

Greg Edds, Chairman
Jim Greene, Vice- Chairman
Mike Caskey
Judy Klusman
Craig Pierce



Aaron Church, County Manager
Carolyn Barger, Clerk to the Board
John W. Dees, II, County Attorney

Rowan County Board of Commissioners

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MINUTES OF THE MEETING OF THE ROWAN COUNTY BOARD OF COMMISSIONERS

June 21, 2021 – 6:00 PM

J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING

Present: Greg Edds, Chairman
Jim Greene, Vice-Chairman
Mike Caskey, Member
Craig Pierce, Member
Judy Klusman, Member

County Manager Aaron Church, Clerk to the Board Carolyn Barger, County Attorney Jay Dees, Assistant County Manager/CIO Randy Cress and Finance Director James Howden were also present and/or participating remotely.

Chairman Edds convened the meeting at 6:00 p.m.

Chaplain Michael Taylor provided the Invocation.

Chairman Edds led the Pledge of Allegiance.

CONSIDER ADDITIONS TO THE AGENDA

Chairman Edds added four (4) items to the Consent Agenda as requested from the County Manager. The items were added to the Consent Agenda as follows and are hereto attached to these minutes for the record:

- Item T: Request to Award Bid to Mid-State Modular Construction
- Item U: Approve a 2% increase in water fees for the Northeast Water System
- Item V. Surplus EMS Metal Building (Garage)
- Item W. American Rescue Plan Payment

At the request of Planning Staff, Commissioner Pierce moved, Commissioner Caskey seconded and the vote to switch agenda items #4 and #5 in the order of discussion passed unanimously.

CONSIDER DELETIONS FROM THE AGENDA

There were no deletions from the agenda.

CONSIDER APPROVAL OF THE AGENDA

Commissioner Pierce moved, Commissioner Klusman seconded and the vote to approve the agenda as amended passed unanimously.

CONSIDER APPROVAL OF THE MINUTES

Commissioner Klusman moved, Commissioner Caskey seconded and the vote to approve the minutes of the June 7, 2021 Commission Meeting passed unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

Commissioner Pierce moved approval of the Consent Agenda as amended. The motion was seconded by Commissioner Klusman and passed unanimously.

The Consent Agenda consisted of the following:

- A. HCCBG Combined Funding Plan for Aging Services FY 2022
- B. ILS and Airfield Lighting Maintenance Contract
- C. Lifting of Rental Moratorium
- D. Construction Manager At Risk Request for Qualifications
- E. Engineering Fee Waterwheel Sloan Park
- F. Duke Energy Easement Form 500 Airport Rd (Piedmont Skydiving)
- G. Request for Approval T.O. 2021-01 HDR-Landfill
- H. Blue Cross Blue Shield of NC Amendment and Contract
- I. Contract for On-Site Nurse Practitioner Clinical Services
- J. Tax Refunds for Approval
- K. Bi-weekly Environmental Health Report
- L. Contracts for Liability and Property Pool and Workers Compensation Pool
- M. Renewal Services for Zoom Phone
- N. Reappointment of Tax Collector
- O. Woolpert, Inc., dba Data Cloud Solutions Contract Approval
- P. Change Orders for Nina Dix Dog Adoption Center
- Q. Contract Between DSS and Fresh Start Today
- R. RFP Fleet Management Services
- S. Performance and Payment Bond for Septic Tank Installation at New DNP Concession Stand
- T. Request to Award Bid to Mid-State Modular Construction
- U. Approve a 2% increase in water fees for the Northeast Water System
- V. Surplus EMS Metal Building (Garage)
- W. American Rescue Plan Payment

2. PUBLIC COMMENT PERIOD

Chairman Edds opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. With no one coming forward, Chairman Edds closed the Public Comment Period.

3. PUBLIC HEARING FOR HLC 01-21

Planner Aaron Poplin provided a power point as he presented the staff report for HLC 01-21. Mr. Poplin reported the Rowan County Historic Landmarks Commission (HLC) received an application from Turner Correll Hall to establish the Newberry Hall House as a Rowan County historic landmark. The Newberry Hall House was located at 9935 NC 801 Highway, further referenced as Rowan County Tax Parcel 763-002. The applicants wished to designate the exterior of the house along with the acre of land on which it resided.

Mr. Poplin said the HLC wished to recognize the house because it was locally significant under the category of architecture as one of the few examples of a nineteenth century Greek Revival farmhouse in Rowan County. The house had undergone numerous renovations to accommodate the needs of the Hall family descendants who had continually owned and lived on the property. The renovations were consistent with the design of the original building and did not distract from the architectural integrity of the property. The house, with its alterations, qualified for the National Register of Historic Places criteria for architecture in 1982.

On February 25, 2020 Planning Staff received comments from Kristi Brantley, State Historic Preservation Office (SHPO) staff member, regarding local designation application for the Newberry Hall House. Based on comments provided by Ms. Brantley, and the revised report, the HLC recommended approval of the house as a Rowan County Historic Landmark.

On May 11, 2021, the HLC conducted a courtesy hearing to receive comments concerning the designation. No one spoke in opposition to the designation. On a 4-0 vote, the HLC recommended landmark designation for the exterior of the house and one acre of land on which it resided.

Chairman Edds opened the public hearing to receive citizen input regarding HLC 01-21. With no one coming forward, Chairman Edds closed the public hearing.

Commissioner Klusman moved, Commissioner Greene seconded and the vote to approve HLC 01-21 and the designation ordinance for the home passed unanimously.

4. CONDUCT PUBLIC HEARING FOR TEXT AMENDMENT 01-21

Before staff reviewed Text Amendment 01-21, Commissioner Pierce asked Assistant Planning Director Shane Stewart if staff could administratively approve requests for permits to exceed the Noise Ordinance, firework permits, etc. Mr. Stewart responded yes; however, changes would have to be made within the Code of Ordinances. Mr. Stewart continued with a question as to whether some more difficult decisions should be made at the staff level.

Commissioner Pierce asked if the Planning Board and/or Planning Staff could submit recommendations via the Consent Agenda for the Board's consideration as opposed to the current approval process for the above-mentioned items. Mr. Stewart responded that Planning Staff could; however, he noted that some issues were more challenging at the Staff level.

Chairman Edds asked Mr. Stewart if Staff could discuss the matter and advise the Board at a later time of its thoughts on the issue.

Based on the information in the agenda packet with regards to the proposed text amendments, the Staff Report explained that beginning in 1905, the State of North Carolina adopted enabling statutes related to land development regulation first with building standards followed by zoning in 1919 (for cities & 1959 for counties), housing codes in 1939, subdivision in 1955 (for cities & 1959 for counties), historic preservation in 1971, and floodplain in 1979. These statutes provided the foundation and limits for local governments to regulate various aspects of land development. Statutory framework for local governments were placed in Chapter "153A" for counties in 1905 and in "160A" for cities in 1917. While several significant changes to statute language regarding development regulations occurred in the 60s, 70s, and 2005, the General Assembly adopted a complete overhaul and modernization of the planning and zoning statutes in 2019 consolidated within a new chapter common to both county and municipal governments, "160D".

After six (6) years of stakeholder and committee reviews, the General Assembly adopted Senate Bill (SB) 355 on July 11, 2019 and later SB 720 on June 19, 2020, which vary in effective date but are generally effective on July 1, 2021.

New statute language effect changes to all "development regulations" in many areas, some of which are very minor or clarifying only. Most all proposed ordinance changes herein are a direct result of 160D but include a few other changes proposed by staff. The following includes a list of ordinances affected with a general list of topics driven by 160D, a general list of staff proposed changes, and other areas as noted:

- Chapter 9 – Flood Damage Prevention
- Chapter 9.5 – Historic Landmarks
- Chapter 14.5 – Nuisances
- Chapter 17 – Planning & Development
- Chapter 21 – Zoning
- Chapter 22 – Subdivision

Assistant Planning Director Shane Stewart referred to the staff report and said the report provided a good background as to why the text amendments were being presented. Mr. Stewart said he would not elaborate on all the recommended changes. Mr. Stewart continued by highlighting the text amendments, which he described as a modernization of statutes that pulled together both the city and county statutes into one for planning and

development purposes. The new statute was noted as North Carolina General Statute §160D. Mr. Stewart said the text amendments encompassed chapters in the ordinances for Zoning/Subdivisions, Flood Damage Prevention, Historic Landmarks, Nuisances, and Planning/Development.

Mr. Stewart said he would not be discussing the ordinance for Soil Erosion and Sediment as the discussion would come later.

Using a power point, Mr. Stewart highlighted the recommended text amendments and answered questions from the Board.

In conclusion, Mr. Stewart mentioned the procedural requirements, which included conducting a public hearing and adoption of a Statement of Consistency for the Zoning text amendments.

Chairman Edds opened the floor to receive citizen input regarding the proposed Text Amendment 01-21. With no one wishing to address the Board, Chairman Edds closed the public hearing.

Chairman Edds moved approval of the Statement of Consistency as follows: The proposed zoning portion of the amendments are based on the North Carolina Legislature's changes to the General Statutes and are in the best interest of the public in the overall use of land. The motion was seconded by Commissioner Pierce and passed unanimously.

Commissioner Pierce moved, Commissioner Klusman seconded and the vote to approve Text Amendment 01-21 passed unanimously.

The approved text amendments were submitted and approved as follows:

Chapter 9 FLOOD DAMAGE PREVENTION*

***Editor's note:** Articles 1--6 of an ordinance adopted May 4, 2009, is being treated as superseding the provisions adopted May 20, 2002 from which Ch. 9, §§ 9-1--9-15, 9-31--9-35, 9-61--9-64 derived.

Cross references: Buildings, Ch. 7; licenses, Ch. 10; mobile homes, Ch. 13; planning and development, Ch. 17; soil erosion and sedimentation, Ch. 18; watershed protection, Ch. 20; zoning, Ch. 21; mobile home parks in floodplains, § 13-80.

State law references: Floodplain regulation, G.S. 143-215.51 et seq.; special assessments for flood protection works, G.S. 153A-185 et seq.

Article I. Statutory Authorization, Findings of Fact, Purpose and Objectives

Sec. 9-1. Statutory authorization.

Sec. 9-2. Findings of fact.

Sec. 9-3. Statement of purpose.

Sec. 9-4. Objectives.

Sec. 9-5. Definitions.

Sec. 9-6. Lands to which this chapter applies.

Sec. 9-7. Basis for establishing the special flood hazard areas.

Sec. 9-8. Establishment of floodplain development permit.

Sec. 9-9. Compliance.

Sec. 9-10. Abrogation and greater restrictions.

Sec. 9-11. Interpretation.

Sec. 9-12. Warning and disclaimer of liability.

Sec. 9-13. Penalties for violation.

Secs. 9-14--9-30. Reserved.

Article II. Administration.

Sec. 9-31. Designation of floodplain administrator.

Sec. 9-32. Floodplain development application, permit and certification requirements.

Sec. 9-33. Duties and responsibilities of the floodplain administrator.

Sec. 9-34. Corrective procedures.

Sec. 9-35. Variance procedures.

Sec. 9-36. Ordinance amendments.

Secs. 9-~~36~~ **37**--9-50. Reserved.

Article III. Provisions For Flood Hazard Reduction

Sec. 9-51. General standards.

Sec. 9-52. Specific standards.

Sec. 9-53. Reserved.

Sec. 9-54. Standards for floodplains without established base flood elevations.

Sec. 9-55. Standards for riverine floodplains with base flood elevations but without established floodways or non-encroachment areas.

Sec. 9-56. Floodways and non-encroachment areas.

Secs. 9-57--9-75. Reserved.

Article IV. Legal Status Provisions

Sec. 9-76. Effect on rights and liabilities under the existing flood damage prevention ordinance.

Sec. 9-77. Effect upon outstanding floodplain development permits.

Sec. 9-78. Severability.

Sec. 9-79. Effective date.

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Sec. 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; **and Articles 1, 7, 9, and 11 of Chapter 160D** of the North Carolina General Statutes, delegated to local governmental units the ~~responsibility~~ **authority** to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Commissioners of Rowan County, North Carolina, does ordain as follows:

(Ord. of 5-4-09, art. 1; Amend. of 10-15-18, § A)

Sec. 9-2. Findings of fact.

- (1) The floodprone flood prone areas within the jurisdiction of Rowan 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.
- (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 floodprone flood prone areas of uses vulnerable to floods or other hazards.

(Ord. of 5-4-09, art. 1, § B)

Sec. 9-3. Statement of purpose.

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

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

(Ord. of 5-4-09, art. 1, § C)

Sec. 9-4. Objectives.

The objectives of this chapter are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in floodprone flood prone areas;

- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of floodprone flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a special flood hazard area.

(Ord. of 5-4-09, art. 1; Amend. of 10-15-18, § D)

Sec. 9-5. Definitions.

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

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

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

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

Administrative decision means a decision made in the implementation, administration, or enforcement of development regulations that involve the determination of facts or the application of objective standards set forth in this chapter. These are sometimes referred to as "ministerial" decisions or "administrative determinations".

Administrative hearing means a proceeding to gather facts needed to make an administrative decision.

Alteration of a watercourse means 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 means a request for a review of the floodplain administrator's interpretation of any provision of this chapter.

Area of special flood hazard: See "special flood hazard area (SFHA)".

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

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

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

Building: See "Structure".

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

Design Flood: See "Regulatory Flood Protection Elevation".

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

Discontinue means to stop or cease the use of a property.

Elevated building means 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 means the advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing building and existing structure means any building and/or structure for which the "start of construction" commenced before December 17, 1979 (adoption of first floodplain management ordinance).

Existing manufactured home park or manufactured home subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before **December 17, 1979 (adoption the initial effective date of the first floodplain management regulations adopted by the community ordinance)**.

FEMA means the Federal Emergency Management Agency.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood insurance means the insurance coverage provided under the National Flood Insurance Program.

Flood insurance rate map (FIRM) means an official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

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

~~Floodprone~~ **Flood prone** area: see "Floodplain".

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

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

Floodplain administrator ~~is~~ **means** the individual appointed to ~~administer and enforce the~~ **make administrative decisions regarding** floodplain management regulations **referenced in this chapter**.

Floodplain development permit means any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity. **The permit remains valid provided that such activity is commenced within one (1) year of the date of issuance. A permit expires if work or activity is discontinued for a period of one (1) year after work has commenced.**

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

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

Floodproofing means any combination of structural and non-structural 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 means 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*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

Floodway means 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 (1) foot.

Floodway encroachment analysis means 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 **hydraulic** models **meeting the minimum requirements of the National Flood Insurance Program**.

Freeboard means the height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, **precipitation exceeding the base flood**, and the hydrological effect of urbanization of the watershed. The base flood elevation plus the freeboard establishes the "regulatory flood protection elevation".

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

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

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

Historic structure means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. 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 U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of Map Change (LOMC) means 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 means 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.

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

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

Manufactured home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Map Repository means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

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

NFIP means the National Flood Insurance Program.

New construction means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Non-encroachment area means 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 (1) foot as designated in the flood insurance study report.

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

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

Principally above ground means that at least fifty-one (51) percent of the actual cash value of the structure is above ground.

Public safety and/or nuisance means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

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

- (a) Built on a single chassis;
- (b) Four hundred (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 is the bottom of the lowest horizontal structural member of the lowest floor for structures within all special flood hazard areas. For the purposes of this definition, the reference level for slab construction is measured from the top of the lowest floor.

Regulatory flood protection elevation means the "base flood elevation" plus the "freeboard". In "special flood hazard areas" where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In "special flood hazard areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

Remedy a violation means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its non-compliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

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

Salvage yard means 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.

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

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

Special flood hazard area (SFHA) means the land in the floodplain subject to a one (1) percent or greater chance of being flooded in any given year, as determined in section 9-7 of this chapter.

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

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

Substantial damage means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. See definition of "substantial improvement".

Substantial improvement means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds fifty (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 9-35 of this ordinance.

Technical Bulletin and Technical Fact Sheet means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

Temperature Controlled means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

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

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in articles II and III is presumed to be in violation until such time as that documentation is provided.

Water surface elevation (WSE) means the height, in relation to ~~mean sea level~~ **NAVD 88**, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

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

“Written” or “in writing” means written communication, including by electronic mail, executed by a staff member to document a determination, order, interpretation, notification, or other purpose identified by this chapter. Unless specified otherwise, in the absence of evidence to the contrary, delivery by first class mail shall be deemed received on the third business day following deposit of the item with the United States Postal Service and delivery by electronic mail shall be deemed received on the date sent.

(Ord. of 5-4-09, art. 2; Amend. of 9-6-11; Amend. of 10-15-18)

Sec. 9-6. Lands to which this chapter applies.

This chapter shall apply to all special flood hazard areas within the jurisdiction of Rowan County excluding the extra territorial jurisdictions (ETJs) therein.

(Ord. of 5-4-09, art. 3, § A)

Sec. 9-7. Basis for establishing the special flood hazard areas.

The special flood hazard areas are those identified under the cooperating technical state (CTS) agreement between the State of North Carolina and FEMA in its flood insurance study (FIS) dated November 16, 2018 for Rowan County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared to be a part of this chapter **and all revisions thereto.** ~~Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Rowan County are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.~~

(Ord. of 5-4-09, art. 3; Amend. of 10-15-18, § B)

Sec. 9-8. Establishment of floodplain development permit.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of section 9-7 of this chapter.

(Ord. of 5-4-09, art. 3, § C)

Sec. 9-9. Compliance.

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

(Ord. of 5-4-09, art. 3, § D)

Sec. 9-10. Abrogation and greater restrictions.

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

(Ord. of 5-4-09, art. 3, § E)

Sec. 9-11. Interpretation.

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

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

(Ord. of 5-4-09, art. 3, § F)

Sec. 9-12. Warning and disclaimer of liability.

The degree of flood protection required by this chapter 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 ordinance 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 chapter shall not create liability on the part of Rowan County or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. of 5-4-09, art. 3, § G)

Sec. 9-13. Penalties for violation.

Violation of the provisions of this chapter 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 NCGS 143-215.58**. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than fifty dollars (\$50.00) or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Rowan County from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. of 5-4-09, art. 3, § H)

Secs. 9-14--9-30. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 9-31. Designation of floodplain administrator.

The director of planning and development, hereinafter referred to as the "floodplain administrator", is hereby appointed to administer and implement the provisions of this chapter. **In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, 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 ordinance. The floodplain administrator or other staff member shall not make a final administrative decision concerning a request if they would have a conflict of interest as identified in section 21-314(b) of the Zoning Ordinance. If a staff member has a conflict of interest under this section, the decision shall be assigned to another staff member as designated by this chapter.

(Ord. of 5-4-09, art. 4, § A)

Sec. 9-32. Floodplain development application, permit and certification requirements.

