed since the approval of the special use permit.

**3.** If site conditions have substantially changed since the approval of the special use permit, a landowner may request, and the Board of Commissioners may grant, at a regularly-scheduled public meeting, one extension of the two-year time period established in subsection 1 above, of up to three years.

**4.** The total vesting period for extensions granted in accordance with subsections 2 and 3 above shall not exceed five years.

## D. Special Use Permit Review Standards

The Board of County Commissioners shall approve an application for a special use permit only if it reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence presented at the hearing:

**1.** The use will not materially endanger the public health or safety if located where proposed and approved;

**2.** The use meets all required conditions and specifications of this Ordinance;

**3.** The use will not substantially injure the value of adjoining or abutting property, or the use is a public necessity; and

4. The location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Land Use Plan for New Hanover County.

### 10.3.6. SITE PLAN

#### A. Purpose

The purpose of this section is to provide a uniform mechanism to ensure the layout, form, and general design of proposed development complies with all applicable standards of this Ordinance and all other applicable County and state regulations.

#### B. Applicability

1. Approval of a major or minor site plan in accordance with this section is required prior to the issuance of a zoning compliance approval, building permit, or certificate of occupancy for any development that is not exempted by subsection 2 below.
2. The following types of development are exempt from the requirements of this section:
   a. Internal construction that does not:
      1. Increase building height;
      2. Increase the density or intensity of use; or
      3. Require changes to parking or landscaping in accordance with Section 5.1, Parking and Loading, and Section 5.4, Landscaping and Buffering; and
   b. Any change in use that does not result in additional parking or landscaping in accordance with Section 5.1, Parking and Loading, and Section 5.4, Landscaping and Buffering.

#### C. Major and Minor Site Plans Distinguished

There are two types of site plan review under this Ordinance: major site plan review and minor site plan review.

##### 1. Major Site Plans

Major site plans are reviewed by the TRC in accordance with Section 10.3.6.D, Major Site Plan Procedure. Major site plan review is required for development that requires site plan review in accordance with Section 10.3.6.B, Applicability, and that

a. Increases impervious surface by more than 10,000 square feet; or

b. Includes more than 5,000 square feet of building gross floor area.

##### 2. Minor Site Plans

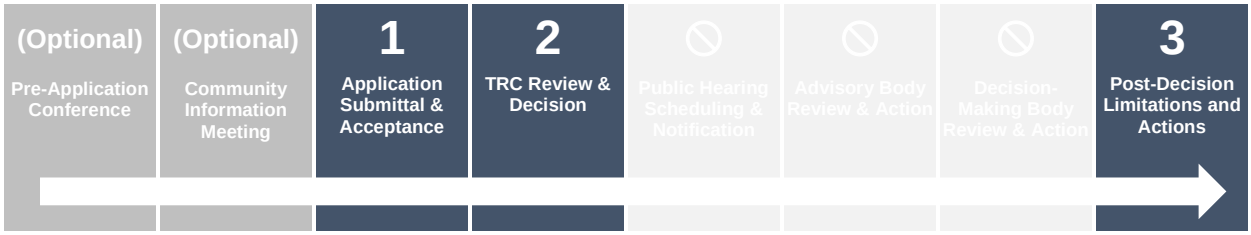
Minor site plans are reviewed by the Planning Director in accordance with Section 10.3.6.E, Minor Site Plan Procedure. Minor site plan review is required for development that requires site plan review in accordance with

Section 10.3.6.B, Applicability, and that does not require major site plan review in accordance with subsection 1 above.

### D. Major Site Plan Procedure

Figure 10.3.6.D summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to a major site plan. Subsections 1 through 3 below, specify the required procedure for a major site plan, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.6.D: Summary of Major Site Plan Procedure**




#### 1. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance.

#### 2. Staff Review and Action

The TRC shall review the application and make a decision, in accordance with Section 10.2.5, Staff Review and Action, and Section 10.3.6.F, Site Plan Review Standards. The TRC's decision shall be one of the following:

**a.** Approve the application as submitted;

**b.** Approve the application, subject to conditions of approval; or

**c.** Deny the application.

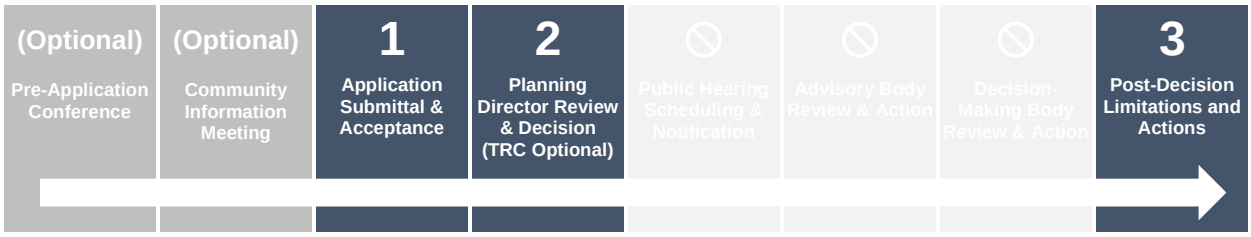
#### 3. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply.

### E. Minor Site Plan Procedure

Figure 10.3.6.E summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to minor site plans. Subsections 1 through 3 below, specify the required procedure for a minor site plan, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.6.E: Summary of Minor Site Plan Procedure**




**1. Application Submittal and Acceptance**

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance.

**2. Staff Review and Action**

**a.** If requested by the applicant, the TRC shall review the application and provide any comments on the minor site plan application to the Planning Director, who shall transmit any comments received from the TRC in writing to the applicant.

**b.** Following review by the TRC, as applicable, the Planning Director shall review the application and make a decision in accordance with Section 10.2.5, Staff Review and Action, and Section 10.3.6.F, Site Plan Review Standards. The Planning Director's decision shall be one of the following:

**1.** Approve the application as submitted;

**2.** Approve the application, subject to conditions of approval; or

**3.** Deny the application.

**3. Post-Decision Limitations and Actions**

The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply.

## F. Site Plan Review Standards

The TRC or the Planning Director, as appropriate, shall approve a site plan application only on finding that the applicant demonstrates there is competent, substantial, and material evidence in the record that all of the following standards are met:

**1.** The proposed development and uses in the site plan comply with Article 3: Zoning Districts, and Article 4: Uses and Use-Specific Standards;

**2.** The development proposed in the site plan and its general layout and design comply with all the standards in Article 5: General Development Standards, and Article 6: Subdivision Design and Improvement;

**3.** The development proposed in the site plan complies with all conditions of approval in any development approval or permit to which the plan is subject; and

4. The development proposed in the site plan complies with all other applicable standards in this Ordinance and all other County regulations.

## 10.3.7. SUBDIVISION

### A. Purpose

The purpose of this section is to provide a uniform mechanism for the approval of divisions of land and to ensure that plats (subdivisions) promote the health, safety, convenience, order, prosperity, and welfare of the present and future inhabitants of the County by:

1. Providing for the orderly growth and development of the County;
2. Coordinating streets and roads within proposed plat with the County's street system and transportation plans, and with other public facilities;
3. Providing rights-of-way for streets and utility easements;
4. Avoiding congestion and overcrowding, and encouraging the proper arrangement of streets in relation to existing or planned streets;
5. Ensuring there is adequate open space and recreation facilities to serve development; and
6. Ensuring there is proper recordation of land ownership or property owner association records, where applicable.

### B. Applicability

1. Subdivision review and approval in accordance with the procedures and standards in this section are required for any division of land within the subdivision jurisdiction of the County, unless exempted in accordance with subsection 2 below.
2. The following are excluded from the definition of subdivision under this Ordinance and are not subject to the requirements of this section:
   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 in Article 6: Subdivision Design and Improvement;
   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 as shown in Article 6: Subdivision Design and Improvement; and
   e. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

**3.** The provisions of this section shall not prohibit any landowner or landowner's agent from entering into contracts to sell or lease by reference to an approved preliminary plan in accordance with N.C.G.S. § 153A-334.

### C. Major and Minor Subdivisions Distinguished

There are two types of subdivision review under this Ordinance: major subdivision review and minor subdivision plat review.