- (1) *Application requirements.* Application for a floodplain development permit shall be made to the floodplain administrator prior to any development activities located within or adjacent to special flood hazard areas. All elevations referenced must use NAVD 88 datum. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(i) 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;

(ii) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in section 9-7, or a statement that the entire lot is within the special flood hazard area;

(iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in section 9-7;

(iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in section 9-7;

(v) The base flood elevation (BFE) where provided as set forth in section 9-7, section 9-33 or section 9-54;

(vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

(vii) The certification of the plot plan by a professional land surveyor or professional engineer. In lieu of this requirement, the floodplain administrator may provide necessary certifications for development adjacent to but not within the special flood hazard area.

(b) Proposed elevation, and method thereof, of all development within a special flood hazard area including, but not limited to:

(i) Elevation (in NAVD 1988) of the proposed reference level (including basement) of all structures;

(ii) Elevation (in NAVD 1988) to which any non-residential structure in zone AE or A will be floodproofed; and

(iii) Elevation (in NAVD 1988) to which any proposed utility systems will be elevated or floodproofed.

(c) If floodproofing, a floodproofing certificate (FEMA Form ~~81-65~~ 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

(d) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include, but are not limited to:

(i) 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

(ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with subsection 9-52(4)(c) when solid foundation perimeter walls are used in zones A or AE.

(e) Usage details of any enclosed areas below the lowest floor.

(f) 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.

(g) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.

(h) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of subsections 9-52(6) and (7) of this chapter are met.

(i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) *Permit requirements.* The floodplain development permit shall include, but not be limited to:

(a) 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.).

(b) The special flood hazard area determination for the proposed development in accordance with available data specified in section 9-7.

(c) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(d) The regulatory flood protection elevation required for the protection of all public utilities.

(e) All certification submittal requirements with timelines.

(f) 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 9-56 have been met.

(g) The flood openings requirements, if in zones A or AE.

(h) Limitations of below base flood elevation (BFE) enclosure uses (if applicable). (i.e., parking, building access and limited storage only.)

(i) A statement, that all materials below BFE / RFPE must be flood resistant materials.

(3) *Certification requirements.*

(a) *Elevation certificates.*

(i) An elevation certificate (FEMA Form ~~81-31~~ **086-0-33**) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in NAVD 88 **datum**. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. **In lieu of this requirement, the floodplain administrator may accept elevation data from a professional land surveyor sufficient to document current conditions and ensure proposed development will comply with this chapter.**

(ii) An elevation certificate (FEMA Form ~~81-31~~ **086-0-33**) is required after the reference level is established. Within seven (7) 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 NAVD 88 **datum**. 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. **In lieu of this requirement, the floodplain administrator may accept elevation data from a professional land surveyor sufficient to document current conditions and ensure proposed development will comply with this chapter.**

(iii) A final as-built elevation certificate (FEMA Form ~~81-31~~ **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 2 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 A of the certificate. 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 2 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" x 3". Digital photographs are acceptable.

(b) *Floodproofing certificate.*

(i) 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, using NAVD 88 datum. 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.

(ii) 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, using NAVD 1988 datum. 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.

(c) If a manufactured home is placed within zone A or AE and the elevation of the chassis is more than thirty-six (36) inches in height above grade, an engineered foundation certification is required in accordance with the provisions of subsection 9-52(3)(b).

(d) 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.

(e) Certification exemptions. The following structures, if located within zone A or AE, are exempt from the elevation / floodproofing certification requirements specified in items (a) and (b) of this subsection:

- (i) Recreational vehicles meeting requirements of subsection 9-52(6);
- (ii) Temporary structures meeting requirements of subsection 9-52(7); and
- (iii) Accessory structures one hundred fifty (150) square feet or less or that is a minimal investment of ~~\$3,000~~ **\$5,000** or less and meeting requirements of subsection 9-52(8).

(4) 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:

- (a) 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;
- (b) 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;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) 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 NC Building Code and this ordinance is required.

(Ord. of 5-4-09, art. 4; Amend. of 10-15-18, § B)

Sec. 9-33. Duties and responsibilities of the floodplain administrator.

The floodplain administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied.
- (2) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received, **including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.**
- (3) Notify adjacent communities and the North Carolina Department of ~~Crime Control and~~ Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of section 9-56 are met.
- (6) Obtain actual elevation (in NAVD 88 datum) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of subsection 9-32(3).
- (7) Obtain actual elevation (in NAVD 88 datum) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of subsection 9-32(3).
- (8) Obtain actual elevation (in NAVD 88 datum) of all public utilities in accordance with the provisions of subsection 9-32(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of subsection 9-32(3) and subsection 9-52(2).
- (10) 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.
- (11) When base flood elevation (BFE) data has not been provided in accordance with the provisions of section 9-7, 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 subsection 9-54(2)(b), in order to administer the provisions of this chapter.
- (12) When base flood elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of section 9-7, 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 chapter.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation (BFE), advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the (LOMA) issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, 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 permit holder, if applicable, and the property owner provided by personal delivery, electronic delivery, or first-class mail.** The stop work

order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.

- (17) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked. **Revocations shall be noted in writing and delivered to the holder of the development approval stating the reason thereof. Staff shall follow the same development review and approval process required for the issuance of the approval for any revocation.**
- (18) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of section 9-34.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) 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 9-7 of this chapter, including any revisions thereto including letters of map change issued by FEMA. Notify state and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).

(Ord. of 5-4-09, art. 4; Amend. of 10-15-18, § C)

Sec. 9-34. Corrective procedures.

- (1) *Violations to be corrected.* When the floodplain administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) *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:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That an **administrative** hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) 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
 - (c) That following the **administrative** hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

- (3) *Order to take corrective action.* If, upon an **administrative** hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the flood damage prevention ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) *Appeal.* Any **owner** **person with standing under G.S. 160D-1402(c)** **who has received an order to take corrective action** may appeal ~~the order~~ **an administrative decision** to the **local elected governing body board of adjustment** by giving notice of appeal in writing to the **floodplain administrator and the clerk to the Board of Adjustment** within ~~ten (10)~~ **thirty (30)** days **following issuance of the final order of receiving actual or constructive notice of the decision.** **Appeals from an administrative decision of this chapter shall follow the procedure outlined in section 21-315 and 21-331 of the Zoning Ordinance.** In the absence of an appeal, the order of the floodplain administrator shall be final. The **local governing body board of adjustment** shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) *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 board of adjustment** following an appeal, the owner shall be guilty of a **Class 1** misdemeanor and shall be punished at the discretion of the court.

(Ord. of 5-4-09, art. 4, § D)

Sec. 9-35. Variance procedures.

- (1) The **zoning** board of adjustment as established by Rowan County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this chapter.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
 - (a) 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;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in section 9-5 of this chapter, provided provisions of subsection (9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; **or**
 - (c) Any other type of development, provided it meets the requirements of this section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;

- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined under section 9-5 of this chapter as a functionally dependent facility, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) 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
 - (k) 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.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
 - (6) Upon consideration of the factors listed above and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.
 - (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to twenty-five dollars (\$25.00) per one hundred dollars (\$100.00) of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
 - (8) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
 - (9) Conditions for variances:
 - (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances;
 - (b) 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;

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(d) Variances shall only be issued prior to development permit approval;

(e) Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

(ii) A determination that failure to grant the variance would result in exceptional hardship; and

(iii) 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.

(10) 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) Rowan County has notified the Secretary of the North Carolina Department of **Crime Control and** Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

(Ord. of 5-4-09, art. 4; Amend. of 10-15-18, § E)

Sec. 9-36. Ordinance amendments.

This ordinance may be amended in accordance with the procedures outlined in section 21-315 and 21-361 of the Zoning Ordinance with the exception of the statement of consistency requirement. Prior to considering any amendment, the floodplain administrator shall receive confirmation from the North Carolina Department of Public Safety, Division of Emergency Management that the ordinance would remain FEMA compliant for communities participating in the NFIP should the amendment be approved.

Secs. 9-~~36~~ **37**--9-50. Reserved.

ARTICLE III. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 9-51. General standards.

In all special flood hazard areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the 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, hot water heaters, and electric outlets / switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) 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.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter 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 chapter.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in subsection 9-35(10). 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 and certified in accordance with the provisions of subsection 9-32(3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) 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.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) 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.

- (14) 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.
- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply.

(Ord. of 5-4-09, art. 5; Amend. of 10-15-18, § A)

Sec. 9-52. Specific standards.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in section 9-7, or section 9-54, the following provisions, in addition to the provisions of section 9-51, are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in section 9-5 of this chapter.
- (2) *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, as defined in section 9-5 of this chapter. Structures located in A, or AE, and A1-30 zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
- (3) *Manufactured homes.*
 - (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in section 9-5 of this chapter.
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (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 thirty-six (36) inches in height, an engineering certification is required.
 - (c) All enclosures or skirting below the lowest floor shall meet the requirements of subsection 9-52(4).
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within floodprone flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local emergency management coordinator.
- (4) *Elevated buildings.* Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(b) Shall be constructed entirely of flood-resistant materials at least to the regulatory flood protection elevation;

(c) Shall include, **in zones A or AE**, 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:

(i) A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;

(ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

(iii) If a building has more than one (1) enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(iv) The bottom of all required flood openings shall be no higher than one (1) foot above the **higher of the interior or exterior** adjacent grade;

(v) 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

(vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/improvements.

(a) Additions and/or improvements to pre-FIRM structures when the addition and / or improvements in combination with any interior modifications to the existing structure are:

(i) Not a substantial improvement, the addition and / or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(ii) 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 and / or improvements must comply with the standards for new construction.

(b) 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.

(c) Additions and / or improvements to post-FIRM structures when the addition and / or improvements in combination with any interior modifications to the existing structure are:

- (i) 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.**
 - (ii) A substantial improvement, both the existing structure and the addition and / or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) 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 one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. 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:
 - (i) 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.
 - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (6) *Recreational vehicles.* Recreational vehicles shall either:
 - (a) Temporary Placement.
 - (i) Be on-site for fewer than one hundred eighty (180) consecutive days; or
 - (ii) 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.
 - (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
- (7) *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:
 - (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
 - (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of seventy-two (72) hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.
- (8) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- (b) Accessory structures shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored in accordance with the provisions of subsection 9-51(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of subsection 9-51(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided ~~below regulatory flood protection elevation~~ in conformance with the provisions of subsection 9-52(4)(c).

An accessory structure with a footprint of one hundred fifty (150) square feet or less or that is a minimal investment of ~~\$3,000~~ **\$5,000** or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of section 9-52(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with subsection 9-32(3). (Ord. of 5-4-09, art. 5, § B)

- (9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - (a) 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;
 - (b) 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;
 - (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of section 9-52(2) of this ordinance 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.
 - (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) 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
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

- (10) Other Development.

(a) Fences in regulated floodways and 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 9-56 of this ordinance.

(b) 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 9-56 of this ordinance.

(c) 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 9-56 of this ordinance.

(d) Commercial storage facilities are not considered “limited storage” as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

(Ord. of 5-4-09, art. 5; Amend. of 10-15-18, § B);

Sec. 9-53. Reserved.

Sec. 9-54. Standards for floodplains without established base flood elevations.

Within the special flood hazard areas designated as approximate zone A and established in section 9-7, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of section 9-51, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five (5) times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The base flood elevation (BFE) used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
 - (a) When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with standards in sections 9-51 and 9-52.
 - (b) 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 sections 9-52 and 9-56.
 - (c) All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five (5) acres or has more than twenty (20) lots / manufactured home sites. Such BFE data shall be adopted by reference in accordance with section 9-7 and utilized in implementing this chapter.
 - (d) When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (non-residential) to or above the regulatory flood protection elevation, as defined in section 9-5. All other applicable provisions of section 9-52 shall also apply.

(Ord. of 5-4-09, art. 5; Amend. of 10-15-18, § D)

Sec. 9-55. Standards for riverine floodplains with base flood elevations but without established floodways or non-encroachment areas.

Along rivers and streams where base flood elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor 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:

- (1) Standards of sections 9-51 and 9-52; and
- (2) 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 (1) foot at any point within the community.

(Ord. of 5-4-09, art. 5; Amend. of 10-15-18, § E)

Sec. 9-56. Floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in section 9-7. 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 9-51 and 9-52, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or
 - (b) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained **within six (6) months of** ~~upon~~ completion of the proposed encroachment.
- (2) If subsection 9-56(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.
- (3) ~~No manufactured~~ **Manufactured** homes ~~shall~~ **may** be permitted, ~~except replacement manufactured homes in an existing manufactured home park or subdivision,~~ provided the following provisions are met:
 - (a) The anchoring and the elevation standards of subsection 9-52(3); and
 - (b) The no encroachment standard of subsection 9-56(1).

(Ord. of 5-4-09, art. 5; Amend. of 10-15-18, § F)

Secs. 9-57--9-75.

ARTICLE IV. LEGAL STATUS PROVISIONS

Sec. 9-76. Effect on rights and liabilities under the existing flood damage prevention ordinance.

This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted December 17, 1979, 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 Rowan County enacted on December 17, 1979, as amended, which are not reenacted herein are repealed.

The date of the initial flood damage prevention ordinance for **Rowan County is December 17, 1979.** ~~each municipal jurisdiction within Rowan County is as follows:~~

~~Town of China Grove Incorporated Area, dated March 1, 1978
Town of Cleveland Incorporated Area, dated December 14, 2009
Town of East Spencer Incorporated Area, dated September 28, 1978
Town of Faith Incorporated Area, dated July 3, 1978
Town of Granite Quarry Incorporated Area, dated September 15, 1978
Town of Landis Incorporated Area, dated July 3, 1978
Town of Rockwell Incorporated Area, dated May 15, 1978
City of Salisbury Incorporated Area, dated May 15, 1980
Town of Spencer Incorporated Area, dated March 1, 1978~~

(Ord. of 5-4-09, art. 6; Amend. of 10-15-18, § A)

Sec. 9-77. Effect upon outstanding floodplain development permits.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this chapter; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter. **If a complete application made in accordance with this chapter is submitted for a development permit required pursuant to this chapter and a regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application unless otherwise prohibited by applicable state or federal laws. If the development permit applicant chooses the version of the ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the map or ordinance prior to acting on the development permit.**

(Ord. of 5-4-09, art. 6, § B)

Sec. 9-78. Severability.

If any section, clause, sentence, or phrase of the ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this chapter.

(Ord. of 5-4-09, art. 6, § C)

Sec. 9-79. Effective date.

This chapter shall become effective ~~October 15, 2018~~ **June 21, 2021.**

(Ord. of 5-4-09, art. 6; Amend. of 10-15-18, § D)

Chapter 9.5 HISTORIC LANDMARKS*

*Cross references: Buildings, Ch. 7; planning and development, Ch. 17; zoning, Ch. 21.

Article I. In General

~~Secs.~~ **Sec. 9.5-1 Definitions.**

Secs. 9.5-2--9.5-25. Reserved.

Article II. Landmark Commission

Sec. 9.5-26. Title.

Sec. 9.5-27. Purpose.

Sec. 9.5-28. Establishment and jurisdiction.

Sec. 9.5-29. Appointment and terms of office.

Sec. 9.5-30. Powers ~~and duties~~ **of the Historic Landmarks Commission.**

Sec. 9.5-31. Designation of landmarks.

Sec. 9.5-32. **Required landmark** ~~Landmark~~ designation procedures.

Sec. 9.5-33. Certificate of appropriateness **required.**

Sec. 9.5-34. Filing of application.

Sec. 9.5-35. Appropriations.

Sec. 9.5-36. Certain changes not prohibited.

Sec. 9.5-37. Delay in demolition of landmarks.

Sec. 9.5-38. Conflict with other laws.

Sec. 9.5-39. Remedies.

ARTICLE I. IN GENERAL

~~Secs.~~ **Sec. 9.5-1. Definitions.**

Unless otherwise expressly provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter. For any word that is not defined in this section, the common dictionary definition applies.

Administrative decision means a decision made in the implementation, administration, or enforcement of this ordinance by staff from the Rowan County Planning and Development Department that involve the determination of facts or the application of objective standards set forth in this chapter. When making these decisions, staff must adhere to the conflict of interest provisions of section 21-314 (b) of the Rowan County Zoning Ordinance. These are sometimes referred to as “ministerial” decisions or “administrative determinations”.

Courtesy hearing. A hearing before the Historic Landmarks Commission that provides an opportunity for the public to express their views and opinions on an agenda item prior to the board making a recommendation concerning the matter. These hearings are required as a precursor to decisions required by this chapter by the Board of Commissioners. When making these decisions, staff must adhere to the conflict of interest provisions of section 21-315 (2)(a) of the Rowan County Zoning Ordinance.

Determination means a written, final and binding order, requirement, or determination regarding an administrative decision.

Development approval means an administrative or quasi-judicial approval made pursuant to this chapter that is written and required prior to commencing development or undertaking a specific activity, project, or development proposal. The term also includes all other regulatory approvals required by this chapter.

Discontinue means to stop or cease the use of a property.

Legislative decision means the adoption, amendment, or repeal of a development regulation.

Public hearing means, for the purposes of this chapter, a hearing conducted by the Board of Commissioners to solicit public comment and consider appropriate criteria identified in this chapter prior to making decisions required herein.

Minor work means activities which do not impair the integrity of the property, historical significance, or involve the following unless specifically referenced in the historic designation: alterations in the design, material, or appearance of a structure or appurtenant feature; additions to a structure; removal of a structure; or interior change. Additionally, minor work includes routine maintenance to structures, appurtenances, and grounds within the designation area intended to keep the property in good condition.

Major work means any activity that does not qualify as minor work.

Quasi-judicial decision means a decision involving the findings of fact regarding a specific application of development regulation and that requires the exercise of discretion when applying the regulation standards made during a quasi-judicial hearing.

Quasi-judicial hearing means a hearing to gather competent, material, and substantial evidence in order to make a quasi-judicial decision. Quasi-judicial hearings are also referred to as evidentiary hearings.

“Written” or “in writing” means written communication, including by electronic mail, executed by a staff member to document a determination, order, interpretation, notification, or other purpose identified by this chapter. Unless specified otherwise, in the absence of evidence to the contrary, delivery by first class mail shall be deemed received on the third business day following deposit of the item with the United States Postal Service and delivery by electronic mail shall be deemed received on the date sent.

Secs. 9.5-2--9.5-25. Reserved.

ARTICLE II. LANDMARK COMMISSION

Sec. 9.5-26. Title.

This article shall be known and may be cited as the Historic Landmarks Ordinance of Rowan County.

(Ord. of 3-18-02(1))

Sec. 9.5-27. Purpose.

The purposes and objectives for which this article is adopted include the following:

- (1) To enhance the environmental and aesthetic quality of neighborhoods, as well as in the rural areas of the county.
- (2) To strengthen the economic base by the stimulation of the tourist industry.
- (3) To establish and improve property values by generating an improved appearance in older, transitional areas.

(Ord. of 3-18-02(1))

Sec. 9.5-28. Establishment and jurisdiction.