#### 1. Major Subdivision

Major subdivision review and approval in accordance with Section 10.3.7.D, Major Subdivision Procedures and Standards, is required for all subdivisions that are not reviewed as a minor subdivision plat in accordance with subsection 2 below. Approval of a major subdivision requires approval of a preliminary plan, construction plans, and one or more final plats as set forth in subsection a through c below.

**a.** Approval of a preliminary plan in accordance with Section 10.3.7.D.1, Preliminary Plan Procedure, is required prior to the submittal and review of Construction Drawings (see Section 10.3.7.D.2) and the submittal and review of final plat applications (see Section 10.3.7.D.3).

**b.** Approval of construction plans in accordance with Section 10.3.7.D.2, Construction Plans Procedure, is required prior to the installation of any required improvements and the submittal and review of final plat applications (see Section 10.3.7.D.3). Subject to sewer availability, building permits may be issued after approval of construction plans. No land-disturbing activity or tree removal may begin on any site subject to the provisions of this Ordinance until all required development approvals and permits are issued.

**c.** Approval of a final plat in accordance with Section 10.3.7.D.3, Final Plat Procedure, is required prior to recording the plat in the Office of the Register of Deeds. The final plat shall be recorded in the Office of the Register of Deeds prior to the sale or lease of land or buildings within the subdivision.

#### 2. Minor Subdivision Plat

Minor subdivision plat review and approval in accordance with Section 10.3.7.E, Minor Subdivision Plat Procedure and Standards, is required for any subdivision:

**a.** Involving not more than five lots, all of which front on an existing approved street; and

**b.** Not involving any new streets or prospectively requiring any new street for access to interior property; and

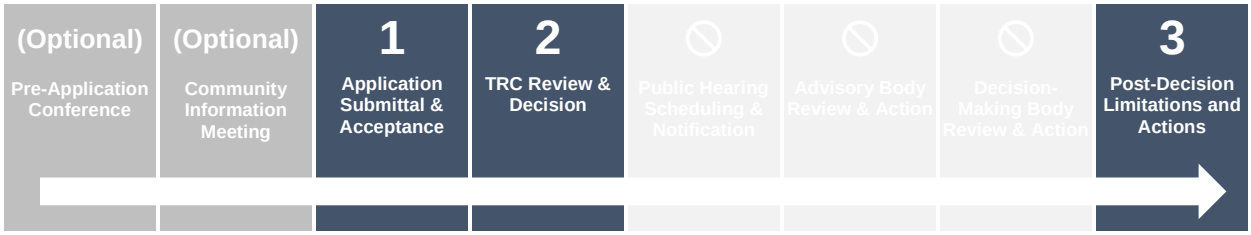
**c.** Not requiring drainage improvements or easements to serve the applicant's property or interior properties.

## D. Major Subdivision Procedures and Standards

### 1. Preliminary Plan Procedure

Figure 10.3.7.D.1 summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to preliminary plans. Subsections a through c below, specify the required procedure for a preliminary plan, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.7.D.1: Summary of Preliminary Plan Procedure**




#### a. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance. If the proposed subdivision will generate more than 100 trips during the peak hour, a traffic impact study must be submitted prior to approval of the application. The traffic impact study shall be prepared in accordance with Standards and Guidelines approved by the County. If a proposed major thoroughfare runs through or is associated with the tract of land to be subdivided, a sketch plan may be submitted for staff review prior to the submission of an application for a preliminary plat.

#### b. Staff Review and Action

The TRC shall review the application, hear any comments from the applicant or other interested persons at a meeting of the TRC, and make a decision, in accordance with Section 10.2.5, Staff Review and Action, and Section 10.3.7.D.4.a, Preliminary Plan Review Standards. The TRC's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application, subject to conditions of approval; or
3. Require that the application be revised to address deficiencies in complying with applicable development standards.

All subdivisions which require an erosion and sedimentation plan and/or require a Coastal Area Management Act (CAMA) major permit must be reviewed by the North Carolina Division of Water Quality for compliance with the Water Supply Watershed Projection Rules (15A NCAC 28.022) and the Coastal Storm Water Rules (15A NCAC 2H.1000).

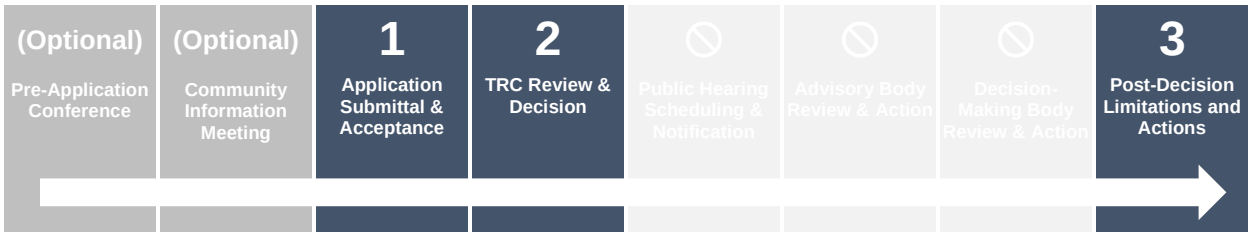
### c. Post-Decision Limitations and Actions

1. The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply.
2. If the application is not approved, the applicant may submit a revised preliminary plan in accordance with the application requirements in the Administrative Manual. Review of the revised preliminary plan shall be in accordance with this section (10.3.7.D.1).
3. If the application is approved, approval shall be noted on the plan. One copy of the plan shall be transmitted to the applicant and another copy shall be retained by the Planning Department.
4. Preliminary plan approval shall automatically expire and become void if the subdivider does not submit a final plat for all or part of the lands subject to the approved preliminary plan within two years of the preliminary plan approval date, unless an extension of time is granted in accordance with subsection 5 below.
5. The TRC may grant up to two, one-year extensions of the time period set forth in subsection 4 above, for good cause, if the applicant submits a written request for an extension prior to the expiration of the preliminary plan approval.

## 2. Construction Plans Procedure

Figure 10.3.7.D.2 summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to construction plans. Subsections a through c below, specify the required procedure for construction plans, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.7.D.2: Summary of Construction Plans Procedure**




### a. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.2, Application Submittal and Acceptance, except applications shall be submitted to the County Engineer, who shall make a determination of completeness and perform other administrative duties pertaining to the application.

**b. Staff Review and Action**

**1.** The TRC shall review the application and make a decision in accordance with Section 10.2.5, Staff Review and Action, and Section 10.3.7.D.4.b, Construction Plans Review Standards. The TRC's decision shall be one of the following:

**i.** Approve the application as submitted;

**ii.** Approve the application, subject to conditions of approval; or

**iii.** Deny the application.

**2.** If the application is approved, the County Engineer shall issue an approval letter for the installation of the required improvements in accordance with the approved plans and the design standards specified in this Ordinance.

**c. Post-Decision Limitations and Actions**

**1.** The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply.

**2.** The Planning Director, in conjunction with the appropriate agencies, shall review and approve all required improvements prior to the final plat being approved (see Section 10.3.7.D.4.c, Final Plat Review Standards).

### 3. Final Plat Procedure

Figure 10.3.7.D.3 summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to final plats. Subsections a through c below, specify the required procedure for a final plat, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.7.D.3: Summary of Final Plat Procedure**

**a. Application Submittal and Acceptance**

Applications shall be submitted in accordance with Section 10.2.2, Application Submittal and Acceptance.

**b. Staff Review and Action**

The Planning Director shall review the application and make a decision in accordance with Section 10.2.5, Staff Review and Action,

and Section 10.3.7.D.4.c, Final Plat Review Standards. The Planning Director's decision shall be one of the following:

1. Approve the application; or
2. Deny the application.

**c. Post-Decision Limitations and Actions**

1. The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply.
2. If the application is approved, the Planning Director shall indicate in writing on the original tracing that the plat is approved. After the affixing of all required signatures (except Certificate of Registration by the Register of Deeds) the final plat shall be returned to the applicant.
3. The applicant shall file an approved final plat with the Office of the Register of Deeds for recording within 90 days of the date of its approval by the Planning Director or such approval shall be void, unless the Planning Director grants an extension of that time period for good cause.

**4. Major Subdivision Review Standards**

**a. Preliminary Plan Review Standards**

The TRC shall approve a preliminary plan application only if a traffic impact study is submitted in accordance with Section 10.3.7.D.1.a, and only on finding that the proposed subdivision complies with the applicable standards in Article 6: Subdivision Design and Improvement, all other applicable standards of this Ordinance, and all other applicable County and state laws and regulations.