There is hereby established under the authority of G.S. Ch. 160A 160D, Art. 19 9, pt. 3C 4, a commission to be known as the historic landmarks commission of the county (hereinafter, "commission"), whose jurisdiction shall include all unincorporated areas of the county excluding all municipalities and their extra territorial jurisdiction as applicable.

(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

Sec. 9.5-29. Appointment and terms of office.

- (a) The commission shall consist of seven (7) members appointed by the board of county commissioners. All members shall reside within the territorial planning and zoning jurisdiction of the county. In addition, a majority of those members shall be qualified through demonstration of special interest, experience, education in history, architecture, archaeology, or other related fields.
- (b) Commission members shall be appointed for three-year staggered terms, but members may continue to serve until their successors have been appointed. All terms of office shall end on the 31st day of December of the year. Any terms not ending on December 31st shall be extended to December 31st of that year upon adoption of the ordinance from which this article derives. Initially, three (3) members shall be appointed for three-year terms, three (3) members shall be appointed for two-year terms, and one (1) member shall be appointed for a one-year term. Current members who have three-year, two-year, or one-year terms remaining shall continue to serve with additional members being appointed to establish the staggered terms of the landmarks commission membership. Vacancies may be filled for the unexpired term only.
- (c) Members may be appointed to only two (2) successive terms.
- (d) Landmarks commission members shall be removed by the county commissioners at any time for failure to attend thirty (30) percent or more of the meetings within any twelve-month period, or for any other good cause related to performance of duties.
- (e) If a commission member moves outside the county, that shall constitute a resignation from the landmarks commission, effective upon the date a replacement is appointed by the county commissioners.
- (f) **Prior to performing duties referenced in section 9.5-30, new and reappointed members shall take an oath of office referenced in G.S. 11-7 and 153A-026.**

(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

Sec. 9.5-30. Powers and duties of the Historic Landmarks Commission.

The commission shall be authorized to exercise the following within its jurisdiction:

- (1) Conduct an inventory of properties having historical, prehistorical, architectural and/or cultural significance.
- (2) Make recommendations to the county commissioner's regarding structures, sites, areas, or objects to be designated by ordinance as "historic landmarks".
- (3) Acquire the fee or any lesser included interest, including options to purchase, to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which that will secure appropriate rights of public access and promote the preservation of the property.
- (4) Restore, preserve and operate historic landmarks.

- (5) Recommend to the county commissioners that the designation of any locally adopted historic landmark be revoked or removed.
- (6) Prepare and recommend the official adoption of a preservation element.
- (7) Within the limits of funds appropriated to it, given to it, or otherwise made available to it, appoint such employees and engage such consultants as it may desire and acquire property and materials for its use and incur other necessary expenses.
- (8) Cooperate with the state, federal, and local governments in pursuance of the purposes of this article; to offer or request assistance, aid, guidance or advice concerning matters within its jurisdiction or of mutual interest. The commission, where authorized by the county commissioners, may contract with the state or federal government, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law.
- (9) Members, employees, or agents may enter, solely in performance of their official duty, upon private lands or structures for examination or survey thereof only upon receiving the express written consent from the owner(s).
- (10) Review and act upon proposals for the alteration or demolition of designated landmarks pursuant to this article.
- (11) Negotiate at any time with the owner of a building, site, structure, area or object for its acquisition or preservation when such action is reasonable, necessary or appropriate.
- (12) Conduct an educational program regarding historic landmarks within its jurisdiction.
- (13) Perform any other duties, which may lawfully be assigned to it.

(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

Sec. 9.5-31. Designation of landmarks.

Upon compliance with the landmark designation procedures as set forth in this article, the county commissioners may adopt and ~~from time to time~~ amend or repeal an ordinance designating one (1) or more historic landmarks. No property shall be recommended for designation as a landmark unless written consent from the property owner(s) is obtained and it is deemed and found by the landmarks commission to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, character and/or association.

The ordinance shall describe each property designated in the ordinance, the name(s) of the owner(s) of the property, those elements of the property that are integral to its historic significance, including the land areas of the property so designated and any other information deemed necessary by the county commissioners. For each designated landmark, the ordinance shall require that the waiting period set forth in section 9.5-37 be observed prior to its demolition. In addition, for each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property.

(Ord. of 3-18-02(1))

Sec. 9.5-32. Required landmark ~~Landmark~~ designation procedures.

As a guide for the identification and evaluation of landmarks, the commission shall catalog and inventory all properties of historical, architectural, prehistorical, or cultural significance within its jurisdiction. Such inventories and any additions or revisions shall be submitted to the division of archives and history.

No ordinance designating a historic building, site, structure, or area, as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the commission or

county commissioners until all of the following procedural steps have been taken:

- (1) The landmarks commission shall amend and adopt rules of procedure and principles and ~~guidelines~~ **standards** for altering, restoring, moving or demolishing structures designated as landmarks.
- (2) The landmarks commission shall only make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site area or object proposed for designation or acquisition with written consent of property owner(s). Such investigation or report shall be forwarded to the division of archives and history, state department of cultural resources.
- (3) The department of cultural resources, acting through the state historic preservation officer, shall ~~either,~~ upon request of the department or at the initiative of the landmarks commission, be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this article. Any comments shall be provided in writing. If the department does not submit its comments or recommendations in connection with any designation within thirty (30) days following receipt by the department of investigation and report of the commission, the commission and county commissioners shall be relieved of any responsibility to consider such comments.
- (4) **Proposed ordinance designations require initial consideration and recommendation by the** ~~The~~ landmarks commission **during a courtesy hearing followed by a public hearing by the county commissioners to receive public comment regarding the ordinance consistent with procedures specified in 21-315 (1)(b)(c) and (2)(a) of the Rowan County Zoning Ordinance.** ~~and the county commissioners shall hold a joint public hearing or separate public hearings regarding the proposed designation ordinance. Reasonable notice of the time and place shall be given. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C.~~
- (5) Following the public hearing, the county commissioners may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- (6) Upon adoption of the ordinance, the owner(s) and occupant(s) of each designated landmark shall be given written notification of the designation within twenty-one (21) days after the public hearing. One (1) copy of the ordinance and all amendments thereto shall be filed by the landmarks commission with county register of deeds. Each designated landmark shall be indexed according to the property owner(s) name in the grantee and grantor indexes of the register of deeds, and the commission shall pay the fee for filing and indexing. All designated landmarks shall be clearly indicated on all applicable tax maps maintained by the county for such period as the designation remains in effect. **A copy of the ordinance shall be given to the director of the Rowan County Building Inspections Department.**
- (7) Upon adoption of the ordinance or subsequent amendments thereto, it shall be the duty of the commission to provide notice to the county tax assessor. The designation and any recorded restrictions upon the landmark limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

(Ord. of 3-18-02(1))

Sec. 9.5-33. Certificate of appropriateness (COA) required.

- (a) Upon designation of a landmark, no exterior portion of any building or other structure (to include masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features), nor above-

ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such a landmark until after an application for a certificate of appropriateness (COA) as to exterior features has been submitted to and approved by the landmarks commission or planning staff. The county shall require such a certificate to be issued by the commission prior to the issuance of a building permit or altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this article. A certificate of appropriateness shall be required whether or not a building or other permit is required.

For purposes of this article, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" may, in the discretion of the county commissioners as part of the landmark designation process, include historic signs, color, and significant landscape, archaeological and natural features of the area.

Requests for COAs shall be submitted in accordance with the below options:

1. **Minor work.** A COA for minor work consistent with the definition in section 9.5-1 and the standards herein may be reviewed and approved administratively in accordance with adopted design standards. Development approval remains valid provided that such activity is commenced within one (1) year of the date of issuance but expires if the work or activity is discontinued for a period of one (1) year after work has commenced. Staff has the discretion to refer a COA request for minor work to the commission to be reviewed as major work. No application for a COA may be denied by staff without formal action by the commission. The following list contains examples of minor work:

- Repainting using the same color
- In-kind replacement of glass
- Repointing and other masonry repairs matching existing materials
- In-kind roof covering replacement
- Foundation repairs including vents and access doors
- Repairs to walkways, patios, fences, and driveways to match the original
- In-kind replacement of small amounts of deteriorated siding, trim, porch flooring, stairs, landings, and steps totaling less than 25 percent of the overall sq. ft.
- Installation of storm windows and full view storm doors with trim color being either white or matching house
- Replacement of mechanical or electrical equipment, antennas, and satellite dishes in same location
- Installation of gutters and downspouts where the color matches the house trim
- Alteration, installation, or removal of exterior light fixtures
- Side or rear yard fences and walls
- Landscaping side and rear yards

- Pruning vegetation and removal of trees
- Alteration of accessory structure with no footprint expansion
- Removal of deteriorated accessory buildings not original to the site
- New accessory structure totaling 150 sq.ft. or less
- Temporary signs such as real estate, political, etc.

2. **Major Work.** A COA for major work must be considered by the commission subject to this ordinance and adopted design standards during a quasi-judicial hearing consistent with the notice and hearing procedures noted in section 21-315 of the Zoning Ordinance for said hearing type. If approved, a COA shall expire two (2) years from the date of issuance if the work authorized by the approval has not substantially commenced unless a vesting period longer than two (2) years is granted by the Board of Commissioners in accordance with section 21-11 of the Zoning Ordinance. Unless provided otherwise by this chapter or applicable law, if after commencement the work or activity is discontinued for a period of one (1) year after commencement, the development approval shall expire.

(b) **Except as provided in subsection (d) below, the commission shall have no jurisdiction over interior arrangement.** The commission shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or significant features **which that** would be incongruous with the special character of the landmark. **In making decisions on COAs, the commission shall apply the rules and standards adopted pursuant to subsection (c) of this section.**

(c) Prior to enforcing a landmark ordinance, the commission shall (a) prepare and adopt rules of procedure, and (b) prepare and adopt principles and **guidelines standards** consistent with this section **to guide the commission in determining congruity with the special character of the landmark** for new construction, alterations, additions, moving and demolition.

(d) ~~Prior to issuance or denial of a certificate of appropriateness the commission shall take such steps as may be reasonably required in the ordinance or rules of procedure to inform the owners of any property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard.~~

~~In all cases where the commission deems it necessary, it may hold a public hearing concerning the application. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C.~~ **Notwithstanding subsection (a) of this section, jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic, or historical significance in publicly owned landmarks and of privately owned landmarks for which consent for interior review has been given by the owner. Interior designation shall bind future owners and / or successors in title, provided such consent has been filed in the office of the register of deeds indexed by the property owner name in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.**

(e) All applications for ~~certificates of appropriateness~~ **COAs** shall be reviewed and acted upon within a reasonable time, not to exceed one hundred eighty (180) days from the date the application for a ~~certificate of appropriateness~~ **COA** is filed, as defined by this article or the commission's rules of procedure. As part of its review procedure, the commission may view the premises and seek the advice of the division of archives and history or such other expert advice as it may deem necessary under the circumstances.

- (f) ~~An appeal may be taken to the county commissioners from the commission's action in granting or denying any certificate, which appeals (a) may be taken by any aggrieved party, (b) shall be taken within the times specified by the commission by general rule, and (c) shall be in the nature of the certiorari. Any appeal from the county commissioners decision in any such case shall be heard by the superior court of the county.~~

All of the provisions of this section are hereby made applicable to construction, alteration, moving and demolition by the state, its political subdivision, agencies and instrumentalities, provided, however, they shall not apply to interiors of buildings or structures owned by the state. The state and its agencies shall have the right to appeal the state historical commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of the commission. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principle guidelines used in reviewing applications of the state for ~~certificates of appropriateness~~ **COAs**. The decision of the commission shall be final and binding upon both the state and the landmark commission.

- (g) **All decisions of the commission in granting or denying a COA may be appealed to the Rowan County Board of Adjustment in the nature of certiorari in accordance with G.S. 160D-1404 and section 21-331 of the Rowan County Zoning Ordinance. Appeals from the Board of Adjustment may be made pursuant to G.S. 160D-1402.**

(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

Sec. 9.5-34. Filing of application.

All application procedures for a certificate of appropriateness contained within the commission's adopted rules and procedures shall be recognized.

(Ord. of 3-18-02(1))

Sec. 9.5-35. Appropriations.

The county commissioners are authorized to make appropriations to the commission reestablished pursuant to this article in any amount that it may determine necessary for the expense of the operation of the commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation and management of historic landmarks, or of land on which such buildings or structures are located, or to which they may be removed. The county commissioners shall have the power to accept gifts or donations in the name of the county for historic preservation or designation purposes. Monies appropriated to the commission as of the effective date of this amendment may be used regardless of the funding source.

(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

Sec. 9.5-36. Certain changes not prohibited.

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a landmark ~~which~~ **that** does not involve a change in design, material or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving or demolition of any such feature ~~which~~ **that** the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing in this article shall be construed to prevent any property owner from making any use of this property that is not prohibited by other law. Nothing in this article shall be construed to prevent (a) the maintenance, or (b) in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the landmark commission.

(Ord. of 3-18-02(1))

Sec. 9.5-37. Delay in demolition of landmarks.

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

If the commission has voted to recommend designation of a property as a landmark and final designation has not been made by the county commissioners, the demolition or destruction of any building, site or structure located on the property of the proposed landmark may be delayed by the commission for a period of up to ninety (90) days, or until the county commissioners take final action on the designation whichever occurs first.

- (b) The county commissioners may enact an ordinance to prevent the demolition by neglect of any designated landmark. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.
- (c) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the state historic preservation officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied, except where the commission finds that the owner would suffer extreme hardship, or be permanently deprived of all beneficial use or return by virtue of the denial.

(Ord. of 3-18-02(1); Amend. of 7-16-07(1))

Sec. 9.5-38. Conflict with other laws.

Whenever any ordinance adopted pursuant to this article requires a longer waiting period or imposes other higher standards with respect to a designated historic landmark, other than are established under any other statute, charter, provision or regulation, this article shall govern. Whenever the provisions of any other statute, charter, provision, ordinance or regulation require a longer waiting period, or impose other higher standards than are established under this article, such other statute, charter, provision, ordinance, or regulation shall govern.

(Ord. of 3-18-02(1))

Sec. 9.5-39. Remedies.

In case any building, structure, site, area or object designated as a historic landmark, pursuant to this article, is about to be demolished, whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance or other provisions of this article the county, the landmark's commission, **or other aggrieved party** by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct, with respect to such building, site, structure, area or object. **The provisions of this chapter may be enforced in accordance with the procedures established in section 21-13 and 21-14 of the Zoning Ordinance. Additionally, administrative decisions may be revoked in accordance with section 21-315 (c).**

(Ord. of 3-18-02(1))

Sec. 9.5-40. Amendments.

The standards of this ordinance may be amended in accordance with sections 21-315 and 21-361 of the Zoning Ordinance with the exception of a courtesy hearing and statement of consistency requirement.

Chapter 14.5 - NUISANCES

ARTICLE I. - IN GENERAL

Secs. 14.5-1—14.5-25. - Reserved.

ARTICLE II. – MANUFACTURED HOME STORAGE

DIVISION 1. - GENERALLY

Sec. 14.5-26. - Title.

This article shall be known and be cited as the "Rowan County Manufactured Home Storage Ordinance" (hereafter referred to as "this article").

(Ord. of 12-18-00(1))

Sec. 14.5-27. - Purpose.

The purpose of this article is to establish guidelines for the dead storage of manufactured homes in the county. These standards are adopted to promote the health, safety and general welfare of the public. It is recognized that inappropriate storage of manufactured homes may have adverse impacts on surrounding areas. This article promotes the accountability and responsibility of owners of property on which manufactured homes are stored, owners of manufactured homes not used as residences as well as persons transporting manufactured homes to storage sites.

(Ord. of 12-18-00(1))

Sec. 14.5-28. - Authority.

This article is adopted under the authority of G.S. 153A-121 and G.S. 153A-140.

(Ord. of 12-18-00(1))

Sec. 14.5-29. - Jurisdiction.

This article governs storage of manufactured homes on all land not part of a municipality or the extraterritorial zoning jurisdiction of a municipality.

(Ord. of 12-18-00(1))

Sec. 14.5-30. - Abrogation.

It is not intended that this article repeal, abrogate, annul impair, or interfere with any existing provisions of any other ordinances or laws.

(Ord. of 12-18-00(1))

Sec. 14.5-31. - Severability.

If any section or specific provision or standard of this article is found by a court to be invalid, the decision of the court shall not affect the validity of any other section, provision or standard of this article.

(Amend. of 10-2-06)

Sec. 14.5-32. - Definitions.

[The following words and phrases when used in this article shall have the meanings respectively ascribed to them in this section.]

Administrative decision means a decision made in the implementation, administration, or enforcement of development regulations that involve the determination of facts or the application

of objective standards set forth in this chapter. These are sometimes referred to as “ministerial” decisions or “administrative determinations”.

Administrative hearing means a proceeding to gather facts needed to make an administrative decision.

Board of commissioners or board means the County Board of Commissioners, Rowan County, North Carolina.

County means Rowan County, North Carolina.

Dead storage means to accumulate or keep items or materials not being used for their intended purpose for an extended period of time.

Determination means a written, final and binding order, requirement, or determination regarding an administrative decision.

Keeper means an individual or business, which stores manufactured homes.

Manufactured home means as defined in G.S. 143-145, a structure, transportable in one (1) or more sections, which in the traveling mode is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site is three hundred twenty (320) or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over thirty-two (32) feet in length and over eight (8) feet in width. "Manufactured home" also means a double-wide manufactured home, which is two (2) or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semi-permanent foundation having a measurement of over thirty-two (32) feet in length and over eight (8) feet in width. Travel trailers and campers shall not be considered manufactured homes. The term manufactured home is the same as a mobile home.

Manufactured home, category 1 means a manufactured home, which does not constitute a nuisance. Specifically, such a home shall be structurally sound with all windows, doors and other means of access intact and secured, preventing unauthorized access to the structure. The manufactured home shall also be positioned in generally level position and secured sufficiently to prevent accidental movement of the home.

Manufactured home, category 2 means a manufactured home, which constitutes a nuisance. Specifically the home is in a condition or stored on a fashion that presents a potential threat to the health, safety or welfare of the community.

Nuisance means a use which interferes with the enjoyment and use of property.

Owner means all owners and parties of interest of the real property upon which the manufactured home is located and the owner and all parties of interest of the subject manufactured home.

Planning department means the **Rowan County** planning ~~division of the county environmental services and development~~ department.

Planning ~~manager~~ director means the ~~manager~~ **director** of the Rowan County Planning Department who is authorized to supervise the enforcement of or perform the duties and responsibilities ~~for~~ this article.

“Written” or “in writing” means written communication, including by electronic mail, **executed**

by a staff member to document a determination, order, interpretation, notification, or other purpose identified by this chapter. Unless specified otherwise, in the absence of evidence to the contrary, delivery by first class mail shall be deemed received on the third business day following deposit of the item with the United States Postal Service and delivery by electronic mail shall be deemed received on the date sent.