**b. Construction Plans Review Standards**

The TRC shall approve construction plans on finding that the plans are in substantial conformance with the approved preliminary plan and comply with the applicable standards in Article 6: Subdivision Design and Improvement, and all other applicable County and state laws and regulations.

**c. Final Plat Review Standards**

The Planning Director shall approve a final plat application only on finding the following:

1. The final plat conforms substantially to the preliminary plan as it was approved;
2. The final plat complies with the applicable standards in Article 6: Subdivision Design and Improvement, and with all other applicable County and state laws and regulations, including the provisions in N.C.G.S. Section 47-30;
3. The final plat complies with the policies of New Hanover County in regard to mapping; and

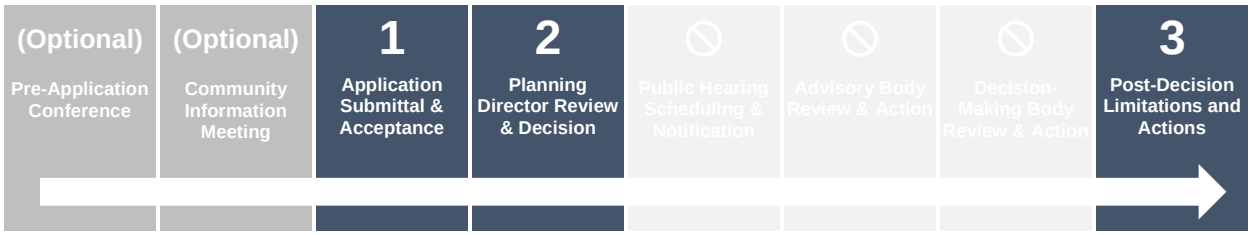
4. All required improvements have been installed in accordance with the requirements of this Ordinance and any other applicable County and state regulations, or a financial guarantee is provided for any required improvements that are not installed in accordance with Section 6.3.2, Guarantees of Improvements.

## E. Minor Subdivision Plat Procedure and Standards

### 1. Minor Subdivision Plat Procedure

Figure 10.3.7.E.1 summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to a minor subdivision plat. Subsections a through c below, specify the required procedure for minor subdivision plats, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.7.E.1: Summary of Minor Subdivision Plat Procedure**




#### a. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance. In addition to the other application requirements set forth in the Administrative Manual, the application shall include one original print of the plat, drawn in ink on film or linen in a size suitable for recording.

#### b. Staff Review and Action

1. The Planning Director shall review the application and make a decision in accordance with Section 10.2.5, Staff Review and Action, and Section 10.3.7.E.2, Minor Subdivision Plat Standards. The Planning Director's decision shall be one of the following:
   i. Approve the application; or
   ii. Deny the application.
2. If the Planning Director approves the application, the Planning Director shall stamp the plat as an approved minor subdivision.
3. All subdivisions which require an erosion and sedimentation plan and/or require a Coastal Area Management Act (CAMA) major permit must be reviewed by the North Carolina Division of Water Quality for compliance with the Water Supply Watershed Projection Rules (15A NCAC 28.022) and the Coastal Storm Water Rules (15A NCAC 2H.1000).

#### c. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply. The applicant shall file an approved final plat with the Office of the Register of Deeds for recording after approval.

### 2. Minor Subdivision Plat Standards

The Planning Director shall approve a minor subdivision plat application only on finding that the proposed subdivision complies with the applicable standards in Article 6: Subdivision Design and Improvement, all other applicable standards of this Ordinance, and all other applicable County and state laws and regulations, including the provisions in N.C.G.S. § 47-30.

## 10.3.8. ZONING COMPLIANCE APPROVAL

### A. Purpose

The purpose of zoning compliance approval is to provide a uniform mechanism to ensure development complies with the requirements of this Ordinance, either in conjunction with a building permit application or as a separate application if no building permit is required.

### B. Applicability

A zoning compliance approval is required for the following activities:

1. Establishment of a new use other than bona fide farms;
2. Erection, alteration, moving, or repair of any building; and
3. Occupying or permitting the use or occupancy of any building or premises, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure.

### C. Zoning Compliance Approval Procedure

Figure 10.3.8.C summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to zoning compliance approvals. Subsections 1 through 3 below, specify the required procedure for a zoning compliance approval, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.8.C: Summary of Zoning Compliance Approval Procedure**

#### 1. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance.

#### 2. Staff Review and Action

The Planning Director shall review the application and make a decision in accordance with Section 10.2.5, Staff Review and Action, and Section 10.3.8.D, Zoning Compliance Approval Review Standards. The Planning Director's decision shall be one of the following:

**a.** Approve the application as submitted;

**b.** Approve the application, subject to conditions of approval; or

**c.** Require the application be revised to address deficiencies in complying with applicable development standards .

#### 3. Post-Decision Limitations and Actions

**a.** The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply.

**b.** Zoning compliance approval issued on the basis of plans and applications approved by the Planning Director authorizes only the use, arrangements, and construction set forth in such approved plans and applications. Subsequent use, arrangements, or construction that do not comply with the zoning compliance approval shall be deemed a violation of this Ordinance and shall be subject to Article 12: Violations and Enforcement.

### D. Zoning Compliance Approval Review Standards

The Planning Director shall issue a zoning compliance approval only on finding that the proposed use of the building or land conforms to the requirements of this Ordinance.

## 10.3.9. TREE REMOVAL PERMIT

### A. Purpose

The purpose of this section is to provide a uniform mechanism for ensuring all development complies with the standards in Section 5.3.4, Tree Retention Standards.

### B. Applicability

#### 1. General

**a.** Unless a waiver, exemption, or exception applies in accordance with subsection 2 below, no person, directly or indirectly, shall remove any regulated tree identified in Section 5.3.4, Tree Retention Standards, from public or private property without first obtaining a tree removal permit in accordance with this section.

**b.** Unless a waiver, exemption, or exception applies in accordance with subsection 2 below, a tree removal permit is required before any

clearing, grading, or other authorizations are issued under this Ordinance, including erosion and sedimentation control permits (see Article 8: Erosion and Sedimentation Control) and building permits.

**c.** An approved tree removal permit for new construction shall apply to the entire site.

**2. Waivers, Exemptions, and Exceptions**

**a.** The Planning Director may waive the requirement for a tree removal permit during an emergency such as a hurricane, tornado, windstorm, tropical storm, flood, or other natural disaster.

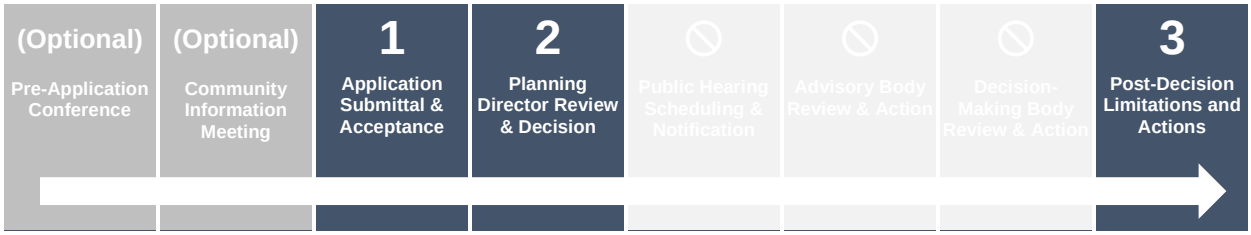
**b.** The procedures and standards in this section do not apply to lands exempted from the tree retention standards by Section 5.3.1, Applicability.

**c.** If any regulated tree under Section 5.3, Tree Retention, is determined to be creating a hazardous condition which immediately endangers the public health, safety, or welfare, or causes an immediate disruption of public services, the Planning Director may authorize the removal of the tree without a tree removal permit.

### C. Tree Removal Permit Procedure

Figure 10.3.9.C summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to tree removal permits. Subsections 1 through 3 below, specify the required procedure for a tree removal permit, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.9.C: Summary of Tree Removal Permit Procedure**




**1. Application Submittal and Acceptance**

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance.

**2. Staff Review and Action**

The Planning Director shall review the application and make a decision in accordance with Section 10.2.5, Staff Review and Action, and Section 10.3.9.D, Tree Removal Permit Review Standards. The Planning Director's decision shall be one of the following:

**a.** Approve the application as submitted;

**b.** Approve the application, subject to conditions of approval; or

**c.** Deny the application.

**3. Post-Decision Limitations and Actions**

The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply, except that a tree removal permit shall automatically expire six months after the date it is issued.

### D. Tree Removal Permit Review Standards

The Planning Director shall issue a tree removal permit only on determining the application complies with all applicable standards of Section 5.3, Tree Retention, and that any of the following conditions exist:

**1.** Essential site improvements cannot be accommodated on the site without the removal of protected or significant trees;

**2.** The regulated tree is dead, severely diseased, injured, or in danger of falling close to existing or proposed structures;

**3.** The regulated tree is causing disruption of existing utility service or causing passage problems upon the right-of-way;

**4.** The regulated tree is posing an identifiable threat to pedestrian or vehicular safety;

**5.** The regulated tree violates state and local safety standards; or

**6.** Removal of the regulated tree is necessary to enhance or benefit the health or condition of adjacent trees or property.

## 10.3.10. FLOODPLAIN DEVELOPMENT PERMIT

The requirements for submittal and review of floodplain development permit applications are set forth in Article 9: Flood Damage Prevention.

## 10.3.11. VARIANCE – ZONING AND SUBDIVISION

### A. Purpose

The purpose of a variance is to allow certain deviations from specified standards of this Ordinance when the landowner demonstrates that, owing to special conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

### B. Applicability

**1.** The variance procedure in this section may be used to vary any of the following standards:

**a.** Standards for maximum height, maximum lot coverage, setbacks, minimum lot area, and minimum lot width for each zoning district in Article 3: Zoning Districts;

**b.** Article 5: General Development Standards; and

**c.** Article 6: Subdivision Design and Improvement.

2. The following variances are not allowed:

   a. An increase in the development density (i.e. units per acre) beyond that allowed in a base zoning district;

   b. An increase in the number of a particular type of sign beyond that allowed by Section 5.6, Signs; and

   c. Permitting a use not allowed in a zoning district, or having the effect of allowing a prohibited use or a prohibited sign.

## C. Zoning and Subdivision Variance Procedure

Figure 10.3.11.C summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to zoning and subdivision variances. Subsections 1 through 5 below, specify the required procedure for zoning and subdivision variances, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.11.C: Summary of Zoning and Subdivision Variance Procedure**

### 1. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance.

### 2. Staff Review and Action

The Planning Director shall review the application and prepare a staff report in accordance with Section 10.2.5, Staff Review and Action. A recommended decision on the application shall not be included in staff reports on variance applications.

### 3. Public Hearing Scheduling and Public Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 10.2.6, Public Hearing Scheduling and Public Notification.

### 4. Decision-Making Body Review and Action

   a. The Board of Adjustment shall conduct a quasi-judicial public hearing on the application and make a decision in accordance with Section 10.2.9, Decision-making Body Review and Action, and Section 10.3.11.D, Zoning and Subdivision Variance Review Standards, for a

zoning variance and the Planning Board for a subdivision variance. The Board's decision shall be one of the following:

**1.** Approve the application as submitted;

**2.** Approve the application subject to conditions of approval; or

**3.** Deny the application.

**b.** The concurring vote of four-fifths of the Board shall be necessary to grant a variance.

**5. Post-Decision Limitations and Actions**

**a.** The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply.

**b.** Any appeal of the Board of Adjustment's or Planning Board's decision shall be to the Superior Court of New Hanover County, in accordance with state law.

### D. Zoning and Subdivision Variance Review Standards

**1.** Except as otherwise provided by subsection 2 below, the Board of Adjustment or Planning Board shall grant a variance only if it reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence presented at the hearing:

**a.** Unnecessary hardship would result from the strict application of this Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

**b.** The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

**c.** The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

**d.** The requested variance is consistent with the spirit, purpose, and intent of this Ordinance, such that public safety is secured, and substantial justice is achieved.

**2.** The Board of Adjustment shall grant a variance from the requirements of Section 5.10, Airport Height Restriction, on finding that a copy of the application was furnished to the Airport Authority for advice as to aeronautical effects of the proposed variance and the Airport Authority was given 15 days to respond to the application, and on reaching all of the following conclusions, based on findings of fact supported by competent, substantial, and material evidence presented at the hearing:

**a.** A literal application or enforcement of the regulations will result in unnecessary hardship; and

**b.** The relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance.

**3.** The following factors do no constitute sufficient grounds for approval of a variance:

**a.** A request for a particular use that is expressly, or by inference, prohibited in the zoning district;

**b.** Hardships resulting from factors other than application of the standards of this Ordinance;

**c.** The fact that land or a structure may be utilized more profitably or be more marketable with a variance;

**d.** The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts; or

**e.** Financial hardship.

## 10.3.12. VARIANCE – FLOODPLAIN

The procedures and standards for obtaining a variance from the standards in Article 9: Flood Damage Prevention, are set forth in Section 9.7.5, Variance Procedures.

## 10.3.13. REASONABLE ACCOMMODATION

### A. Applicability

#### 1. General

This section provides a procedure for reasonable accommodation of eligible persons in cases where the strict application of the standards of this Ordinance would deprive them of their right to equal opportunity to use a dwelling under the federal Fair Housing Act.

#### 2. Eligible Persons

**a.** An eligible person is a person who meets the definition of a disabled or handicapped person under federal law.

**b.** A person recovering from substance abuse is considered a person with a disability or handicap provided they are not currently engaging in the illegal use of controlled substances.

### B. Reasonable Accommodation Procedure

Figure 10.3.13.B summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to reasonable accommodation applications. Subsections 1 through 5 below, specify the required procedure for reasonable accommodation applications, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.13.B: Summary of Reasonable Accommodation Procedure**

### 1. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance. No filing fee is required for a reasonable accommodation application.

### 2. Staff Review and Action

The Planning Director shall review the application and prepare a staff report in accordance with Section 10.2.5, Staff Review and Action. A recommended decision on the application shall not be included in a staff report on reasonable accommodation applications.

### 3. Public Hearing Scheduling and Public Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 10.2.6, Public Hearing Scheduling and Public Notification.

### 4. Decision-Making Body Review and Action

The Board of Adjustment shall conduct a quasi-judicial public hearing on the application and make a decision in accordance with Section 10.2.9, Decision-making Body Review and Action, and Section 10.3.13.C, Reasonable Accommodation Review Standards. The Board's decision shall be one of the following:

**a.** Approve the application as submitted;

**b.** Approve the application with revisions; or

**c.** Deny the application.

### 5. Post-Decision Limitations and Actions

**a.** The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply.

**b.** Any appeal of the Board of Adjustment's decision shall be to the Superior Court of New Hanover County, in accordance with state law.

### C. Reasonable Accommodation Review Standards

1. A reasonable accommodation application shall be approved on a finding the proposed accommodation:
   a. Will be used by an individual or individuals with a disability or handicap protected under federal law;
   b. Is the minimum needed to provide accommodation; and
   c. Is reasonable and necessary.
2. For the purposes of this section, an accommodation is reasonable if it would not undermine the legitimate purposes of this Ordinance, it does not constitute a substantial alteration of this Ordinance or other County standard, and it will not impose significant financial and administrative burdens upon the County.
3. For the purposes of this section, an accommodation is necessary if it would provide direct or meaningful therapeutic amelioration of the effects of the particular disability or handicap, and would afford handicapped or disabled persons equal opportunity to use housing in residential districts in the County.