~~Zoning board~~ **Board** of adjustment means the Rowan County ~~Zoning~~ Board of Adjustment which is authorized to consider appeals related to the enforcement of this article.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-33. - Fees.

Reasonable fees to cover the administration of this article may be established by the ~~county~~ board of commissioners.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-34. - Enumeration.

The dead storage of a manufactured home for a period of sixty (60) days, unless specifically provided otherwise herein, is declared a violation of this article. In addition, notwithstanding the provisions contained in this article, storage of category 2 manufactured home as defined by this article may be declared a nuisance. This article shall not apply to category 1 manufactured homes for sale by a manufactured home dealer stored on land owned or leased by a manufactured home dealer.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-35. - Enforcement.

(a) The provisions of this article shall be enforced by the ordinance enforcement officers of the ~~county environmental services~~ **planning** department, ~~planning division~~, (herein referred to as the "enforcement officer") or other duly authorized personnel. The county and in accordance with the provisions of this article and applicable state law may seek corrective action by issuance of civil citations, notice of abatement or other remedies provided by law.

(b) Initial enforcement activity shall be directed to the owner of the manufactured home in violation of provisions of this article. Reasonable efforts shall be made to determine ownership of said manufactured homes and these efforts shall be documented in writing by the enforcement officer. In no situation shall efforts to locate the owner of the said manufactured home delay enforcement activity more than thirty (30) days.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-36. - Notice of violation.

Upon determining that there is probable cause to believe that this article has been violated, the enforcement officer shall issue a written notice of violation to the owner or shall initiate proceedings to declare a nuisance as provided by division 2 of this article, if appropriate. If a notice of violation is issued the notice shall state specifically which section of this article has been violated, the date of the violation, the date of issuance of the name and position of the person issuing the notice of violation, what acts are necessary to remedy the violation and a deadline of not more than sixty (60) days from the date of service of the notice of violation for compliance or presentation of a satisfactory course of action to remedy the violation.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-37. - Serving of notice of violations and citations.

Service of notice of violation and citation shall be made by mailing a copy of the same postage prepaid by certified mail, return receipt requested, or in the alternative by the county sheriff's office or such other duly authorized officials and/or representatives allowed by law.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-38. - Civil penalties.

(a) In addition to other remedies cited herein or otherwise provided by state law, this article may be enforced by the issuance of civil citations to the owner by the county. Civil citations shall not be issued until a determination regarding appeals, pursuant to section 14.5-41 of this article, is made by the zoning board of adjustment, or until the deadline for such appeal has passed. These citations shall be in the form of a civil penalty. The county may recover this penalty within seventy-two (72) hours after issuing a citation for a violation. In addition, failure to pay the civil penalty may subject the owner to civil action in the nature of debt if the penalty is not paid in the prescribed period of time. Each manufactured home in dead storage in violation of this article shall constitute a separate and distinct violation under this section.

(b) The following civil penalties are established for violations under this article. Upon issuance of a warning citation, first citation or second citation, the owner or keeper shall have seven (7) days to correct the violation or make satisfactory progress to correct the violation before additional penalties are assessed. Upon issuance of the third citation, each additional day's violation is a separate and distinct offence and shall incur an additional five hundred dollar (\$500.00) fine.

Warning citation	No Penalties
First citation for same offence	\$100.00
Second citation for same offence	\$250.00
Third and subsequent violation for same offence	\$500.00

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-39. - Misdemeanors.

Any owner or keeper who keeps a manufactured home in dead storage in violation of this article shall be guilty of a Class III misdemeanor, punishable by a fine of up to five hundred dollars (\$500.00) and/or a maximum of thirty (30) days in jail as provided by applicable state law. Each day's violation shall constitute a separate and distinct offense.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-40. - Equitable remedy.

This article may be enforced by an appropriate equitable remedy, injunction or order issued by a court of competent jurisdiction pursuant to G.S. 153A-123.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-41. - Appeals.

Any person with standing under G.S. 160D-1402(c) may appeal an administrative decision to the board of adjustment by Appeals of a notice of violation or other actions, (excluding an order of abatement of the enforcement officer) shall be made in writing **providing written notice** to the clerk to the zoning board of adjustment on forms obtained from the planning department. The appeal must be filed within the **thirty-day period following thirty (30) days of the date of receipt of said notice of violation or the date of**

~~action taken by the ordinance enforcement officer~~ **receiving actual or constructive notice of the determination. Appeals from an administrative decision of this chapter shall follow the procedure outlined in section 21-315 and 21-331 of the Zoning Ordinance.** If a written appeal is not made within said thirty-day period, the matter shall be deemed to be closed and the decision of the enforcement officer shall stand.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Secs. 14.5-42—14.5-60. - Reserved.

DIVISION 2. - ABATEMENT OF A NUISANCE

Sec. 14.5-61. - Determination of a nuisance.

(a) *Preliminary investigation.* Whenever a complaint concerning storage of a manufactured home is received or a possible violation of this article is observed by an enforcement officer, the enforcement officer shall conduct a preliminary investigation. If the preliminary investigation discloses the home as a potential nuisance, the enforcement officer shall schedule ~~a~~ **an administrative** hearing. Complaints received from the public shall be made in writing and shall contain the name and address of the complainant.

(b) *Notice.* The enforcement officer shall issue and cause to be served upon the owner a notice of **an administrative** hearing stating the finding of a nuisance. The notice of hearing shall also state that the hearing shall be held before the planning ~~manager~~ **director** at a place specified in the notice of hearing. Owners shall be determined utilizing county tax assessors records and other sources as appropriate. Notice shall be as provided below:

(1) Sent certified mail, return receipt requested to all owners more than twenty (20) days but less than thirty (30) days from the date of the hearing.

(2) Personal delivery of said notice more than twenty (20) days and less than thirty (30) days from the date of the hearing to the property upon which the manufactured home is located. If the owner is present at the site a notice shall be hand-delivered by the codes enforcement to that person.

(3) The ordinance enforcement officer shall affix the notice of hearing in a prominent place upon the subject manufactured home.

(c) ***Administrative Hearing.*** The owner shall have the right to file an answer to the complaint or preliminary investigation and appear in person and give testimony at the scheduled hearing. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall be controlling in a hearing before the ~~manager~~ **director**.

(d) *Procedure after the hearing.* After notice and hearing as provided in this subsection, the planning ~~manager~~ **director** shall state in writing his determination whether the manufactured home in question is a category 1 or a category 2 manufactured home. The planning ~~manager~~ **director** shall state in writing the findings ~~of fact~~ supporting the determination. If the planning ~~manager~~ **director** determines that the manufactured home is a category 2 manufactured home and therefore a nuisance he shall issue a notice to abate as provided below. If the planning ~~manager~~ **director** determines the manufactured home is a category 1 manufactured home the enforcement officer may pursue corrective action as provided in division 1 of this article.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-62. - Notice to abate.

(a) *Notice.* When dead storage of a category 2 manufactured home on a property is found to be a nuisance and the county proceeds with a notice of abatement, the enforcement officer shall notify the owner and the occupant of the property where the nuisance is located.

(b) *Issuance of notice.* The notice to abate a nuisance issued under the provisions of this article shall contain:

- (1) A statement that the dead storage of a manufactured home or homes on this property constitutes a public nuisance.
- (2) A description of the condition, including the number of homes, condition of homes, and condition of the immediate surroundings.
- (3) The location of the property on which the nuisance exists, including county tax map and parcel number.
- (4) A provision allowing the owner or keeper of the home a thirty-day opportunity to dispose of the home at the Rowan County Landfill at no charge. An additional thirty-day period for disposal (not to exceed a total of sixty (60) days) may be granted by the ~~planner-manager~~ **planning director** provided the owner or keeper submits a written request stating the reasons necessary for an extension. The extension request must be received by the planning department prior to termination of the initial thirty-day period.
- (5) A statement that unless the condition is not abated or otherwise disposed of within the time period established in subsection 14.5-62(b)(4) from the mailing of the notice, the conditions will be abated and the cost of abatement shall constitute a lien against the property. The notice shall be sent as provided in section 14.5-37.

(c) *Appeal of notice of abatement.*

- (1) Within thirty (30) days of ~~mailing the~~ **receiving actual or constructive** notice to abate, the owner of the property where the nuisance exists **or any person with standing under G.S. 160D-1402(c)** may appeal the findings of the planning ~~manager~~ **director** to the zoning board of adjustment by **giving providing** written notice ~~of the appeal~~ to the clerk to the zoning board of adjustment **on forms obtained from the planning department**. ~~Such appeal will stay the abatement of the nuisance by the enforcement officer until a final determination is made by the board.~~ **Appeals from an administrative decision of this chapter shall follow the procedure outlined in section 21-315 and 21-331 of the Zoning Ordinance.** If no action is taken the county may proceed to abate the nuisance.
- (2) If an appeal is taken as provided in this section, the zoning board of adjustment may, after hearing all interested persons and reviewing findings of the planning ~~manager~~ **director**, reverse or affirm that the said storage of category ~~1~~ **2** manufactured homes constitutes a nuisance. If the board determines that the findings of the planning ~~manager~~ **director** are correct and proper, the board shall adopt an ordinance specifically declaring the said dead storage of manufactured home(s) to be a danger to the health, safety and general welfare of the inhabitants of the county and cause such condition to be abated.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-63. - Cost of abatement; lien.

- (a) *Cost.* The cost of abatement shall reflect the actual costs incurred to the county per the invoice for removal of the category 2 manufactured home including any filing costs and reasonable attorney fees associated with abatement.
- (b) *Lien.* After abatement of a nuisance as provided by this article the cost of such abatement shall become a lien against the property from which the manufactured homes were removed.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Chapter 17 - PLANNING AND DEVELOPMENT

ARTICLE I. - IN GENERAL

Secs. 17-1—17-25. - Reserved.

ARTICLE II. - PLANNING BOARD

Sec. 17-26. - Establishment, jurisdiction.

There is hereby established under the authority of G.S. ~~153A-320 through 153A-324~~ **160D-301** a board to be known as the Rowan County Planning Board whose jurisdiction shall include the area within the boundaries of the county.

(Ord. of 4-4-77, § 1(1); Amend. of 2-5-07; Amend. of 2-18-08)

Sec. 17-27. - Appointment and terms of planning board members.

- (a) The planning board shall be composed of nine (9) members who shall be residents of the county.
- (b) Planning board members shall be appointed for three-year staggered terms, but members may continue to serve until their successors have been appointed. All terms of office shall end on the thirty-first day of December of a year. Any terms not ending on December thirty-first shall be extended to December thirty-first of that year from and after April 3, 1989. Initially, four (4) members shall be appointed for three-year terms, four (4) members shall be appointed for two-year terms, and three (3) members shall be appointed for one-year terms. Current members who have three-year, two-year or one-year terms remaining shall continue to serve with additional members being appointed to establish the staggered terms of the planning board membership. Vacancies may be filled for the unexpired term only.
- (c) Planning board members may be removed by the board of commissioners at any time for failure to attend three (3) consecutive meetings or for failure to attend thirty (30) percent or more of the meetings within any twelve-month period or for any other good cause related to performance of duties. Upon request of the member proposed for removal, the board of county commissioners shall hold a hearing on the removal before it becomes effective.
- (d) If a planning board member moves outside the county, that shall constitute a resignation from the planning board, effective upon the date a replacement is appointed by the board of commissioners.

(Ord. of 4-4-77, § 1(2); Ord. of 4-3-89, § 1; Amend. of 2-5-07; Amend. of 2-18-08; Amend. of 11-19-12)

Sec. 17-28. - Powers and duties.

It shall be the duty of the county planning board to:

1. ~~Make studies of the county and surrounding areas.~~ **Prepare, review, maintain, monitor, and periodically update and recommend to the board of commissioners a comprehensive plan, and such other plans as deemed appropriate consistent with G.S. 160D-501, and conduct ongoing research, data collection, mapping, and analysis;**
2. ~~Determine objectives to be sought in the development of the study area.~~ **Facilitate and coordinate citizen engagement and participation in the planning process;**
3. ~~Prepare and adopt plans for achieving these objectives.~~
4. Develop and recommend policies, ordinances, **development regulations**, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;

~~5.~~ **4.** Advise the board of commissioners concerning the ~~use and amendment of means for carrying out~~ **implementation of** plans, **including, but not limited to, review and comment on all zoning text and map amendments;**

~~6.~~ **5.** Exercise any functions in the administration and enforcement of various means for carrying out plans that the board of commissioners may direct; **and**

~~7.~~ **6.** Perform any other related duties that the board of commissioners may direct.

(Ord. of 4-4-77, § 1(3); Amend. of 2-5-07; Amend. of 2-18-08)

Sec. 17-29. - ~~Acceptance of funds, etc.;~~ Grants, contracts, and technical assistance.

(a) The ~~planning board~~ **county** may accept, receive and disburse in furtherance of its functions funds, grants, and services made available by the federal government or its agencies, the state government or its agencies, any local government or its agencies, and private or civic sources. The ~~planning board, with the concurrence of the board of commissioners,~~ **county** may enter into and carry out contracts with the state or federal governments or any agencies ~~of either thereof~~ under which financial or other planning assistance is made available to the county and may agree to and comply with any reasonable conditions that are imposed upon the assistance.

(b) The ~~planning board, with the concurrence of the board of commissioners,~~ **county** may enter into and carry out contracts with any other county, city, regional council or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency. The ~~planning board, with the concurrence of the board of commissioners,~~ **county** may enter into and carry out contracts with any other county, city, regional council or planning agency under which it agrees to pay the other local government ~~or planning agency~~ for technical planning assistance.

(c) The county may make any appropriations that may be necessary to carry out an activity or contract authorized by G.S. ~~160D-502 153A-320 through 153A-378, by G.S. 160A-400.1 et seq., or by G.S. 160A-360 through 160A-458.4~~ or to support, and compensate members of the planning board.

(Ord. of 4-4-77, § 1(4); Amend. of 2-5-07; Amend. of 2-18-08)

Chapter 21: ZONING ORDINANCE

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- Sec. 21-31. Zoning districts established.
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 - Sec. 21-52. Site plan required.
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 - Sec. 21-54. Maximum building size and setback requirements for certain uses listed as SR in the Rural Agricultural District.
 - Sec. 21-55. General criteria for uses listed as SR in article III.
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 - Sec. 21-57. Review and approval of **conditional special** uses.
 - Sec. 21-58. Review procedures.
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 - Sec. 21-60. **Conditional Special** use requirements for specific uses.
 - Sec. 21-61. Conditional zoning districts.
 - Sec. 21-62. Effect of approval for conditional zoning districts.
 - Sec. 21-63. Application re-submittal for **conditional special** use permits and conditional zoning districts.
 - Sec. 21-64. Conditional District Standards for Specific Uses.
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Article V. Permitted and ~~Conditional~~ **Special** Uses

Sec. 21-111. Generally.

Sec. 21-112. Relation to Standard Industrial Classification (SIC) Manual, 1987; executive office of the president, office of management and budget.

Sec. 21-113. Table of uses.

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Sec. 21-162. General design requirements.

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ARTICLE I. IN GENERAL

Sec. 21-1. Title.

This chapter shall be known and may be cited as the Zoning Ordinance of Rowan County, North Carolina and may be referred to as the "zoning ordinance" or "this chapter."

(Ord. of 1-19-98, § I)

Sec. 21-2. Purpose.

The purpose of this chapter is to establish planning and zoning requirements and procedures for zoning in the unincorporated areas of the county outside the zoning jurisdiction of municipalities. This chapter is adopted to promote the health, safety and general welfare of the public. In accomplishing this, guidelines for the development and land use are presented. These guidelines will provide for economic, social, and

aesthetic advantages resulting from the orderly planned use of land resources. This chapter recognizes that much of the county has developed with smaller businesses and industries located in rural areas along with residential uses and that such businesses, developed appropriately, are not detrimental to the health, safety and general welfare of these areas. This chapter also recognizes that other residential areas in the county desire more separation of residential uses from business and industrial uses. Certain areas in the county are appropriate for concentrations of commercial, business and institutional uses and are provided. Economic development is a recognized goal of the county and provisions are made to allow timely location of industries that will advance the general welfare of the county's citizens, while insuring that residential areas are protected from adverse impacts of this type of development.

(Ord. of 1-19-98, § I)

Sec. 21-3. Authority.

This article is adopted under the authority of G.S. Ch. 153A, 160D Art. 7 18, Pt. 3 (planning and zoning regulation of development).

(Ord. of 1-19-98, § I)

Sec. 21-4. Definitions.

Unless otherwise expressly provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter. For any word that is not defined in this section, the common dictionary definition applies.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated as dB(A).

Abandon means to cease the regular use or maintenance of a lot, building or structure.

Abandoned motor vehicle means one that is left:

- (1) On public grounds or county owned property in violation of a law or ordinance prohibiting parking; or
- (2) For longer than twenty-four (24) hours on property owned or operated by the county; or
- (3) For longer than seven (7) days on public grounds.

Accessory structure means a structure detached from the principal structure and is customarily incidental and subordinate to that structure.

***Administrative decision* means a decision made in the implementation, administration, or enforcement of development regulations that involve the determination of facts or the application of objective standards set forth in this chapter. These are sometimes referred to as "ministerial" decisions or "administrative determinations".**

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed are characterized as depicting or describing "specified sexual activities" or "specified anatomical areas", as herein defined.

Adult bookstore, adult novelty store, or adult video store means any establishment having:

1. Twenty-five (25) percent or more of its merchandise, inventory, stock-in-trade, or floor space devoted to adult product, or that derives twenty-five (25) percent or more of its gross sales from adult product, or that has twenty-five (25) percent of the dollar value of its merchandise in adult product from one or more establishments defined as an adult use including one or more of the

following;

- (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are characterized by an emphasis on depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (b) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."
2. A preponderance (either in terms of the weight and importance of the material or in terms of greater volume of material) of its stock (for sale or rent) including one or more of the following:
- (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are characterized by an emphasis on depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (b) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

Adult cabaret means a nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:

- (a) Persons who appear nude, semi-nude, or in lingerie; or
- (b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (c) Persons who, for a tip, fee, wage, donation, or any other form of consideration engage in performances while wearing lingerie or in a nude or semi-nude condition, which may or may not include strip teasing, intended for the sexual interests of an audience or customer.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe "specified sexual activities" or "specified anatomical areas."

Adult theater means a theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of "specified anatomical areas" or by "specified sexual activities".

Adult use means an adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, massage parlor, sexual encounter center, or a combination thereof as defined by these definitions. Notwithstanding any other provision of this ordinance, "adult use" shall be broadly defined to include any business that has a section devoted to adult product as defined by an adult bookstore or that holds itself out to the public, through advertising, signage, displays, or other activities, as a purveyor of adult products or services.

Agricultural use means the use of land or water for bona fide farm purposes; the use of waters for stock watering, irrigation, and other farm purposes.

Alternative tower structure means any structure in excess of forty (40) feet in height which is not primarily constructed for the purpose of holding antennas but on which one (1) or more antennas may be mounted that camouflage or conceal the presence of antennas or wireless facilities. Alternative tower structures include, but are not limited to, buildings, silos, water tanks, pole signs, lighting standards, steeples, billboards, electric transmission towers, clock towers, bell steeples, light-poles and similar alternative-design mounting structures.

Antenna means a communication device which transmits and or receives electromagnetic radio signals. Antennas may be directional, including panels and microwave dishes, and omnidirectional including

satellite dishes, whips, dipoles, and parabolic types. An antenna does not include the tower or other supporting structure to which it is attached.

Apartment means an attached dwelling unit which is intended for rental purposes only.

Appeal means a request for a review by the board of adjustment of ~~any administrator's~~ **an administrative** decision regarding any provision of this article.

Applicant means any person or entity that requests ~~any~~ **an administrative, legislative, or quasi-judicial action or approval decision** as allowed under this chapter.

Approach surface means the surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of sixteen thousand (16,000) feet as provided for precision instrument runways. The approach surface extends from the primary surface along the extended runway centerline for a horizontal distance of ten thousand (10,000) feet at a slope of 50:1 with an additional forty thousand (40,000) feet at a slope of 40:1.

Archery means the art, sport, or skill of shooting with a bow and arrow.

Automobile repair facility means any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

Automobile salvage yard means any establishment selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts; any establishment or place of business upon which six (6) or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of fifteen (15) days or more unless otherwise specified by this chapter. Automobile salvage yard shall also mean "motor vehicle parts, used" (SIC 5015).

Balance of watershed means an area defined as the entire drainage basin upstream of an draining to a WS-II or WS-III watershed critical area where the risk of water supply pollution is greater than in surrounding areas.

Base course means that portion of the pavement structure of planned thickness placed immediately below the pavement or surface course.

Base station is 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.

Bed and breakfast inn means a lodging facility in which the operator resides and which is established for the purpose of providing temporary overnight accommodations for tourists, vacationers and other similar transients. The facility may have a dining room but only for the provision of food for the registered guests of the facility.

Beneficial Fill means fill material consisting only of inert debris strictly limited to concrete, brick, concrete block, uncontaminated soil, rock, or gravel.

Berm means a mound of earth or the act of pushing earth into a mound.

Block means a piece of land bounded on one (1) or more sides by streets or roads.

Board of commissioners, the County Board of Commissioners, Rowan County, NC.

Body shop means found as term "automobile repair facility."

Broadcast tower is any freestanding or building mounted structure, including any base, tower or pole, antenna & appurtenances intended for transmitting radio or television signals.

Buffer means an area of natural or planted vegetation through which stormwater runoff flow is diffused in a manner so that runoff does not become channelized and provides for infiltration of the runoff and filtering

of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Buffer strip means open space, landscaped area, fence, wall, berm, or any combination thereof used to physically separate or screen one (1) use or property from another so as to visually shield or block noise, lights, or other nuisances.

Building means a structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two (2) buildings by an open porch, breezeway, passageway, carport or other open structure, with or without a roof, shall not be thought of as making them one (1) building.

Building, principal means a building in which is conducted the main or principal use of the lot on which such building is located.

Building setback line--front means a line establishing minimum allowable distance between the wall of the principal building and the street or road rights-of-way line when measured perpendicularly from the rights-of-way. Covered porches, decks, uncovered porches or landings, etc., but not including steps whether covered or not, shall be considered as part of the principal building and shall not project into the required yard except as expressly provided elsewhere in this chapter.

Building setback line--side or rear means a line establishing minimum allowable distance between the wall of the principal building and the side or rear property lines. Covered porches, decks, uncovered porches or landings, etc., but not including steps whether covered or not, shall be considered as part of the principal building and shall not project into the required yard except as expressly provided elsewhere in this chapter.

Built-upon area means that portion of a development project that is covered by impervious or partially impervious cover, including buildings, pavement, gravel areas (e.g. roads, parking lots, and paths), recreation facilities (e.g. tennis courts), etc. This does not include slatted decks, the water area of a swimming pool, a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric, and trails defined in G.S. ~~113A-85~~ **143B-135.94** that are either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).

Campground means an area or property that provides more than one (1) site or space for overnight and temporary primitive tent camping for recreation, education or vacation purposes. Campgrounds may not provide or include sites or spaces for a recreational vehicle. This definition is not intended to include camping by an individual or family on their own property.

Cabin means a habitable structure used for overnight or temporary lodging of a recreational rental purpose regardless of whether said structure is subject to the NC Building Code. For purposes of this definition, the term does not include a dwelling unit, but is intended to include cottages, huts, treehouses, yurts and other similar structures.

Caliper means the diameter of a tree trunk.

Child care center means any child care arrangement which provides child care for between three (3) and twelve (12) preschool-age children in a residence or three (3) or more children in a building other than a residence on a regular basis of at least once per week for more than four (4) hours but less than twenty-four (24) hours per day, regardless of the time of day and regardless of whether the same or different children attend as defined by G.S. 110-86. The following are not included: public schools; non-public schools whether or not accredited by the state department of public instruction, which regularly and exclusively provide a course of grade school instruction to children who are school-age; specialized activities such as athletics, dance, music lessons, or Boy Scouts; summer day camps that operate less than four (4) consecutive months and do not participate in the child care subsidy program; summer camps having children in full-time residence; bible schools conducted during vacation periods; facilities licensed under G.S. Ch. 122C, Art. 2; and cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment.

Church/synagogue means a tax exempt building used for nonprofit purposes by a recognized and legally established sect for the purpose of worship, including educational buildings and daycare facilities when operated by such church/synagogue.

Classic motor vehicle means any motor vehicle, twenty (20) years old or older, being of recognized and enduring interest, appeal and importance to the owner.

Cluster development shall refer to residential clustering for the purposes of this chapter.

Co-location means the placement or installation of additional antennas, antenna arrays or wireless facilities on an existing wireless support structure or broadcast tower, the sharing of an antenna or antenna array, or otherwise sharing a common location by two (2) or more FCC licensed providers of mobile broadband or wireless telecommunication services. Co-location does not include routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size.

Combination use means a use consisting of a combination on one (1) lot of two (2) or more principal uses separately listed in the table of permissible uses in section 21-113.

Community water system means a public water supply approved by the state department of Environmental Quality Division of Water Resources, public water supply section, that serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year round residents which is owned and operated by a privately owned for profit or nonprofit licensed water supply firm or corporation or a private individual.

Comprehensive plan means a plan that has been officially adopted by the Board of Commissioners pursuant to G.S. 160D-501.

~~Conditional use permit means a permit that authorizes that recipient to establish a specified conditional use.~~

Conditional zoning means a legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. Upon adoption, the suffix “-CD” accompanies the general zoning district abbreviation to recognize the district’s distinguishing characteristic.

Condominium means an estate in real property consisting of an undivided interest in common with other purchasers in a portion of real property, together with a separate interest in space in a building. A condominium may include, in addition, a separate interest in other portions of such real property.

Conical surface airport means a surface beginning at the periphery of the horizontal surface, extending outward and upward for a horizontal distance of four thousand (4,000) feet and increasing in height at a 20:1 slope.

County manager means the County Manager of Rowan County.

Courtesy hearing means a public hearing **before the Planning Board** that provides an opportunity for the public to express their views and opinions on an agenda item **under consideration by the Planning Board prior to the board making a recommendation concerning the matter. These hearings are required as a precursor to decisions required by this chapter by the Board of Commissioners.**

Covenant, restrictive means the private limitations or controls placed upon the use of land.

Critical area means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half (1/2) mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half (1/2) mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first).

Curb Outlet System means curb and gutter with breaks or other outlets used to convey stormwater runoff to vegetated conveyances or other vegetated areas.

Dead storage means to accumulate or keep for an extended period.

Decibel (dB) means a unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.

Declaration of unit ownership means a duly recorded instrument by which property is submitted to the provisions of G.S. Ch. 47A.

Dedication means a gift, by the owner, of the right to use or possess land for a specified purpose or purposes. This transfer of property rights requires a written document stating dedication and is completed with an acceptance.

Deed restrictions. See term "covenant, restrictive."

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

Developed lot means a lot of record which at the effective date was occupied by structures used for residential, religious, governmental, business, commercial, industrial purposes or as a place of public assembly.

Developer means any person, firm, trust, partnership, association, **or corporation, governmental agency, or redevelopment authority who undertakes any** engaged in development **and who is the landowner of the property to be developed or authorized agent to undertake**, ~~or proposed development activities.~~

Development means ~~any land-disturbing activity that adds to or changes the amount of impervious or partially impervious cover on a land area, or which otherwise decreases the infiltration of precipitation into the soil.~~ **,unless the context clearly indicates otherwise,:**

- a. The construction, erection, alteration, enlargement, renovation, repair, movement, or demolition of any structure;**
- b. Excavation, grading, filling, clearing, or alteration of land;**
- c. Subdivision of land; or**
- d. Initiation or change in the use of land or the intensity of use of land.**

***Development approval* means an administrative or quasi-judicial approval made pursuant to this chapter that is written and required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, subdivision plat approvals, special use permits, and variances. The term also includes all other regulatory approvals required by this chapter.**

***Development regulation* means a zoning, subdivision, erosion and sedimentation control, flood damage prevention, historic landmark, or any other regulation adopted pursuant to G.S. 160D that regulates land use or development.**

Dimensional nonconformity means a nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other building or lot lines does not conform to the regulations applicable to the district in which the property is located

Discontinue means to stop or cease the use of a property.

District. See term "zoning district."

Drinking Place means an establishment whose principal purpose is to derive income from the sale of alcoholic beverages that are served and consumed on premise. These establishments, commonly known as bars, pubs, saloons, and taverns, hold themselves out to the public through advertising, signage, or other activities as purveyors of alcoholic beverages served on premise. Drinking places may also provide limited food services but do not meet the definition of an eating place as defined herein. In determining whether a use meets this definition, the Zoning Administrator may also consider the percentage of income from alcoholic beverage sales, floor plans, and plans / permits from the Rowan County Building Inspections Department, Rowan County Environmental Health Division, and the North Carolina ABC Commission. Unless otherwise indicated, this definition does not include congressionally chartered veteran organizations or uses holding a tasting permit defined by G.S. 18B-1001.

Driveway means a private travel way which provides access from a public or private road, street or easement.

Dump station means a dedicated on-site system in an RV park that is designed to treat or retain raw sewage and / or gray water produced by the occupant(s) of a recreational vehicle(s). The dump station is subject to approval and permitting by the Rowan County Health Department.

Dwelling means any building, structure, manufactured home, or part thereof, used and occupied for human habitation or intended to be so used, and includes appurtenances belonging thereto. This definition does not include recreational vehicles.

Dwelling unit means a building, or portion thereof, providing complete, **independent and permanent** living facilities for one (1) **family or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.**

Dwelling unit, attached means a dwelling unit that shares one (1) or more common walls with other similar units.

Dwelling unit, detached means any dwelling unit that is freestanding and shares no common walls with any other dwelling unit.

Easement means a grant by the property owner to the public, a corporation, or persons, of the right to use a specified portion of a lot or lots for a specified purpose.

Eating Place means an establishment principally engaged in preparing and serving food and beverages, which may or may not be consumed on premise, and in which the service of alcoholic beverages are accessory to the service of food and non-alcoholic beverages in terms of sales and square footage. In determining whether a use meets this definition, the Zoning Administrator may also consider the percentage of income from alcoholic beverage sales, floor plans, and plans / permits from the Rowan County Building Inspections Department, Rowan County Environmental Health Division, and the North Carolina ABC Commission.

Eligible facilities request means a request for modification of an existing wireless support structure or base station that involves co-location of new transmission equipment but does not include a substantial modification.

Equipment compound means an area surrounding or near the base of a wireless support structure within which a wireless facility is located.

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

Events center means an establishment offering use of their facilities and associated grounds for rent or lease to any person or group for the purposes of hosting pre-planned events, which are not open to the general public, including but not limited to weddings, corporate events, reunions, and similar functions. Events centers may contain kitchen facilities, subject to Rowan County Environmental Health Division standards, where food is prepared on site or catered and the use of live or recorded music.

Existing development means a project that is built or those projects that at a minimum have an established right under state common law as of the effective date of this chapter based on at least one (1) of the following criteria:

- (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
- (2) Having an outstanding valid building permit as authorized by G.S. ~~153A-344.1~~ **160D-108**.

“Existing” impervious development. Consists of any structure(s) or operational area(s) that has either been:

1. In existence and continuous operation prior to the effective date of the Rowan County Water Supply Watershed Ordinance on January 1, 1994 (since codified in the RCZO); or,
2. Lawfully permitted prior to the effective date (February 16, 1998) of the Rowan County Zoning Ordinance; or,
3. Lawfully permitted in accordance with the standards of the Rowan County Zoning Ordinance prior to the effective date of the High Density amendments contained in Section 21-33(f) of the RCZO.

Existing lot (lot of record) means a lot that is part of a subdivision, a plat of which has been recorded in the office of the register of deeds before the adoption of this chapter, or a lot described by metes and bounds, the description of which has been so recorded before the adoption of this chapter.

Extraterritorial jurisdiction (ETJ) means that portion of a city or town planning jurisdiction that lies outside the corporate limits of the city or town within which municipal land use regulations apply.

Fall zone means an area in which a wireless support structure or broadcast tower may be expected to fall in the event of a structural failure, as measured by engineering standards.

Family care home means ~~an adult care~~ **a** home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident ~~handicapped~~ persons **with disabilities as defined by G.S. 160D-906(b)**.

Family child care home means any child care program or child care arrangement wherein any person provides child care on a regular basis at least once per week for more than four (4) hours per day for five (5) or fewer preschool-age children and / or three (3) or fewer school-age children under thirteen (13) years of age, wherever operated, and whether or not operated for profit as defined by G.S. 110-86. The provider's own preschool-age children are included in the capacity totals but their school-age children are not. The four-hour limit applies regardless of the time of day and regardless of whether the same or different children attend. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment are not included.

Family, Immediate means an individual's grandparents, ~~step-grandparents~~, parents, ~~step-parents~~, sibling (~~full, half, or step~~), children, ~~step-children~~, **and** grandchildren, ~~and step-grandchildren~~, **This includes step, half, and in-law relationships and** whether natural or legal.

Farm, bona fide means the production and activities relating or incidental to the production of crops, **grains**, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in G.S. 106-581.1 subject to G.S. ~~153A-340 (b)~~ **160D-903(a)**.

Fence means any artificially constructed barrier erected to enclose or screen areas of land used as a boundary or means of protection or confinement.

Financial surety means a form of financial guarantee issued to and held by Rowan County, NC to ensure completion of a project or specified aspect of such. This guarantee may be in the form of a performance bond issued by a bonding company authorized to conduct business in North Carolina; or a letter of credit issued by a financial institution licensed to conduct business in North Carolina; or cash that may be held in escrow

Firearm means a weapon, including pistols, rifles, and shotguns, capable of firing a projectile using an explosive charge as a propellant.

Firing line means a line parallel to a target from which firearms or arrows are discharged.

Frontage means the side(s) of a lot abutting a legally accessible public or private street rights-of-way.

G.S. refers to the North Carolina General Statutes.

Garage. See term "automobile repair facility."

Go kart means a miniature open wheeled four-wheeled racing vehicle having a maximum height of fifty (50) inches, a maximum length of eighty-eight (88) inches, a maximum wheel base of fifty-six (56) inches and a maximum engine displacement of 253 cc. This definition shall include but not be limited to quarter midget racecars sanctioned by the Quarter Midgets of America and go karts sanctioned by the World Karting Association.

Grade finished means the final grade elevation after grading for development.

Grade natural means the elevation of the ground in its natural state before construction, filling or excavation.

Gross floor area means the total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

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

Hazardous material means any substance listed as such in SARA Section 302 (extremely hazardous substances), or Section 311 of CWA (oil and hazardous substances).

Health care facility means a facility of institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human diseases, pain, injury, deformity, or physical conditions.

Health or safety nuisance of a motor vehicle may be declared a health or safety nuisance when it is found to be:

- (1) A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests;
- (2) A point of heavy growth of weeds or other non-toxic vegetation over eight (8) inches in height;
- (3) A point of concentration of gasoline, oil, or other flammable or explosive materials;
- (4) So located that there is a danger of the vehicles falling or turning over; or
- (5) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass, or other rigid materials.

Home occupation means a business, profession, occupation, or trade for the economic gain or support of a resident of the dwelling which is completely contained within the dwelling. The use is operated by the resident of the dwelling, incidental and secondary to the residential use of the lot, and which does not adversely affect the character of the lot or surrounding area.

Home occupation, rural (RHO) means a non-residential use owned and operated by the resident of the dwelling, which is located on the same or an adjacent parcel of land. In general, RHOs are more intensive land uses than home occupations and are therefore subject to the requirements of Article III. Based on the use and occupancy classification, a RHO is subject to the North Carolina Building Code for non-residential use unless otherwise determined by the Rowan County Building Inspection Department.

Homeowners association means a private, nonprofit corporation of homeowners formally constituted for the purpose of owning, operating, and maintaining common properties. Also known as a "declaration of unit ownership" in a condominium development.

Horizontal surface means a horizontal plane one hundred fifty (150) feet above the established airport elevation of seven hundred seventy-one two (771) 772 feet mean sea level, the perimeter of which is constructed by swinging arcs with a radius of ten thousand (10,000) feet from the center of each end of the primary surface of each end of the runway, including any planned extensions, and connecting the adjacent arcs by lines tangent to those arcs.

Instrument landing system (ILS) means a radio navigation system which provides aircraft with horizontal and vertical guidance prior to and during landing, and at certain fixed points, indicates the distance to the reference point of landing.

Junk means scrap, copper, brass, rope, rags, batteries, paper, trash, rubber or junked, dismantled or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous materials.

Junked motor vehicle means a vehicle that does not display a current license plate and:

- (1) Is partially dismantled or wrecked; and
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move.

Junkyard means any establishment or place of business which is maintained, operated, or used for storing, keeping, building, or selling junk or for maintenance or operation of a motor vehicle graveyard. An establishment or place of business which stores or keeps for a period of fifteen (15) days or more material within the meaning of "junk" (as previously defined) which had been derived or created as a result of industrial activity shall be considered to be a junkyard within the meaning of this chapter.

Junkyard Control Act means G.S. Ch. 136, Art. 12, 136-141--136-155 which delegate to the state department of transportation the responsibility to regulate "junkyard" and "automobile graveyards" located on interstate and federal-aid primary system highways.

Kennel means a commercial operation that provides food, shelter, and care of dogs for purposes not primarily related to medical care or engages in the breeding of dogs for sale.