## 10.3.14. APPEAL OF ADMINISTRATIVE DECISION

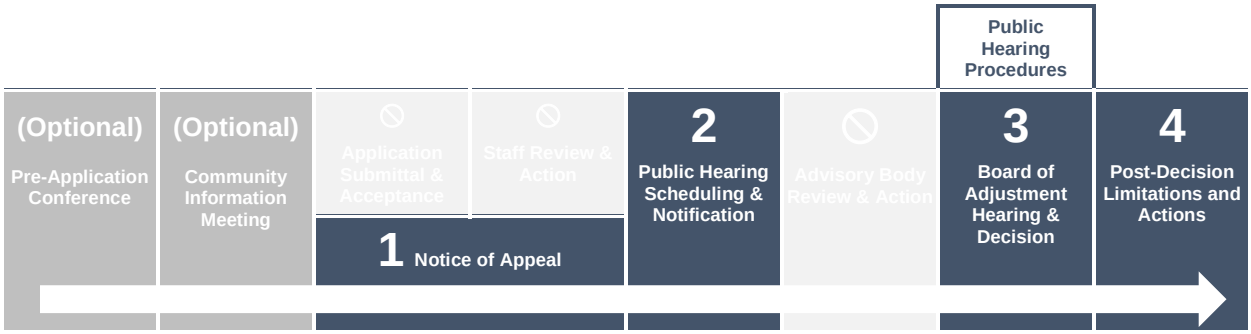
### A. Applicability

Any person who has standing under N.C.G.S. 160A-393(d), or the County, may appeal a decision, interpretation, or determination made by the Planning Director or the TRC under this Ordinance to the Board of Appeals in accordance with the procedures and standards in this section and state law.

### B. Appeal of Administrative Decision Procedure

Figure 10.3.14.B summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to an appeal of an administrative decision. Subsections 1 through 4 below, specify the required procedure for an appeal of an administrative decision, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.14.B: Summary of Appeal of Administrative Decision Procedure**



**1. Notice of Appeal**

The procedures and requirements in Section 10.2.4, Application Submittal and Acceptance, and Section 10.2.5, Staff Review and Action, do not apply to appeals of administrative decisions. Instead, a Notice of Appeal, along with the required fees, shall be filed and processed in accordance with subsections a through e below.

**a.** The appellant shall file a Notice of Appeal stating the grounds for the appeal with the County Clerk within 30 days of:

**1.** Receipt of written notice in accordance with Section 10.2.10.A, Notification to Applicant; or

**2.** If the appellant did not receive written notice in accordance with Section 10.2.10.A, Notification to Applicant, receipt of actual or constructive notice of the decision.

**b.** The Planning Director shall transmit all documents and exhibits constituting the record upon which the decision appealed from is taken to the Board of Adjustment, and shall provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal, if the appellant is not the owner.

**c.** An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from, subject to subsections 1 and 2 below.

**1.** The official who made the decision may certify to the Board of Adjustment, after the Notice of Appeal is filed, that because of the facts stated in an affidavit:

**i.** A stay would cause imminent peril to life or property; or

**ii.** A stay would seriously interfere with enforcement of this Ordinance because the violation is transitory in nature.

**2.** If a certification is made in accordance with subsection 1 above, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court.

**d.** If enforcement proceedings are not stayed in accordance with subsection c above, the appellant may file with the Planning Director a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after the request is filed.

**e.** Decisions granting a permit or otherwise affirming that a proposed use of property is consistent with this Ordinance shall not stay the further review of applications for development approvals or permits for the property. In such cases, the appellant may request, and the Board may grant, a stay of a final decision of permit applications or building permits affected by the issue being appealed.

#### 2. Public Hearing Scheduling and Public Notification

The Planning Director shall schedule the public hearing on the appeal and provide public notification in accordance with Section 10.2.6, Public Hearing Scheduling and Public Notification.

#### 3. Decision-Making Body Action

**a.** The Board of Adjustment shall conduct a quasi-judicial public hearing and make a decision on the appeal, by vote of a majority of members, not counting vacant positions on the Board or members who are disqualified from voting. The hearing and decision shall be in accordance with Section 10.2.9, Decision-making Body Review and Action, and Section 10.3.14.C: Appeal of Administrative Decision Standards. The Board's decision shall be one of the following:

**1.** Affirm (wholly or partly) the decision;

**2.** Modify the decision; or

**3.** Reverse the decision.

**b.** In making its decision, the Board of Adjustment shall have all the powers of the official who made the decision and shall make any order, requirement, decision, or determination that ought to be made.

#### 4. Post-Decision Limitations and Actions

**a.** The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply.

**b.** Any appeal of the Board of Adjustment's decision shall be to the Superior Court of New Hanover County, in accordance with state law.

### C. Appeal of Administrative Decision Standards

The Board of Adjustment shall modify or reverse the decision on appeal only if it finds, based upon competent, substantial, and material evidence in the record, that there has been a clear and demonstrable error, abuse of discretion, or denial of procedural due process in the application of the facts in the record to the applicable standards of this Ordinance.

## 10.3.15. INTERPRETATION

### A. Purpose

The purpose of the interpretation procedure in this section is to establish a uniform mechanism for rendering formal written interpretations of the text of this Ordinance and the boundaries or classifications on the Official Zoning Map.

### B. Applicability

**1.** The procedure and standards in this section are required for the rendering of formal written interpretations of the text of this Ordinance and the boundaries or classifications on the Official Zoning Map.

2. Except as set forth in subsection 3 below, the Planning Director is responsible for making interpretations of all provisions of this Ordinance, including, but not limited to:

   **a.** Interpretations of the text;

   **b.** Interpretations of the zoning district boundaries; and

   **c.** Interpretations of whether an unlisted use in Table 4.2.1: Principal Use Table, is comparable to a listed use or not, and should be allowed in a zoning district or prohibited in that district.

## C. Interpretation Procedure

Figure 10.3.15.C summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to interpretations. Subsections 1 through 3 below, specify the required procedure for an interpretation, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.15.C: Summary of Interpretation Procedure**

### 1. Application Submittal and Acceptance

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance, subject to the modifications in subsections a and b below. Written requests for interpretations shall be considered "applications" for purposes of this section. An application for an interpretation may be initiated by the Board of Commissioners, the Planning Board, any resident or landowner in the County, or any person having a contractual interest in land in the County.

### 2. Staff Review and Action

**a.** The Planning Director shall distribute the application, review the application, and make an interpretation, which shall constitute the decision on the application, in accordance with Section 10.2.5, Staff Review and Action, and Section 10.3.15.D: Interpretation Standards.

**b.** Prior to rendering an interpretation, the Planning Director shall consult with the County Attorney and other affected County officials

### 3. Post-Decision Limitations and Actions

**a.** The post-decision limitations and actions in Section 10.2.10, Post-decision Limitations and Actions, apply.

**b.** A written interpretation shall be binding on subsequent decisions by the Planning Director or other officials in applying the same provision of this Ordinance or the Official Zoning Map in the same circumstance, unless the interpretation is modified in accordance with this section, or the relevant text of this Ordinance or zoning district boundary is amended.

**c.** The Planning Director shall maintain a record of written interpretations that shall be available in the Planning Department during normal business hours.

## D. Interpretation Standards

### 1. Unspecified Uses

Interpretation of whether an unspecified use is similar to a use identified in Table 4.2.1: Principal Use Table, or is prohibited in a zoning district shall be based on Section 4.1.3, Classification of New or Unlisted Uses.

### 2. Zoning Map Boundaries

Interpretation of zoning district boundaries on the Official Zoning Map shall be in accordance with the standards in Section 3.1.1.C, Rules for Interpretation of District Boundaries.

### 3. Text Provisions

Interpretation of the text and its application shall be based on the standards in Section 2.2, Rules of Construction, and the following considerations:

**a.** The clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision—as established in Section 2.2, Rules of Construction, and by the common and accepted usage of the term;

**b.** The intended purpose of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history related to its adoption; and

**c.** The general purposes served by this Ordinance, as set forth in Section 1.3, General Purpose and Intent.

# Article 11: Nonconforming Situations

## Section 11.1. General Applicability

**11.1.1.** In this Ordinance there exist uses of land, structures, lots of record, signs, and site features that were lawfully established before this Ordinance was adopted or amended, that do not conform to its terms and requirements. It is the intent of this ordinance to allow such uses, structures, lots of record, signs, and site features to continue to exist until they are removed but not to encourage their continual use.

**11.1.2.** Nonconforming uses of land, structures, lots of record, signs, and site features may be continued provided they conform to the provisions of this ordinance.

## Section 11.2. Use of Undeveloped Nonconforming Lots

### 11.2.1. NONCONFORMING SINGLE LOT OF RECORD

A vacant lot of record established prior to October 6, 1969, or any amendment thereto, which does not conform to the minimum lot requirements of the district in which it is located may be used as a building site for a use permitted within that district provided:

**A.** All construction and the location of the building(s) shall be in accordance with the applicable front, side, and rear setback standards of the district in which it is located; and

**B.** The existing or proposed water and sewage disposal system is approved by the New Hanover County Environmental Health Department or the Cape Fear Public Utility Authority, whichever applies.