Land division. See term "subdivision."

Landfill means a facility for the disposal of solid waste on land in a sanitary manner in accordance with G.S. Ch. 130A, Art. 9. For the purpose of this chapter, this term does not include composting facilities.

Landowner means an owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. Also includes a person holding a valid option to purchase land to act as an agent or representative.

Land clearing and inert debris landfill (LCID) means a facility for the land disposal of land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash.

Legislative decision means the adoption, amendment, or repeal of a development regulation.

Legislative hearing means a hearing conducted by the Board of Commissioners to solicit public comment and consider appropriate criteria identified in this chapter prior to making a legislative decision.

Light Duty Truck means 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.

Livestock facility means any farm structure or improvement used for waste lagoons, animal waste storage areas, poultry houses or hog lots and similar uses.

Lot means a parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with accessory structures or uses such as accessways, parking areas, yards, and open spaces required by this chapter.

Lot area means the total area circumscribed by the boundaries of a lot, except that when the legal instrument creating a lot shows the boundary of the lot extending into a public street rights-of-way, then the lot boundary shall be the street rights-of-way, or if the rights-of-way line cannot be determined, a line running parallel to and thirty (30) feet from the center of the traveled portion of the street.

Lot boundary line means a line that divides one lot from another or from a rights-of-way.

Lot, corner means a lot abutting on and at the intersection of two (2) or more streets. A lot abutting on a curved road or roads shall be considered a corner lot if straight lines drawn from the foremost point of the lot meet at an interior angle of less than one hundred thirty (130) degrees.

Lot, double frontage. See term "lot, through."

Lot, flag means a lot which has less than the required amount of frontage on a street and relies on a panhandle-shaped corridor for access to the bulk of the lot.

Lot, interior means a lot other than a corner lot with only one (1) frontage on a street.

Lot, panhandle means a lot other than one having access on a cul-de-sac, which contains a narrow strip providing street access.

Lot, reverse frontage means a through lot which is not accessible from one (1) of the parallel or non-intersecting streets upon which it fronts.

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

Lot, through means a lot that has a pair of opposite lot lines along two (2) substantially parallel streets, and which is not a corner lot. Also known as a "double frontage lot."

Lot, zone means that portion of a parcel possessing a specific zoning designation. The zone lot may be the entire parcel.

Lot of record. See term "existing lot".

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

Manufactured home means, as defined in G.S. 143-145, a structure transportable in one (1) or more sections, which is eight (8) body feet or more in width, **or forty (40) feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet;** and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and includes plumbing, heating and electrical systems contained therein. Travel trailers and campers shall not be considered manufactured homes. The term "manufactured home" is the same as

a mobile home.

Manufactured home park means a single lot used or intended to be used, leased, or rented, for occupancy by two (2) or more manufactured homes as defined in this section, which are anchored in place by a foundation or other stationary support, to be used for living or commercial purposes of any kind, together with automobile parking space and incidental utility structure and facilities required and provided in connection therewith. This definition shall not include manufactured home sale lots on which unoccupied manufactured homes are parked for purpose of inspection and sales. This definition shall also not include the rental of manufactured home lots and/or spaces located outside the manufactured home park (MHP) district. Rental manufactured home lots and/or spaces shall be subject to all applicable development standards for the district they are located in, including but not limited to skirting requirements of this chapter.

Manufactured home park, family means a manufactured home park, consisting of two (2) or three (3) units in the RA district, or two (2) units in the RR district, occupied by the property owner and/or members of his / her immediate family **as defined by this chapter** ~~to wit, their lineal descendants or antecedents~~. A single manufactured home on a lot shall not constitute a manufactured home park.

Manufactured home space shall mean a plot of land within a manufactured home park designed for the accommodations of a single manufactured home in accordance with the requirements set forth in this section.

Manufactured home, type I means a manufactured home constructed after ~~July 1~~ **June 15**, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

- (1) The home has a length not exceeding four (4) times its width;
- (2) The pitch of the home's roof has a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof is finished with a type of shingle or other roofing material that is commonly used in standard residential construction;
- (3) The exterior siding consists of wood, hardboard, aluminum (vinyl covered or painted) or vinyl comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- (4) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before a certificate of occupancy is issued.

Manufactured home, type II means a manufactured home which meets all requirements of a manufactured home, type I, except for the length to width ratio.

Manufactured home, type III means a manufactured home that meets or exceeds the construction standards promulgated by the federal department of housing and urban development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a type I or type II manufactured home.

Manufactured home, type IV means any manufactured home which was built prior to ~~July 1~~ **June 15**, 1976 or does not meet the criteria for a type I, II, or III manufactured home.

Massage parlor means an establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios or massage parlors, where massage involves the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device. Establishments meeting the ethical and educational certification requirements to become a member of the American Massage Therapy Association or equivalent state or national standard are not intended to be regulated as an adult use. In addition, this section is not intended to regulate professional physical therapists or other medical practitioners.

Minerals are soil, clay, coal, stone, gravel, sand, phosphate, rock, metallic ore, and any other solid

material or substance of commercial value found in natural deposits on or in the earth.

Minimum Design Criteria or "MDC" means the requirements set forth in this Chapter for siting, site preparation, design and construction, and post-construction monitoring and evaluation necessary for Rowan County or NC Department of Environmental Quality to issue stormwater permits that comply with State water quality standards adopted pursuant to G.S. 143-214.1.

Mining means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of mineral, ores, soils, and other solid matter from its original location; and/or 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.

Model automobile means a small-scale vehicle replica (not including aircraft) having a maximum height of 9.85 inches, a maximum length of thirty-one (31) inches, a maximum wheel base of thirteen (13) inches, and a maximum engine displacement of 3.5 cc. These automobiles are typically powered by battery pack, gasoline, or similar means of movement and may be operated by a hand-held device. This definition does not intend to regulate personal use of these vehicles.

Modular home means sectional dwelling unit consisting of two (2) or more modules or sections which are factory fabricated and transported to the home site where they are put on a permanent foundation and joined to make a single-family dwelling. All such modular homes shall meet all single-family dwelling requirements of the state Uniform Residential Building Code.

Monopole means a single pole structure, usually self-supporting, used to support antennas.

Motor vehicle means a machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Multiconnection private water system means a water supply furnishing potable water to two (2) to fourteen (14) connections of residences or businesses, or any combination thereof, from one (1) well that is not owned and operated by a public entity.

Multifamily dwelling means two (2) or more attached, single living units under the same roof structure and connected by one (1) or more common walls. This includes, but is not limited to apartments, duplexes, condominiums, triplexes, quadruplexes, or other similar buildings which are for sale or rent and intended for human habitation.

Multi-tenant development means a tract of land under common control planned and developed as an integral unit in a single development or planned phases of development. This type of development shall consist of two (2) or more allowed uses sharing common walls. This type of development typically has a unified or coordinated design of buildings and a coordinated organization of service areas and common open space area.

NCDEQ means the North Carolina Department of Environmental Quality.

NCDOT means the North Carolina Department of Transportation.

Noise means any sound which annoys or disturbs humans, or which causes, or tends to cause, an adverse psychological or physiological effect on humans.

Nonconforming lot of record means a lot of record described by a plat or a deed that was recorded prior to the effective date of this chapter (or its amendments) that does not meet the minimum lot size or other development requirements of this chapter.

Nonconforming manufactured home park means a manufactured home park that on the effective date of this chapter or the date of any subsequent amendment thereto, does not conform to one or more regulations set forth in this chapter.

Nonconforming situation means a situation that occurs when, on the effective date of this chapter or as

a result of a subsequent amendment, an existing lot or structure or use of an existing lot or structure does not conform to one (1) or more of the regulations applicable to the district in which the lot or structure is located.

Nonresidential development means all development other than residential development, agriculture, and silviculture.

Nudity or a state of nudity means any of the following:

- (a) The appearance of a human anus, male genitals, female genitals, or the female breast below a point immediately above the top of the areola.
- (b) State of dress, which fails to opaquely cover the human anus, male genitals, female genitals, or the female breast below a point immediately above the top of the areola.

Observed right-of-way means land area associated with a future cross section for a road segment(s) recognized in the Cabarrus-Rowan Metropolitan Planning Organization's (CRMPO) 2002-2030 Long Range most recent Comprehensive Transportation Plan (CTP) and referenced in Appendix A of Chapter 22 of the Rowan County Code of Ordinances that may be utilized for future transportation improvements.

Official maps or plans means any maps or plans officially adopted by the board of commissioners of the county.

Off-site means any area not contained within the boundaries of the site being developed, whether or not the developer owns such land.

Open space means an area of land and/or water which is generally unimproved and is reserved for recreation, resource protection, amenity, or buffer purposes; lacking in manmade structures and reserved for enjoyment in its unaltered state.

Operational area means the dedicated or utilized area necessary for a business function and is characterized by, but not limited to, buildings or warehouses, storage areas or stockpiles, parking and loading areas, sediment ponds and detention areas, etc.

Operation and Maintenance Agreement. An agreement between a developer or owning entity of a stormwater control measure (SCM) and either Rowan County or NC DEQ depending on permitting authority. The agreement requires the developer or owning entity to maintain, repair, or reconstruct the SCMs in accordance with the approved design plans and the Operation and Maintenance Plan. The agreement shall be recorded with the Rowan County Register of Deeds so as to appear in the chain of title for all subsequent purchasers.

Operation and Maintenance Plan. Document specifying all operation and maintenance work necessary for the function of all stormwater control measure (SCM) components, including the stormwater conveyance system, perimeter of the device, inlet(s), pretreatment measures, main treatment area, outlet, vegetation, and discharge point. The operation and maintenance plan shall specify methods to be used to maintain or restore the SCMs to design specifications in the event of failure.

Owning Entity. Any person, firm, trust, partnership, association or corporation, having ownership or controlling interest in development or improvements regulated by this Chapter or Chapter 22 of the Rowan County Code of Ordinances (Rowan County Subdivision Ordinance).

Overlay zone means a special zoning district that covers a specified area and has unique requirements that supplement or supersede any requirements of the underlying, general purpose zoning districts.

Parcel. See term "tract."

Plan, comprehensive land use means the general plan of reference which outlines long-term goals, objectives, and policies for the entire planning territory of the county.

Plan, construction means the map and accompanying text, prepared and submitted under the prescribed

conditions set forth in this chapter, which detail required improvements such as streets, fire hydrants, and street lighting.

Plan, erosion and sedimentation control means a plan that outlines the procedure designed to control accelerated erosion and sedimentation resulting from certain land disturbing activities.

Plan, functional means a specialized plan that addresses a single topic, such as a thoroughfare plan, a greenway plan or a capital improvement plan.

Plan, phased development means a plan which has been submitted to the county by a landowner-developer for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan(s) determined by the county to be a site specific development plan. (G.S. 153A-344.1).

Plan, site means a scaled drawing and supporting text showing the relationship between lot lines and the existing or plan which demonstrates the proposed use of land and / or structure(s) or buildings on a specific parcel(s) necessary for the review of proposed development, change of use, and other zoning matters, to determine zoning compliance. The site plan may include, but is not limited to, site-specific details such as building areas, setbacks, right of ways or easements, utility lines, parking, access, and stormwater control facilities, that are depicted to show compliance with required development regulations applicable to the project. A site plan may also be approved as part of a conditional zoning decision will comply with the specifications set forth in this chapter. A site plan may be necessary for the review of proposed installation of improvements and construction, changes of use, and for zoning approval.

Plan, site specific development means a plan meeting the requirements of G.S. 153A-344.1, as amended, for approval of a vesting right under that statute.

Plan, spill containment means a method that provides detailed instructions of the measures to be employed to contain and remove a hazardous spill.

Planning board means the County Planning Board of Rowan County, North Carolina.

Planning department is means the planning division of the Rowan County Planning and Development Department.

Planning director means the director of the Rowan County Planning and Development Department who is authorized to perform the duties and responsibilities as delegated in section 21-314 of this chapter. The Planning Director may be commonly referred to as "county planner" in this chapter and other chapters with this Code.

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

Plat, final means a map of a land subdivision prepared in a suitable form for recording with the register of deeds which includes necessary affidavits, dedications, and acceptances as well as other information required by the county subdivision ordinance. Also known as a "map for record."

Plat, preliminary means a map of a proposed land subdivision which shows the layout of the parcel or lot, including lots, roads, and other features, in sufficient detail to allow the proposed subdivision to be properly evaluated.

Precision instrument runway means 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 by an FAA approved airport layout plan; a military service approved military airport layout plan; any other FAA planning document, or military service military airport planning document.

Preferred sites. Public and semi-public locations are preferred sites as opposed to private properties. For purposes of this definition, public sites are those owned or managed by the United States government, the

state or the county that provide a governmental function, activity or service for public benefit. Semi-public sites are those facilities or locations owned by a nonprofit organization or group. These sites shall include but may not be limited to volunteer fire departments, schools, churches, civic organizations, etc. Preferred sites shall be subject to the same restrictions and standards of appropriateness as private properties.

Primary SCM means a wet pond, stormwater wetland, infiltration system, sand filter, bioretention cell, permeable pavement, green roof, rainwater harvesting, or an approved new stormwater technology that is designed, constructed and maintained in accordance with the MDC.

Primary surface means a surface longitudinally centered on a runway. The primary surface extends two hundred (200) feet beyond each end of the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is one thousand (1,000) feet as required for precision runway landings.

Private drive or driveways shall mean any street or road within the manufactured home park, not publicly maintained or publicly dedicated, but utilized as access by the residents of the manufactured home park, their guests, the public and private service vehicles. The term also includes internal drive or street.

Private individual sewage disposal system means a sewage disposal system serving one (1) connection which is usually owned and controlled by a private single entity.

Private individual water supply system means a water supply system whose water supply comes from a single source, usually limited to a well or spring.

Private road means a dedicated rights-of-way or ingress and egress easement to the public, forty-five (45) feet or greater in width containing a roadway which provides or is used primarily for vehicular circulation and is available for use by the general public or by residents of the development but is not maintained by NCDOT or any municipality in the county.

Protected area means the area of a watershed, beyond the critical area, as measured ten (10) miles upstream from an intake or to the ridge line, whichever is closer, and draining to the intake.

Public hearing means a meeting at which an appointed or elected board accepts public comment about matters relating to this chapter.

Public or private sewer system means a means of collecting, transporting and treatment of sewage by a public entity, (e.g. city, town, county, sewer district), or other public body created, pursuant to state, federal and local laws, or any combination thereof acting cooperatively or jointly, or a privately owned state licensed sewer system, for profit or nonprofit firm or corporation. A package treatment plant shall be considered part of a public sewer system if owned by a city, town, county, sewer district, etc., otherwise shall be considered as a private sewer system.

Public or private water system means the provision to the public of piped water by a system with fifteen (15) or more connections or twenty-five (25) or more year round residents owned and operated by a municipality, county or other public entity or a privately owned licensed water supply, for profit or not-profit firm or corporation. This includes the term "community water supply system."

Public road means a dedicated road rights-of-way meeting all minimum construction standards of NCDOT or is maintained by the NCDOT road maintenance program and available for use by the general public.

Public safety tower means a tower or wireless support structure with antennas or other similar devices providing either or both an 800 MHz trunked radio system or conventional 2-way paging systems.

Quasi-judicial decision means a decision involving the findings of fact regarding a specific application of development regulation and that requires the exercise of discretion when applying the regulation standards made during a quasi-judicial hearing. These decisions include but are not limited to decisions involving variances, special use permits, and appeals of administrative decisions.

Quasi-judicial hearing means a hearing to gather competent, material, and substantial evidence

in order to make a quasi-judicial decision. Quasi-judicial hearings are also referred to as evidentiary hearings.

Recreation area or park means an area of land or combination of land and water resources that is developed for active and or passive recreation pursuits with various manmade features that accommodates such activities.

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

- (a) Built on a single chassis;
- (b) Four hundred (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 a temporary living quarters for recreational, camping, travel, or seasonal use; and
- (e) Is fully licensed and ready for highway use.

Recreational vehicle (RV) park means an area or property established to accommodate the set-up, parking, rental, letting or leasing of a site(s) for a recreational vehicle(s). Recreational vehicle parks may also provide sites or spaces for primitive tent camping.

Residence means a home, manufactured home, an apartment, a group of homes, or single room occupied or intended for occupancy as separate living quarters for one (1) or more persons.

Residential development means buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

Residential storage facility means an off-premises building classified as the principle structure on a lot, used for the storage of personal property and used in association with an owners residence or current tenant or lessee of the residence. This building is not intended for uses other than storage of personal vehicles, goods or materials.

Residuals means any solid or semi-solid waste generated from a wastewater treatment plant or air pollution control facility permitted under the authority of the environmental management commission.

Required storm depth means the minimum amount of rainfall that shall be used to calculate the required treatment volume or to evaluate whether a project has achieved runoff volume match.

Rezoning means the procedure whereby the zoning designation of a certain parcel(s) or portion(s) thereof is changed following the provisions set forth in this chapter. **It does not include updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district. It does include the initial application of zoning when land is added to the county planning jurisdiction, the application of an overlay district, and conditional zoning district designation. A rezoning is also referred to as a zoning map amendment.**

Right-of-way means the base setback line either **the line** dividing the public rights-of-way currently or a line thirty (30) feet measured in a perpendicular distance and parallel to the centerline of the street pavement, superseded by the observed right-of-way or the area recognized in the Cabarrus-Rowan Metropolitan (CRMPO) **2002-2030 Long Range** **most recent Comprehensive** Transportation Plan (CTP) and referenced in Appendix A **of this chapter** that may be utilized for future transportation improvements.

Road means a dedicated public rights-of-way for vehicular traffic (or a private road when permitted by this chapter). The word "road" includes, but is not limited to, "street, freeway, highway, expressway, drive, avenue, court, way, place, circle, lane, boulevard, and thoroughfare."

(1) *Classifications of rural roads and urban streets:*

- a. *Principal arterial.* A rural link in a highway system serving travel, and having characteristics indicative of, substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designated as principal arterials.
- b. *Minor arterial.* A rural roadway joining cities and larger towns and providing intrastate and innercounty service at relatively high overall travel speeds with minimum interference to through movement.
- c. *Major collector.* A road which serves major intracounty travel corridors and traffic generators and provides access to the arterial system.
- d. *Minor collector.* A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.
- e. *Major thoroughfares.* Major thoroughfares consist of interstate, other freeway, expressway, or parkway roads, and major streets that provide for the expeditious movement of high volumes of traffic within and through urban areas.
- f. *Minor thoroughfares.* Minor thoroughfares perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating minor through-traffic movements and may also serve abutting property.
- g. *Service road.* A road that runs parallel to a principal arterial or interstate and provides indirect access to and from properties or facilities abutting the interstate principle arterial via an interchange.

(2) *Specific types of roads:*

- a. *Freeway, expressway or parkway.* Divided multilane roadways designed to carry large volumes of traffic at relatively high speeds. A "freeway" is a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An "expressway" is a divided highway with full or partial control of access and with grade separations at major intersections. A "parkway" is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park development.
- b. *Residential collector road.* A local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from one hundred (100) to four hundred (400) dwelling units.
- c. *Local road.* A road which serves primarily to provide access to adjacent land over relatively short distances.
- d. *Cul-de-sac.* A short street having but one (1) end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.
- e. *Frontage road.* A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.
- f. *Alley.* A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Runoff treatment means that the volume of stormwater runoff generated from all of the built-upon area of a project at build-out during a storm of the required storm depth is treated in one or more primary SCMs or a combination of Primary and Secondary SCMs that provides equal or better treatment.

Runoff volume match means that the annual runoff volume after development shall not be more than ten percent higher than the annual runoff volume before development.

Safety fan means an area on a shooting range facility designed to contain all projectiles fired from a shooting range.

Sanitary sewage system means a complete system of sewage collection, treatment and disposal including privies, septic tank systems, connection to public or community sewage system, sewage reuse or recycle systems, mechanical or biological treatment system, or other such systems.

School means any public or private institution for the teaching of children under eighteen (18) years of age which is recognized and approved by the state board of education or other appropriate licensing board.

Search ring means the area within which a wireless support structure or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

Secondary SCM means an SCM that does not achieve the annual reduction of Total Suspended Solids (TSS) of a "Primary SCM" but may be used in a treatment train with a primary SCM or other Secondary SCMs to provide pre-treatment, hydraulic benefits, or a portion of the required TSS removal.

Septic tank system means a subsurface sanitary sewage system consisting of a septic tank and a subsurface disposal field.

Service station. See term "automobile repair facility."

Semi-nude or in a semi-nude condition means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition shall not include any portion of the cleavage of female breast, exhibited by a dress, blouse, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part unless the individual exhibits activity defined in a sexual encounter center or section (c) of an adult cabaret.

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

Sexual encounter center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex, or
- (b) Activities between male and female persons and/or persons of the same sex when one or more of the persons appear in a nude or semi-nude condition or in lingerie.

Shooting range means an area designed and improved to encompass shooting stations or firing lines, target areas, berms and baffles, and other related components.

Shooting range facility means a public or private facility, including individual shooting ranges, safety fans or shotfall zones, structures, parking areas, and other associated improvements, designed for the purpose of providing a place for the discharge of various types of firearms or the practice of archery. This definition does not include incidental target practice areas on private property, turkey shoots meeting the standards for exemption noted in section 21-279, government facilities, or occasional "sighting-in" of firearms.

Shooting station means a fixed point from which firearms or arrows are discharged.

Shotfall zone means an area within which the shot or pellets contained in a shotgun shell typically fall.

Shrub means a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.

Sight distance triangle means the area at the intersection of two (2) roads or streets that is designated as necessary for safe ingress and egress, and which must be kept clear of obstructions.

Sign means an object, display, or structure, or portion thereof, which is located outdoors and is used to

advertise, identify, display, direct, or allot attention to an object, person, institution, organization, business, product, service, event, or location through the use of words, letters, figures, designs, symbols, colors, or illumination.

Sign face means the surface of a sign where copy, message, or advertisements are attached for display to the public, including any parts of the sign structure upon which such information is located.

~~*Sign, incidental* means any sign that is used for a purpose other than to identify or bring attention to a particular establishment. These may include, but are not limited to, entrance, exit and parking signs.~~

Sign, on-premises means a sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered on the premises which the sign is located.

Sign, off-premises means a sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a site other than the premises on which the sign is located.

Single-family dwelling means a detached dwelling unit constructed on-site (site built) or in modules or sections joined together on-site (modular) in compliance with the North Carolina State Building Code and designed for or occupied by one family.

Slow response means a measuring technique to obtain an average value when measuring a noise level that fluctuates over a range of four (4) dB or more. By way of illustration only, a sound level meter set on "slow response" would record a sound level between two (2) and six (6) decibels less than the reading for a steadying signal of the same frequency and amplitude when a tone of one thousand (1,000) Hz and for a duration of 0.5 seconds is applied.

Solar Collector means a device that absorbs solar radiant energy for use as a source of energy. The surface area is identified as all portions that absorb solar energy excluding frames, supports, and mounting hardware.

Solar Energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System means any component(s) and subsystem(s) designed or required to collect, store or convert solar energy into electric or thermal energy for use or sale. This term includes, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems and solar hot water systems, but is not intended to include incidental systems that generate a minimal level of electricity typically used to power signs, wells, gates, fences, or similar ancillary uses. A solar energy system is classified as one of the following types:

Residential – Ground mounted system having a solar collector area of six thousand (6,000) square feet or less primarily used to provide or off-set power to a residence on site

Non-Residential – Ground mounted system that will provide or off-set power to the non-residential operation(s) on site

Roof Mounted – A system mounted on the roof or wall of a residence, business or accessory structure(s)

Utility Scale – A solar energy system that is typically tied to the electric grid to generate power for sale or off-site use and does not qualify as a Residential, Non-Residential or Roof Mounted system defined herein.

Solid Waste and Recycling Convenience Center means a facility operated by-Rowan County for the purpose of fulfilling its solid waste and recycling service responsibilities to the public defined in **NCCS G.S. 130A-309.09A**. Convenience centers typically include a structure(s) for administrative operations (personnel, storage, etc.) and an arrangement of mobile containers used to collect and store local solid waste and assorted recyclables until transported to an off-site location for disposal and / or processing. These facilities may also accommodate the temporary and incidental storage of collected bulky or oversized materials along with miscellaneous other materials outside of containers.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and

frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1983) or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter and weighting network used to measure sound pressure levels.

Specified anatomical areas means less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

***Special use permit* means a permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgement and discern be exercised and compliance with specific standards.**

Specified sexual activities means any of the following:

- (a) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (b) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
- (c) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
- (d) Masturbation, actual or simulated; or
- (e) Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or
- (f) Erotic or lewd touching, fondling, or other contact with an animal by a human being; or
- (g) Human excretion, urination, menstruation, vaginal or anal irrigation.

Stable, commercial means a commercial operation where horses are kept for purposes such as breeding, boarding, hire, or sale.

Stable, private means a structure in which horses are kept for private use.

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

Storm, ten year means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten (10) years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

Stormwater Control Measure or "SCM," also known as "Best Management Practice" or "BMP," means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

Stormwater runoff means the direct runoff of water resulting from precipitation in any form.

Streambank-shoreline stabilization means the methods employed in order to assure streambank or shoreline stability for aesthetic, ecological or recreational purposes.

Street means a right-of-way or easement greater than thirty (30) feet in width containing a roadway which provides or is used primarily for vehicular circulation. This definition also includes but is not limited to the terms "road," "drive," "highway," "avenue," "way," "court," "place," "circle," and "land."

Street jog means the distance between the centerlines of two (2) streets which intersect on opposite sides of the same road.

Street, cul-de-sac means a permanent dead-end street which has one (1) end open to traffic and terminates in a circular turnaround.

Street, private means a street right-of-way serving lots dedicated for the use of the property owners and their guests and maintained, or intended to be maintained, by a homeowners association.

Street, public means a street right-of-way dedicated for public use and maintained or intended to be maintained by the NCDOT.

Street (road) means a right-of-way for vehicular traffic that affords the principal means of access to abutting properties.

Structure means anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

Structure, accessory means a minor structure that is located on the same lot as a principal structure and is used incidentally to a principal structure or contains an accessory use.

Structure, principal means the primary structure on a lot or a structure that contains a principal use.

Subdivider means a person, firm or corporation who subdivides or develops any land deemed to be a subdivision as defined in this section.

Subdivision means all divisions of a lot or parcel of land into two (2) or more lots, building sites, or other divisions when any one (1) or more of those divisions **are is** created for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:

- (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 **this** chapter **22 of the code of ordinances**.
- (2) The division of land into parcels greater than ten (10) acres where no street rights-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets.
- (4) The division of a lot in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street rights-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of **this** chapter **22 of the code of ordinances**.
- (5) The division of a lot into plots or lots used as a cemetery.
- (6) Land divided by a will, **intestate succession defined by Chapter 29 of the G.S.**, or the courts for the purpose of dividing up a deceased person's property.

Subdivision, family means a subdivision of not more than three (3) lots plus the residual lot conveyed by the property owner to members of his / her immediate family as defined in this ordinance.

Subdivision, major means a major subdivision and defined as a subdivision where:

- (1) New roads are proposed or rights-of-way are dedicated; or
- (2) More than eight (8) lots are created after the subdivision is completed.

Subdivision, minor means a minor subdivision and defined as a subdivision where:

- (1) No new roads are proposed, or road rights-of-way dedicated; and
- (2) Where eight (8) or fewer lots will result after the subdivision is completed.

***Subdivision, minor, special exception* means a subdivision that complies with subsection (a)**

and (b):

(a) Subject parcel to be divided meets the following:

- a. In single ownership;
- b. Not exempted under section 22-6 (b);
- c. Has not been divided under this section in the past ten (10) years; and
- d. Greater than five (5) acres.

(b) After division, no more than three (3) lots are established meeting the following standards:

- a. Dimensional requirements from section 21-84 of the Zoning Ordinance;
- b. Use of the lots conform to section 21-113 of the Zoning Ordinance; and
- c. A permanent means of ingress / egress is recorded for each lot.

Parcels created under this provision may not be further divided as a family subdivision.

Subgrade means that portion of the roadbed prepared as a foundation for the pavement structure.

Substantial modification means 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 listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

- a. 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.

System Area means all the land within the fenced perimeter of a Non-Residential or Utility Scale ground mounted solar energy system.

Temporary family health care structure means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code, G.S. 143-139.1(b), and G.S. ~~160A-383.5~~ **160D-914**.

Tower means any structure whose primary function is to support an antenna. As its use relates to supporting wireless facilities, the term 'tower' is synonymous with the term 'wireless support structure'.

Tract means a lot or parcel of land or a contiguous combination of two (2) or more parcels of land in one (1) ownership.

Transitional surface means the surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of five thousand (5,000) feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

Tower means any structure whose primary function is to support an antenna. As its use relates to supporting wireless facilities, the term 'tower' is synonymous with the term 'wireless support structure'.

Tower height means the vertical distance measured from the tower base to the highest point on a telecommunications or broadcast tower, including any antennas or other equipment affixed thereto, but excluding any lighting protection rods extending above the tower and attached equipment.

Townhome means a subdivision of individual, attached dwelling units in conjunction with land division.

Turkey shoots means shotgun shooting competitions open, for a fee, to the public in which prizes, typically a frozen turkey or other food items are given to winners as a prize.

Use means the activity or function that actually takes place or is intended to take place on a zone lot.

Use, accessory means a use that is incidental to the primary use which is conducted on the zone lot.

Use, conditional special means a use that has some special characteristics attendant to its operation or installation, such as potential danger or noise, which is only permitted in a district subject to a permit hearing and additional restrictions or conditions which are different from the usual requirements of the applicable zoning district.

Use, nonconforming means a situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. The term also refers to the activity that constitutes the use made of the property.

Use permit means any use, as designated in this chapter, that is by right allowed to occur within a specific zoning district.

Use, primary means a use that is the major activity which is conducted on the zone lot.

Vacate means to leave unoccupied.

Variance, watershed means permission to develop or use property granted by the watershed review board relaxing or waiving a water supply watershed management requirement adopted by the environmental management commission that is incorporated into this chapter.

Variance, major watershed means a variance that results in one (1) or more of the following:

- a. The complete waiver of a management requirement; or
- b. The relaxation, by a factor of more than ten (10) percent, of any management requirement that takes the form of a numerical standard; or
- c. The relaxation of any management requirement that applies a development proposal intended to qualify under the high density option.

Variance, minor watershed means a variance that does not qualify as a major variance.

Vectors means any organisms that carry disease-causing micro-organisms from one (1) host to another (e.g. rats, mosquitoes, etc.).

Vegetated conveyance means a permanent, designed waterway lined with vegetation that is used to convey stormwater runoff at a non-erosive velocity within or away from a developed area.

Vegetated setback means an area of natural or established vegetation adjacent to surface waters, through which stormwater runoff flows in a diffuse manner to protect surface waters from degradation due to development activities.

Vested rights means **the right to undertake and complete the development and use of property under the terms and conditions of an approval secured in section 21-11 of this chapter or common law.** those projects that are built or those projects that at a minimum have established a vested right under state law as of February 16, 1998, based on at least one (1) of the following criteria:

~~(1) Having an outstanding valid building permit as authorized by G.S. 153A-344.1; or~~

~~(2) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by G.S. 153A-344.1 and G.S. 160A-385.1.~~

Viewshed is the geographic area within a three hundred sixty-degree view from a defined observation point.

Violation means failure on the part of any person to comply with the provisions of this chapter.

Visible means capable of being seen without visual aid by a person of normal acuity.

~~*Wall sign* means a sign which is applied to the exterior of any building and projecting not more than twelve (12) inches from the wall.~~

Watercourse means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, or lake.

Water dependent structure means any structure for which the use requires access to, or proximity to, or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not "water dependent structures."

Watershed means the entire land area contributing surface drainage to a specific point (e.g., the water supply intake).

Winery refers to a manufacturing facility or establishment engaged in the processing and bottling of grapes to produce wine or wine-like beverages as defined by the G.S. Facilities may include incidental activities such as wine tasting and associated retail sales. Operations used for bona fide farm purposes as defined by the G.S. are exempt from zoning.

Wireless facility means the set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area.

Wireless support structure means 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.

Working days means days ~~as applicable to the water supply watershed provisions of this chapter,~~ **when the associated office is open for the transaction of business** exclusive of Saturday, and Sunday, **and recognized holidays,** ~~during which weather conditions or soil conditions permit land disturbing activity to be undertaken.~~

"Written" or "in writing" means written communication, including by electronic mail, executed by a staff member to document a determination, order, interpretation, notification, or other purpose identified by this chapter. Unless specified otherwise, in the absence of evidence to the contrary, delivery by first class mail shall be deemed received on the third business day following deposit of the item with the United States Postal Service and delivery by electronic mail shall be deemed received on the date sent.

Yard means an open area which is unoccupied and unobstructed from the ground upward except as may be expressly provided in an ordinance.

Yard, front means an open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street and the front line of the building, projected to the side lines of the lot. For the purposes of determining required setbacks, "street" shall include all ingress / egress easements and right-of-ways.

Yard, rear means an open, unoccupied space on the same lot with a principal building, extending the full

width of the lot, and situated between the rear property line and the rear line of the building, projected to the side lines of the lot.

Yard, side means an open, unoccupied space on the same lot with a principal building, situated between the front line and rear line of the building, projected to the side lines of the lot.

Yard, side street means an open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street and the side line of the building, projected to the front and rear lines of the lot. For the purposes of determining required setbacks, "street" shall include all ingress / egress easements and right-of-ways.

Zone lot means a parcel of land, or portion thereof, that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such setbacks and other open spaces as required by the zoning regulations.

Zoning means the designation of a particular property or portion thereof using one (1) of the zoning designations contained in this chapter.

Zoning administrator means, except as otherwise expressly provided, the ~~person or persons,~~ **individual and or his (their)** designee(s), who are primarily responsible for ~~the administration and enforcement of~~ **making administrative decisions regarding** this chapter. The term "staff" or "planning staff" or "administrator" ~~is~~ **may** sometimes ~~be~~ used interchangeably with the term "zoning administrator."

Zoning district means a mapped portion of the county to which a uniform set of regulations relating to use of land, premises, and buildings apply. Includes the term "zone." **These districts include general (also referred to as conventional) districts, in which a variety of uses are permitted uses or uses by right and uses allowed with a special use permit; conditional districts, which include site plans and individualized development conditions imposed; and overlay districts, which include different requirements imposed on properties within one or more underlying general or conditional districts.**

Zoning permit means a permit issued by the zoning administrator which authorizes the right to undertake and complete the development and / or use of property under the terms and conditions of such permit provided that such action is commenced within one (1) year of the date of issuance and provided that all other permits are obtained. **A zoning permit expires if work or activity is discontinued for a period of one (1) year after work has commenced.**

(Ord. of 1-19-98, § II; Ord. of 2-1-99(1); Ord. of 10-18-99(1); Ord. of 1-15-01; Ord. of 5-21-01(1); Ord. of 5-21-01(2); Ord. of 11-19-01(1); Ord. of 11-19-01(2); Ord. of 12-3-01; Ord. of 3-18-02(2); Ord. of 5-19-03; Ord. of 8-16-04; Ord. of 10-4-04; Ord. of 10-18-04; Ord. of 11-15-04; Amend. of 3-7-05; Amend. of 7-1-05; Amend. of 2-20-06(1); Amend. of 8-20-07; Amend. of 4-21-08; Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 9-6-11; Amend. of 3-5-12; Amend. of 1-22-13; Amend. of 3-4-13; Amend. of 12-2-13; Amend. of 4-21-14; Amend. of 9-6-16; Amend. of 10-17-16; Amend. of 6-4-18; Amend. of 2-4-19; Amend. of 8-19-19; Amend. of 9-3-19)

Sec. 21-5. Jurisdiction.

This chapter governs the development and use of land within the area of the county as shown in the Official Zoning Map of Rowan County (hereafter referred to as the "zoning map," as formally adopted by the county board of commissioners.) The official copy of the zoning map shall hereafter be located in the office of the county planning department. Such area may include any parcel of land not located within the zoning jurisdiction of any municipality. The zoning map shall be incorporated and made part of this chapter. **A parcel(s) located partially within the county's zoning jurisdiction and an adjacent local government's zoning jurisdiction may petition for a mutual agreement resolution adopted by each governing board to assign exclusive planning and development regulation jurisdiction in accordance with G.S. 160D-203 and 204.**

(Ord. of 1-19-98, § I)

Sec. 21-6. Bona fide farms exempt.

This chapter shall not apply to bona fide farms, except that nonfarm uses on farms may be regulated by this chapter.

(Ord. of 1-19-98, § I)

Sec. 21-7. Severability.

If any section or specific provision or standard of this chapter, or any zoning district boundary is found by a court to be invalid, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decisions of the court shall remain in full force and effect.

(Ord. of 1-19-98, § I)

Sec. 21-8. Abrogation.

It is not intended that this chapter repeal, abrogate, annul, impair, or interfere with any existing provisions of any other ordinance or law except any ordinance which this chapter specifically replaces. It is not intended that these regulations shall interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, for yards, or for the size of structures than is called for by other ordinances, permits, easements, or agreements, then the provisions of this chapter shall govern.

(Ord. of 1-19-98, § I)

Sec. 21-9. Use or sale of land or buildings except in conformity with chapter provisions.