### 11.2.2. NONCONFORMING VACANT CONTIGUOUS LOTS OF RECORD

When any two or more adjoining lots of record (one of which is vacant) that are less than 100 feet in total width and less than 20,000 square feet in total area are held in identical ownership at any time, they shall be deemed to be combined into a lot or lots which meet the minimum lot area standards of the zoning district in which they are located.

## Section 11.3. Completion of Nonconforming Projects

The construction or erection of any project for which a building permit which is made nonconforming by this Ordinance or an amendment thereto, may be completed, provided all construction is done pursuant to a validly issued building permit.

## Section 11.4. Extension or Enlargement of Nonconforming Situations

Except as specifically provided in this section, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of non-conformity of a nonconforming situation.

### 11.4.1. EXISTING INDUSTRIAL USES

The standards outlined in Section 3.4.10, Light Industrial (I-1) District, and Section 3.4.11, Heavy Industrial (I-2) District, and any requirement for a special use permit shall apply to all new proposals in the I-1 and I-2 districts as shown on the Table 4.2.1: Principal Use Table. Any existing industrial uses which did not require a special use permit on October 3, 2011 would be considered a conforming use and shall not require a special use permit in order to continue operations. The term "existing industrial uses" shall mean industries in active operation and open for business on a tax parcel zoned I-1 or I-2, and developed for that particular use on October 3, 2011.

### 11.4.2. MODIFICATIONS AND/OR EXPANSIONS OF EXISTING INDUSTRIAL USES

**A.** Modifications or expansion of existing industrial uses whose site conditions were in conformity with the requirements of the County Zoning Ordinance on October 2, 2011, shall comply with the following. If these conditions are not met, or if the existing industrial use is classified within the intensive industry category, and the modification and/or expansion changes the particular use within that category, a special use permit is required for the modification and/or expansion.

**B. Modifications and/or Expansions on the Same Parcel**

Modifications or expansions of existing industrial uses shall be allowed if the uses are fully contained on the tax parcel currently developed for and operating as such use, if:

1. The expansion or modification is for the same existing industrial use that was in active operation and open for business as October 3, 2011.
2. The expansion or modification is for a less intensive industrial use than was in active operation and open for business as October 2, 2011. (For example, an existing intensive industry use could transition to other industry and manufacturing uses not designated as intensive).
3. The existing industrial use is classified within the other industry and manufacturing uses not designated as intensive industry category, and the use is expanded or modified to a different use within that same category.

**C. Modifications and/or Expansions onto Adjacent or Contiguous Parcels**

Modifications or expansions of existing industrial uses shall be allowed on tax parcels adjacent or contiguous (excluding rights of way) to the current use, if the zoning district in which they are located allows the use, they are held in the same ownership on October 3, 2011 (including successor ownership), and:

1. The expansion or modification is for the same existing industrial use that was in active operation and open for business on October 2, 2011.
2. The expansion or modification is for a less intensive industrial use than was in active operation and open for business as October 2, 2011. (For example, an existing intensive manufacturing use could transition to other industry and manufacturing uses not designated as intensive industry.
3. The existing industrial use is classified within the other industry and manufacturing uses not designated as intensive industry category, and

the use is expanded or modified to a different use within that same category.

**11.4.3.** Subject to Section 11.4.6 of this section, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming, was manifestly designed or arranged to accommodate such use. However, subject to Section 11.3, Completion of Nonconforming Projects, a nonconforming use may not be extended to additional buildings or to land outside the original building.

**11.4.4.** Subject to Section 11.3, Completion of Nonconforming Projects, a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e. g., a quarry) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming, if ten percent or more of the earth products had already been removed on the effective date of this provision.

**11.4.5.** Where a nonconforming situation exists, the equipment or processes may be changed if these or similar changes amount only to changes in degree of activity rather than changes in-kind and no violations of other paragraphs of this section occur.

**11.4.6.** Physical alteration of structures or the placement of new structures on open land are unlawful if they result in:

**A.** An increase in the total amount of space devoted to a nonconforming use; or

**B.** A greater non-conformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements.

**11.4.7.** Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged.

**11.4.8.** Notwithstanding Section 12.4.1.F, any structure used for single family residential purposes and maintained as a nonconforming use or structure may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new non-conformities or increase the extent of existing non-conformities with respect to lot area and setback requirements. In particular, a mobile home may be replaced with a larger mobile home, and a "single-wide" mobile home may be replaced with a "double-wide". This paragraph is subject to the limitations stated in Section 11.6, Abandonment and Discontinuance of Nonconforming Situations.

**11.4.9.** A structure that is nonconforming in any respect, or a structure that is used in a nonconforming manner may be reconstructed or replaced if partially or totally destroyed, if:

**A.** A letter of intent is received by the Planning Director within six months from the time of such destruction.

**B.** A building permit is obtained from the Building Safety Department within one year from the time the damage or destruction took place.

**C.** The total amount of space devoted to a nonconforming use may not be increased, except that a larger, single family residential structure may be constructed in place of a smaller one and a larger mobile home intended for residential use may replace a smaller one.

**D.** The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as setback standards, height, or density, and such dimensional non-conformities shall be eliminated if that can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of the building.

## Section 11.5. Change in Kind of Nonconforming Use

**11.5.1.** A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.

**11.5.2.** A nonconforming use may be changed to another nonconforming use only in accordance with approval issued by the Board of Adjustment. The Board shall issue such approval only if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use in operation at the time the approval is applied for. If a nonconforming use is changed to any use other than a conforming use without obtaining approval in accordance with this paragraph, that change shall constitute a discontinuance of the nonconforming use, and the property involved may thereafter be used only for conforming purposes

**11.5.3.** A nonconforming accessory use or building may only be changed to another nonconforming accessory use or building in accordance with subsection 11.5.2 above. Changes in a principal use are also considered as changes to any accessory use or building for the principal use.

**11.5.4.** If a nonconforming use and a conforming use, or any combination of a conforming and nonconforming uses, or any combination of nonconforming uses exist on one (1) lot, the use made of the property may be changed substantially (except to a conforming use), only in accordance with approval issued by the Board of Adjustment. The Board shall issue such approval only if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use or combination of uses in operation at the time the approval is applied for.

**11.5.5.** A use listed as permitted use in Table 4.2.1: Principal Use Table, may be established as a new use in any existing nonconforming building, provided such use complies with all off-street parking requirements of this Ordinance.

## Section 11.6. Abandonment and Discontinuance of Nonconforming Situations

**11.6.1.** When a nonconforming use is discontinued for a consecutive period of 180 days, only a conforming use may be located on the property.

**11.6.2.** For purposes of determining whether a right to continue a nonconforming situation is lost in accordance with this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building or one space in a nonconforming mobile home park for 180 days shall not result in the loss of the right to rent that apartment or space in the future, as long as the apartment building or mobile home park as a whole is continuously maintained. However, if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the

right to maintain it after 180 days of discontinuance. For example, if a mobile home is nonconforming use on a residential lot where a conforming residential structure also is located, removal of that mobile home for 180 days terminates the right to replace it.

**11.6.3.** Any structure or operation made nonconforming by this provision that was vacant or discontinued on the date of its original adoption, the 180 day period for purposes of this section, began to run on that original date of adoption.

## Section 11.7. Nonconforming Signs

### 11.7.1. DETERMINATION OF NONCONFORMITY

Existing signs which do not conform to the specific provisions of Section 5.6, Signs, and the other requirements of this Ordinance may be eligible for the designation "nonconforming" provided that:

**A.** The Building Safety Director determines that the sign is properly maintained and does not in any way endanger the public; and

**B.** The sign has a valid permit or variance approval, or complied with all applicable laws on August 6, 2001.

### 11.7.2. LOSS OF NONCONFORMING STATUS

A nonconforming sign may lose its nonconforming designation if:

**A.** The sign is relocated or replaced; or

**B.** The structure of the sign is altered in any way except towards compliance with this Section 5.6, Signs, and the other requirements of this Ordinance. This does not refer to change of copy or normal maintenance.

### 11.7.3. MAINTENANCE AND REPAIR OF NONCONFORMING SIGNS

Nonconforming signs are subject to all requirements of this Ordinance regarding safety, maintenance, and repair. However, if the sign suffers more than 50 percent appraised damage or deterioration; it shall be removed or brought into conformance with Section 5.6, Signs, and the other requirements of this Ordinance.

# Article 12: Violations and Enforcement

## Section 12.1. General Provisions

### 12.1.1. PURPOSE

This article establishes procedures through which the County seeks to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.

### 12.1.2. COMPLIANCE REQUIRED

Compliance with all the procedures, standards, and other provisions of this Ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the unincorporated County.

## Section 12.2. Violations and Responsible Persons

### 12.2.1. VIOLATIONS GENERALLY

**A.** Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this Ordinance, or the terms or conditions of any permit or other development approval or authorization granted in accordance with this Ordinance shall constitute a violation of this Ordinance punishable as provided in this article.

**B.** Permits or permit approvals issued by a decision-making body authorize only the use, arrangement, location, design, density or intensity, and development set forth in such permits or development approvals.

### 12.2.2. SPECIFIC VIOLATIONS

It shall be a violation of this Ordinance to undertake any activity contrary to the provisions of this Ordinance, including but not limited to any of the following:

**A.** Develop property or a structure without first obtaining all appropriate permits or development approvals, and complying with their terms and conditions.

**B.** Occupy or use land or a structure without first obtaining all appropriate permits or development approvals, and complying with their terms and conditions.

**C.** Subdivide land without first obtaining all appropriate permits or development approvals required to engage in subdivision, and complying with their terms and conditions.

**D.** Excavate, grade, cut, clear, mine, extract earth resources, or undertake any land disturbing activity without first obtaining all appropriate permits and development approvals, and complying with their terms and conditions.

**E.** Disturb any landscaped area or vegetation required by this Ordinance.

**F.** Fail to comply with the flood damage prevention standards, and any terms and conditions of approval.

**G.** Fail to comply with the stormwater management requirements and any terms and conditions of approval.

**H.** Install, create, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.

**I.** Remove a protected tree without a permit.

**J.** Fail to remove any sign installed, created, erected, or maintained in violation of this Ordinance, or for which the permit has expired.

**K.** Create, expand, replace, or change any nonconformity except in compliance with this Ordinance.

**L.** Reduce or diminish the requirements for development, design, or dimensional standards below the minimum required by this Ordinance.

**M.** Increase the intensity or density of development, except in accordance with the standards of this Ordinance.

**N.** Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by this Ordinance.

### 12.2.3. RESPONSIBLE PERSONS

One or more of the following responsible persons may be held responsible for a violation of this Ordinance and be subject to the remedies and penalties provided in this article:

**A.** A contractor, engineer, architect, planner, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation, and

**B.** An owner of the property on which a violation occurs, and any tenant or occupant of that property who has control over, or responsibility for its use or development, except tenants shall subject the owner only to civil penalties and/or civil action as set forth in this Ordinance, and N.C.G.S. §§ 153A-123(a), (c), (d), (e), (f), and (g), and an owner shall not incur criminal penalties for violations by any tenants. The owner's responsibilities in relation to a tenant in no way relieves any tenant from liability for any violations.

## Section 12.3. Enforcement Responsibility and Procedures

### 12.3.1. RESPONSIBILITY FOR ENFORCEMENT

**A.** The Planning Director is primarily responsible for enforcing this Ordinance, except for the Stormwater and Erosion and Sedimentation Control provisions (which the Engineer shall enforce). The Planning Director may delegate enforcement authority to enforce to other Zoning Compliance Officials involved with reviewing or inspecting development, who shall be responsible for assisting them in enforcing this Ordinance.

**B.** All other officers and employees of the County shall have the duty to assist in enforcing this Ordinance by reporting apparent violations of this Ordinance to these officials.

### 12.3.2. COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written or verbal complaint with the Planning Director, stating fully the causes and basis for the complaint. The Planning Director shall record properly the complaint, immediately investigate it, and take action as provided by this Ordinance.

### 12.3.3. INSPECTIONS

After receipt of an administrative warrant, the Planning Director may enter upon land or inspect any structure to ensure compliance with the provisions of this Ordinance. These inspections shall be carried out during normal business hours unless the Planning Director determines there is an emergency necessitating inspections at another time.

### 12.3.4. ENFORCEMENT PROCEDURE

**A.** Upon observation or reporting of an alleged violation, the Planning Director shall investigate the case and make a determination as to whether a violation has occurred in accordance with this article. If the Planning Director determines that there is a violation, a Notice of Violation shall be issued to the owner and occupant and any other person in violation, by certified or registered mail, as well as first class mail, to the last known address, or by personal service or by posting notice of the violation conspicuously on the property:

1. That the land, building, sign, structure, or use is in violation of this Ordinance;
2. The nature of the violation, and citation of the section of this Ordinance violated;
3. The measures necessary to remedy the violation; and
4. Require the violation be discontinued and corrected.

**B.** If a land use is commenced without proper zoning authorization, the Planning Director shall instruct the owner or occupant, in writing, to immediately cease the unauthorized use and apply for appropriate permits or authorizations prior to resumption of the use.

**C.** Any owner and occupant who has received a Notice of Violation may appeal in writing the decision of the Planning Director to the Board of Adjustment in accordance with Section 10.3.14, Appeal of Administrative Decision. If the Board of Adjustment affirms that the owner and occupant is in violation of this Ordinance, the Board of Adjustment shall issue an order, in writing, to the owner and occupant affirming the violation and ordering compliance. In the absence of an appeal, the remedies and penalties sought by the Planning Director shall be final.

**D.** Except in the case of an order to cease a land use, if a violation is corrected within three days of the date of Notice of Violation, no penalty shall be levied. However, if the same violation recurs within the same year, it shall be considered the second offense and penalties shall be levied each day.

**E.** If there is no approved plan in place for corrective action within three days of the date of the Notice of Violation, penalties shall accrue as outlined in Section 12.4, Remedies and Penalties, and the first day of violation will be the date on the Notice of Violation. The Planning Director may approve a plan for corrective action with specific benchmarks and continuous progress when the nature of the violation merits such a plan. The plan shall be binding on the violator and shall be in writing and included in the case file.

**F.** If after the violation is remedied, the penalties have accrued to a sum over $5,000, the owner and occupant may request consideration of an alternative equitable settlement of penalties through the office of the County Manager. A letter of justification and approval shall be included in the case file when penalties are reduced.

**G.** The Planning Director may withhold or deny any permit, certificate, occupancy, or other form of authorization on any land, building, sign, structure, or use in which there is an uncorrected violation.

### 12.3.5. APPLICATION OF REMEDIES AND PENALTIES

On determining that the violator has failed to correct the violation by the time limit set forth in the Notice of Violation (or any granted extension), or the time limit set by the Board of Adjustment if the matter is appealed, the Planning Director shall take appropriate action, as provided in Section 12.4, Remedies and Penalties, to correct the violation and to ensure compliance with this Ordinance.

### 12.3.6. EMERGENCY ENFORCEMENT WITHOUT NOTICE

On determining that delay in correcting the violation would pose a danger to the public health, safety, or welfare, the Planning Director may seek immediate enforcement without prior written notice by invoking any of the remedies authorized in Section 12.4, Remedies and Penalties.

## Section 12.4. Remedies and Penalties

**12.4.1.** This Ordinance may be enforced by any one or more of the remedies authorized by Section 153A-123, N.C.G.S., and in in accordance with the provisions of Section 153A-324, N.C.G.S., including but not limited to the following:

#### A. Issuance of Stop Work Order

Whenever a building or structure is being constructed, demolished, renovated, altered, or repaired in violation of any applicable provision of this Ordinance, the Planning Director or Building Official may issue a Stop Work Order. The Stop Work Order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation, and the action(s) necessary to lawfully resume work.

#### B. Revocation of Permit or Approval

The Planning Director may revoke any development permit or approval granted under this Ordinance, by written notice to the permit or approval holder, when false statements or misrepresentations were made in securing the permit or approval, work is being or has been done in substantial departure from the approved

application or plan, there has been a failure to comply with the requirements of this Ordinance, or a permit or approval has been mistakenly granted in violation of this Ordinance.

### C. Denial or Withholding of Related Permits

The County may deny or withhold a certificate of occupancy in accordance with the building code—or deny or withhold any permit, approval, or other authorization under this Ordinance to use or develop any land, structure, or improvements—until an alleged violation related to such land, use, or development is corrected and any associated civil penalty is paid.

### D. Removal of Illegal Signs from County-Maintained Streets

The County may remove any sign placed within the right-of-way of a publicly-maintained street in violation of the standards in this Ordinance.

### E. Civil Remedies and Penalties

1. Violation of this Ordinance subjects the offender to a civil penalty of $100.00 for a first offense, $200.00 for a second offense, and $300.00 for a third and subsequent offense, to be recovered by the County in a civil action in the nature of debt if the offender does not pay the penalty to the County Finance Office within 15 calendar days after the offender has been cited for a violation. Violation of this Ordinance shall result only in civil penalties and/or civil action set forth herein and shall not entail criminal sanctions.
2. Each day's continuing violation of this Ordinance is a separate and distinct offense.

### F. Equitable Remedies

This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

### G. Other Remedies

This Ordinance may be enforced by injunction, order of abatement, or both, as provided in Section 153A-123(e), N.C.G.S.

**12.4.2.** A violation of any provision of Section 5.10, Airport Height Restriction, shall constitute a misdemeanor and shall be punishable by a fine and/or imprisonment as authorized under Section 63-35, N.C.G.S., and each day a violation continues to exist shall constitute a separate offense. Whenever a tree that previously complied with Section 5.10, Airport Height Restriction, grows to a point that is in violation of any height specified in Section 5.10, Airport Height Restriction, the owner of such tree shall allow the County to remove such tree to a point that will make the tree comply with the height specified. Such removal of trees shall be done at the expense of the New Hanover County Board of Commissioners.

**12.4.3.** The remedies and penalties provided for violations of this Ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy or penalty provided by law, and may be exercised in any order.

# Appendices

# Appendix 1: Final Plat Certificates

The certificates herein shall appear on final plats, if applicable.

### 9.16.3.1 Certificate of Ownership, Dedication and Jurisdiction

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) own free consent and dedicate all streets, alleys, walks, parks, conservation space and other areas to public or private use as noted. All roads and drainage easements are dedicated for public utility purposes. Further, I (we) certify the land as shown hereon is located within the subdivision jurisdiction of New Hanover County.

_____ _____

_____ _____

Date Signature of Owner(s)

_____ _____

Date Subordination Consent of Mortgagee

### 9.16.3.2 Certificate of Proposed Subdivision Road Construction Standards

Department of Transportation
Division of Highways
Proposed Subdivision Road
Construction Standards Certification approved

_____ _____

District Engineer Date

### 9.16.3.3 Certificate of Registration by Register of Deeds

North Carolina

New Hanover County

Filed for Registration on the _____ day of _____ at _____(a.m. / p.m.) and duly recorded in Map Book _____, at Page _____.

_____

Register of Deeds

### 9.16.3.4 Certificate of Accuracy and Mapping

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

Witness my hand and seal this _____ day of _____ A.D., 20___.

_____

Surveyor

SEAL

### 9.16.3.5 Review Officer's Certificate

State of North Carolina

County of New Hanover

I, _____, Review Officer of New Hanover County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer _____

Date _____

### 9.16.3.6 Certificate of Disclosure - North Carolina Coastal Area Management Act

I (we) hereby certify that prior to entering any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign, a statement which fully and accurately discloses that the buyer may have responsibility to obtain a development permit (minor or major) and the agency to which an application must be filed in order to obtain and permit prior to any undertaking or activity subject to the requirements of the North Carolina Coastal Area Management Act.

_____ _____

Date

_____

Signature of Owner(s)

### 9.16.3.7 Certificate of Disclosure - New Hanover County Flood Plain Management

I (we) hereby certify that prior to entering any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign, a statement which fully and accurately discloses that the subject real estate, or a portion of the subject real estate, is located within a flood hazard area and that the buyer must satisfy the requirements of the New Hanover County Flood Plain Management Regulations prior to the issuance of construction permits.

_____ _____

Date

_____

Signature of Owner(s)

### 9.16.3.8 Certificate of Disclosure for Private Developments

I (we) acknowledge that neither the State nor the County shall be responsible for maintenance of any streets, parks, drainage, open space or other areas which are designated for private use. I (we) acknowledge that prior to contracting with a prospective buyer, I shall give the buyer a written statement which discloses the existence and location of such private areas and specifies the maintenance responsibilities for same. When applicable, the statement shall disclose that the street(s) will not be constructed to minimum standards sufficient to allow their inclusion on the State highway system for maintenance.

_____ _____

Date

_____

Signature of Owner(s)

### 9.16.3.9 Certificate of Registration/Disclosure for Homeowner's Association Covenants, Conditions and Restrictions by Register of Deeds

North Carolina New Hanover County

Homeowner's Association Covenants, Conditions and Restrictions filed for registration on the _____ day of _____ at _____(a.m. / p.m.) and duly recorded in Deed Book _____, at Page _____.

_____

Register of Deeds

### 9.16.3.10 Certificate Disclaiming Water/Sewer Suitability

Notwithstanding New Hanover County approval of this plat, lots shown on said plat may not receive Health Department approval for on site sewage disposal systems, nor for individual water supply systems, nor does such approval guarantee the availability of water or sewer services from The Cape Fear Public Utility Authority.

### 9.16.3.11 Certificate of Disclosure for New Hanover County Sewer Costs

I (we) hereby certify that prior to entering any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign, a statement which fully and accurately discloses that the buyer will be assessed by The Cape Fear Public Utility Authority for the full cost of providing sewer service to the subdivision at the time that District sewer becomes available, in accordance with New Hanover County Code.

_____ _____

Date Signature of Owner

### 9.16.3.12 Certificate of Disclosure: PRIVATE ROADS (1/10)

I (we) the developers of _____ subdivision located in the unincorporated area of New Hanover County understand that the roads in said subdivision are designated private. I understand that ownership and maintenance of the roads will be the responsibility of the developer until such time that the developer designates the responsibility to the property owners' association. Responsibilities must be accepted by the homeowners association as specified in the homeowner covenants for said subdivision. The private roads in said subdivision are to be constructed in accordance with Section 52-4 of the New Hanover County Subdivision Ordinance and all applicable County Codes which includes the design, installation, inspection, and approval by a licensed Professional Engineer (PE) recognized in the State of North Carolina prior to final plat approval for all or a portion of the subdivision. If all or a portion of the road infrastructure system within the subdivision is bonded through a surety, performance bond, or cash escrow, no bond shall be released until all road construction improvements are complete and certified by the Professional Engineer.

It shall be disclosed to the prospective buyer of a lot or lots within the subdivision that road maintenance shall run through the property owners association in perpetuity after acceptance from the developer until such time that the roads are re-platted as publicly designated roads and taken over for maintenance through the North Carolina Department of Transportation (NCDOT) or appropriate governing authority.

Developer's Name _____ Date _____

### 9.16.3.13 Private Roads Certification (1/10)

I (we) hereby certify that all private roads as depicted on subdivision plat _____ have been designed, installed, inspected, and approved in accordance with Section 52-4 of the New Hanover County Subdivision Ordinance and all applicable New Hanover County Codes prior to final plat approval for all or a portion of the subdivision.

By certifying the construction of these roads as private, there are no guarantees or assurances of acceptance of said roads by the North Carolina Department of Transportation.

Certified Professional Engineer _____ Date _____

Seal _____

### 9.16.3.14 County Engineer Certificate

With this recordation, New Hanover County accepts the dedication for stormwater and easements.

_____ _____

County Engineer Date

### 9.16.3.15 Certificate of approval by the Cape Fear Public Utility Authority: (11/12)

I, _____, Review Officer for the Cape Fear Public Utility Authority, New Hanover County, North Carolina, certify that the map or plat to which this certification is affixed meets all Authority standards and requirements for the public utilities as set forth by ordinances. With the recordation of this plat, the Cape Fear Public Utility Authority accepts the owner's offer of dedication for the public water and/or sewer purposes all easements, common areas, and/or rights of way shown on the plat as dedicated for public utility purposes. Approval of this plat does not guarantee the availability of water and sewer services from the Cape Fear Public Utility Authority.

CAPE FEAR PUBLIC UTILITY AUTHORITY

BY_____

REVIEW OFFICER TITLE DATE