- (a) Use, occupancy or sale of any land or buildings; or authorization or permitting the use, occupancy or sale of land or buildings shall comply with all applicable provisions of this chapter, including article VI, Nonconforming Situations. **As such, all development approvals identified by this chapter shall require written approval prior to the commencement of such activity.**
- (b) For the purpose of this article, "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

(Ord. of 1-19-98, § I; Amend. of 3-7-05)

Sec. 21-10. Relationship to other ordinances.

If zoning districts are established for all land in the county located outside the established zoning jurisdiction of any municipality, the following ordinances shall be repealed: the county mobile home park ordinance, the county watershed protection ordinance and the county junked motor vehicle and automobile salvage yard ordinance. Unless specified in this section, it is not intended that this chapter will in any way repeal, annul or interfere with any rules, regulations or permits which were legally adopted or issued under previous ordinances for the use or development of land or structures. Finally, it is not intended that this chapter will interfere with any easements, covenants or other agreements between parties. However, if the provisions of this chapter impose greater restrictions or higher standards for the use of a building or land, or for yards or size of structures than is called for by other ordinances, permits, easements or agreements, then the provisions of this chapter will take precedence over the others and will control the use or development, except as otherwise provided in this chapter.

(Ord. of 1-19-98, § I)

Sec. 21-11. Permit choice, Zoning vested rights, and site-specific vesting plans.

(a) Pursuant to G.S. 153A-344.1 143-755, 160D-108, and 160D-108.1, a provisions to secure a permit choice, vested right, or site-specific vesting plan shall be as follows: to undertake and complete the development and use of property under the documented terms, any associated conditions, and approved site plans may be established for any one (1) of the following:

(1) Site plan approval by the board of commissioners;

(2) Conditional or special use permits;

(3) Conditional zoning district;

(4) Multi-family or multi-unit development plans.

(b) The approved plans and associated conditions for these districts constitute, for purposes of G.S. 153A-344.1 (site specific development plans). A right which has been vested as provided in this section shall remain vested for a period of two (2) to five (5) years as determined by the board of commissioners. Approval of a vested right pursuant to this section shall require a public hearing as provided in G.S. 153A-344.1 subject to public notice requirements from section 21-315 (1) a – c. The approving authority in its sound discretion may establish a vesting period exceeding the two-year minimum, where the petitioner shows that extending the period is warranted by relevant circumstances, including but not limited to the size and phasing of the development or the level of investment. The need for the development modifications or amendments to a plan do not extend the vesting period unless expressly provided by the appropriate board when making the amendment. A vested right obtained under this section is not a personal right, but shall attach to and run with the subject property. The vested right 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.

(a) Permit choice. In accordance with G.S. 143-755, if a development regulation is amended between the time a completed development permit application was submitted and a permit decision is made or if an applicable regulation is amended after the application is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the applicant may choose which adopted version of the development regulation will apply. The applicant is not required to await the outcome of the amendment prior to acting on the application. However, any provision of the applicant's chosen version determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.

(1) If a completed permit application is placed on hold at the request of the applicant for a period of six (6) consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested for a period of six consecutive months or more, the application review is discontinued and the development regulations in effect at the time permit processing is resumed apply to the application.

(2) Aggrieved parties may apply to the appropriate division of the General Court of Justice for an order compelling compliance with this section.

(b) Vested rights. The establishment of a vested right under this subsection does not preclude vesting under one or more subsections or vesting by application of common law principles. A vested right, once established as provided for in this subsection or by common law, precludes any action that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the development regulation(s), except where a change in state or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

(1) *Process to claim a vested right.* A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator may be appealed under section 21-331. Alternatively, a person claiming a vested right may bring an original civil action to superior court.

(2) *Duration of vesting.* Upon issuance of a development approval, the statutory vesting granted in section 21-11(b)(1) for a development project is effective upon filing of the application in accordance with section 21-11(a), for so long as the permit remains valid pursuant to law. Unless otherwise specified in this chapter all development approvals expire one (1) year after issuance unless work has substantially commenced. For the purposes of this section, a permit is issued either in the ordinary course of business by planning staff or as a court directive.

Unless a longer vesting period is provided herein, the statutory vesting granted by this section, once established, expires for an uncompleted development project or a non-conforming use of property if development work or property use is intentionally and voluntarily discontinued for a period of twenty-four (24) consecutive months. The twenty-four (24) month discontinuance period is automatically tolled during the pendency of any BOA or court proceeding regarding the validity of a development permit, the use of the property, the existence of the statutory vesting period granted by this section, or litigation involving the project or property that is the subject of the vesting.

(3) *Multiple permits for development project.* Subject to section 21-11(b)(2), where multiple development approvals are required to complete a development project, the development permit applicant may choose the version of each development regulation applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within eighteen (18) months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit is not an initial development permit.

(4) *Phased development plan.* A phased development is vested for the entire development with the regulations in place at the time a plan approval is granted for the initial phase of the development. A right which has been vested as provided for in this subsection remains vested for a period of seven (7) years from the time a plan approval is granted for the initial phase of the development. For the purposes of this section, a phased development means:

- a. Contains at least twenty-five (25) acres;
- b. Submitted for development approval to occur in more than one phase; and
- c. Subject to a master development plan with committed elements showing the type and intensity of each phase.

(5) *Continuing review.* Following issuance of a development approval, planning staff may make subsequent inspections and reviews to ensure compliance with the applicable development regulations in effect at the time of the original application.

(6) *Amendments.* Amendments in development regulations are not applicable without the written consent of the owner with regard to any of the following:

- a. Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with section 21-11(a).
- b. Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with section 21-11(a).
- c. A site-specific vesting plan pursuant to section 21-11(c).
- d. A phased development pursuant to section 21-11(b)(4).
- e. A vested right established by the terms of a development agreement authorized by Article 10 of G.S. 160D.

(7) *Miscellaneous provisions.* The vested rights granted by this subsection run with the land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and G.S. 136-131.2. Nothing in this subsection precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(c) *Site-specific vesting plans.*

(1) *Site-specific vesting plan.* In accordance with G.S. 160D-108.1, a site-specific vesting plan means a plan submitted pursuant to this subsection describing with reasonable certainty the type and intensity of use for a specific parcel(s). The plan may be any one or more of the following plans or approvals: a planned development subdivision, a subdivision plat, a site plan, a special use permit, or a conditional zoning district in accordance with section 21-281(2). Information required for each type of plan or approval shall be as defined for the specific development approval indicated in this or other applicable chapters of the Rowan County Code of Ordinances. Plans which fail to describe with reasonable certainty the type and intensity of use for a specified parcel(s) may not constitute a site-specific vesting plan. A variance shall not constitute a site-specific vesting plan and approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.

(2) *Establishment of Vested Right.* A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this subsection. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site-specific vesting plan, including any amendments thereto.

(3) *Approval and amendment of plans.* If a site-specific vesting plan is associated with a development requiring administrative approval, a legislative hearing and notice in accordance with section 21-315 (1)(a) – (c) shall be provided to consider the vesting plan once the development plan(s) has been reviewed and approved by staff. Site specific vesting plans for all other specified plans or approval types herein shall be subject to the same notice and hearing type for the underlying development approval and should be combined into a single notification for each type identified in section 21-315 (1)(a) – (c).

The Board of Commissioners may approve a site specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Landowners will not be required to waive their vested right as a condition of development approval. A site-specific vesting plan shall be deemed approved upon the effective date of the board's decision approving the plan or another date as determined by the board. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the planning director if considered a minor change in accordance with section 21-58(f)(1). All other changes must be reviewed and approved in the same manner as the original approval.

(4) *Continuing review.* Following approval or conditional approval of a site-specific vesting plan, the board may elect to require subsequent reviews and approvals by the Planning Department to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The board may, pursuant to G.S. 160D-403(f), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or applicable regulation.

(5) *Duration and termination of vested right.*

a. A vested right for a site-specific vesting plan remains vested for a default period of two (2) years or up to five (5) years if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions, or other considerations as determined by the board in accordance with this subsection. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the board.

b. Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that the permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.

c. A right vested as provided in this subsection terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(6) *Exceptions.* The provisions of this section are subject to the following:

a. A vested right, once established, precludes any zoning action that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific vesting plan, except when any of the following conditions are present:

1. The written consent of the affected landowner.

2. Findings made, after notice and a quasi-judicial hearing, that natural or man-made 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 approved vested right.

3. Findings made, after notice and a quasi-judicial hearing, that the landowner or their agent intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the board.

4. The enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the approved site-specific vesting

plan, in which case the board may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, after notice and a quasi-judicial hearing.

5. The affected landowner receives compensation in accordance with G.S. 160D-108.1(f)(1)(c).

b. The establishment of a vested right under this section does not preclude the application of subsequent overlay zoning or ordinance change that impose additional requirements that do not affect the allowable type or intensity of use. Otherwise applicable new regulations become effective with respect to property that is subject to a site-specific vesting plan upon the expiration or termination of the vested rights period provided for in this subsection.

c. Notwithstanding any provision of this section, the establishment of a vested right under this subsection shall not preclude, change, or impair the authority to adopt and enforce standards regulating nonconforming situations or uses.

(7) Miscellaneous Provisions.

a. A vested right obtained under this subsection is not a personal right but shall attach to and run with the applicable property.

b. Nothing in this subsection shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this subsection shall be construed to alter the existing common law.

(Ord. of 1-19-98, § I; Amend. of 4-21-14; Amend. of 9-6-16)

Sec. 21-12. Fees.

Reasonable fees to cover the administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, ~~sign permits, conditional~~ **special** use permits, zoning amendments, variances and other administrative relief. The amount of fees charged shall be established by the board of commissioners. Fees shall be paid upon submission of a signed application or notice of appeal.

(Ord. of 1-19-98, § I)

Sec. 21-13. Enforcement.

- (a) *Authority of zoning administrator.* The provisions of this chapter shall be enforced by the zoning administrator.
- (b) *Zoning administrator procedures.* It shall be the duty of the administrator to initiate proceedings for enforcement of these regulations.

(1) Notice of Violation (NOV). If the administrator discovers a violation of these regulations, the administrator shall **provide a written notice of violation (NOV) informing** ~~notify~~ the violator of the specific violation and give ~~the violator~~ a specific time to correct the violation. **The NOV shall be delivered to the holder of a development approval, if applicable, and the property owner by personal delivery, electronic delivery, or first-class mail and may be provided to the occupant of the property or person undertaking the work or activity. The NOV may be posted on the**

property. The administrator or staff member delivering the NOV shall certify that the order was delivered and maintain documentation provided with associated dates. If the violation continues or is not corrected, or a request for an appeal or variance, **if applicable**, as provided in article XIII is not filed, the administrator shall initiate proceedings for enforcement as described in this article.

(2) Stop work orders. Whenever any work or activity subject to the standards of this Chapter is undertaken in substantial violation or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefore, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval, if applicable, and owner of the subject parcel in by personal delivery, electronic delivery, or first-class mail. The administrator or staff member delivering the stop work order shall certify that the order was delivered and maintain documentation provided with specific dates. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

(Ord. of 1-19-98, § I; Amend. of 11-2-09)

Sec. 21-14. Violations and penalties.

(a) Civil penalties.

(1) In addition to other remedies cited in this chapter for the enforcement of these provisions, this chapter may be enforced through the issuance of citations by the county. These citations shall be in the form of a civil penalty. The county may recover this penalty within seventy-two (72) hours after issuing a citation for a violation. In addition, failure to pay the civil penalty may subject the owner to civil action in the nature of debt if the penalty is not paid in the prescribed period of time.

(2) The following civil penalties are established for violations under this chapter:

- a. Warning citation . . . No penalties
- b. First citation . . . \$ 25.00
- c. Second citation for the same offense . . . 50.00
- d. Third and subsequent violations for the same offense . . . 100.00

Upon issuance of a warning citation, first citation or second citation, the owner or developer shall have seven (7) days to correct the violation or make satisfactory progress to correct the violation before additional penalties are assessed. Upon issuance of the third citation, each additional day's violation is a separate and distinct offense and shall incur an additional one-hundred-dollar fine.

(b) *Misdemeanor citations.* Any person who knowingly or willfully violates this chapter, or who knowingly or willfully initiates unapproved actions shall be guilty of a misdemeanor punishable by imprisonment not to exceed thirty (30) days, or by a fine not to exceed fifty dollars (\$50.00).

(c) *Injunctive relief.* Whenever the county attorney has reasonable cause to believe that any person is violating or threatening to violate this article or any term, condition, or provision of approval, the county attorney may, either before or after the institution of any other action or proceeding authorized by this chapter, 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. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation 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 chapter.

(Ord. of 1-19-98, § I)

Sec. 21-15. Effective date.

This chapter shall take effect and be in full force from and after February 16, 1998.

(Amend. of 3-7-05)

Sec. 21-16. Adoption.

Duly adopted by the Rowan County Board of Commissioners of Rowan County, North Carolina the nineteenth day of January 1998 and subsequent amendments.

(Amend. of 3-7-05; Amend. of 4-21-14)

Secs. 21-17--21-30. Reserved.

ARTICLE II. GENERAL AND OVERLAY DISTRICTS

Sec. 21-31. Zoning districts established.

(a) The county is hereby divided into a variety of general zoning districts. The purpose and minimum requirements of each zoning district are provided in the appropriate zoning district provisions and in article V. In addition, special overlay district regulations apply for specified areas. The applicability of all zoning districts to individual properties shall be shown on official zoning maps which shall be a part of the zoning ordinance. These maps shall be maintained for public inspection in the offices of the county planning department. Interpretation of zoning district uses and boundaries shall be as provided in article XII and article XIII.

(b) The following general use and overlay districts are established:

(1) *General zoning districts:*

- | | |
|---|-------------------------|
| a. Rural Agricultural (RA) | h. 85-ED-1 |
| b. Rural Residential (RR) | i. 85-ED-2 |
| c. Residential Suburban (RS) | j. 85-ED-3 |
| d. Multifamily Residential (MFR) | k. 85-ED-4 |
| e. Manufactured Home Park District (MHP) | l. Industrial (IND) |
| f. Neighborhood Business (NB) | m. Institutional (INST) |
| g. Commercial, Business, Industrial (CBI) | |

(2) *Overlay districts:*

- a. Water Supply Watershed (WS).
- b. Airport Height (AZO).
- c. Agricultural (AO).
- d. Manufactured Home Overlay (MHO).

(Ord. of 1-19-98, § III; Ord. of 6-7-99; Ord. of 4-21-03; Amend. of 3-7-05)

Sec. 21-32. General zoning districts defined; purpose and intent.

- (a) *Rural Agricultural, RA*. This district is developed to provide for a minimum level of land use regulations appropriate for outlying areas of the county. These outlying areas typically consist of rural single-family housing, larger tracts of land used for agricultural purposes, and instances of non-residential uses intermingled. Multifamily uses are discouraged in this district. This district would provide for protection from the most intensive land uses while containing provisions for a variety of home-based business opportunities and other non-residential uses deemed appropriate through a conditional special use permit process. It is the intent of this district to rely upon development standards to protect residences from potential adverse impacts of allowed non-residential uses. The most intensive land uses would not be allowed in this district.
- (b) *Rural Residential, RR*. This zoning district is comprised of areas of the county in which moderate levels of single-family housing has occurred or is occurring. In this district, agricultural uses have been replaced to a significant degree with single-family housing. The regulations in this district are intended to provide a land owner with an opportunity to engage in limited business or commercial activities. Multifamily uses are not allowed.
- (c) *Residential Suburban, RS*. The purpose of this zoning district is to protect existing residential neighborhoods and promote the creation of more residential neighborhoods. These areas are typically near major thoroughfares and have or could be provided significant infrastructure. Commercial uses, business uses and multifamily uses are generally not allowed.
- (d) *Multifamily Residential, MFR*. This district is intended to allow for a wide range of residential uses and will be the primary location for multifamily development. This district will typically be located near arterials or collectors. The development of multifamily developments within this district cannot be predetermined and cannot be adequately controlled by general district standards. Therefore specific development proposals for multifamily developments in this district shall be reviewed and approved by the board of commissioners. Approval of the site plan may include the addition of reasonable and appropriate standards to the site plan. No other uses allowed in the MFR district shall require site plan approval by the board of commissioners unless expressly required by this chapter. Additional approval standards for multifamily residential developments are listed in article III. The requirements of this district shall not apply to duplexes on individual lots but shall apply to multiple duplexes on an individual lot.
- (e) *Manufactured Home Park, MHP*.
 - (1) This district is established in order to provide for the proper location and planning of manufactured home parks, excluding family manufactured home parks. Special requirements shall be applied to these parks which shall specify improvements to the park to ensure the public health, safety and welfare of the park inhabitants as well as the surrounding area. Designation of an area as being in the MHP district provides design and appearance criteria which are more appropriate for rental manufactured housing and/or spaces, including vinyl or similar skirting, clustering of units and reduced road construction standards. These standards are not applicable to manufactured homes and/or lots located outside a MHP district. This district requires site plan review for development of manufactured home parks by the board of commissioners. This review is required because the use may have particular impacts on the surrounding area and the county as a whole. Approval of the site plan may include the addition of reasonable and appropriate standards to the site plan. No other uses allowed in the MHP district shall require site plan approval by the board of commissioner unless expressly required by this chapter.
 - (2) Manufactured home parks, existing at the effective date of this chapter and registered as provided by the county mobile home park ordinance are zoned as conforming uses, even though they may not meet the development standards of this chapter. Expansions of the existing registered manufactured home parks or construction of new manufactured home parks, approved under the county mobile home park ordinance may be initiated or continue unless no work has begun within six (6) months of the date of issuance of a "permit to develop" under that

ordinance, or work has ceased for a period of twelve (12) months.

- (3) Other manufactured home parks, which meet the intent of this section by having improvements similar to the requirements of this chapter may also be zoned as conforming uses. However, all expansions of any manufactured home park, existing at the effective date of this chapter shall meet all requirements of this chapter unless expressly provided otherwise. Development standards for a manufactured home park are listed in article III.
- (f) *Commercial, Business, Industrial, CBI*. This zone allows for a wide range of commercial, business and light to medium industrial activities which support both the local and / or regional economies. The CBI district is generally appropriate in areas identified by an adopted land use plan that recommend "highway business" along identified NC and US highways; community / regional / potential development nodes; commercial corridors; and existing commercial areas. Areas served by public water / sewer represent significant public investment to foster tax base growth and employment opportunities for the citizens, which could be served through CBI designation. The CBI district may also exist or be created in an area other than listed in this subsection if the existing or proposed development is compatible with the surrounding area and the overall public good is served.
- (g) *Industrial, IND*. This district is intended to provide for industrial activities involving extraction, manufacturing, processing, assembling, storage, and distribution of products. The district is also designed to accommodate other, more intense non-residential uses which generate adverse side effects such as noise, odor or dust. The IND district is generally appropriate in areas identified by an adopted land use plan for industrial corridors, potential development nodes, locations accessible to rail lines and utility infrastructure, and existing industrial areas. These corridors represent significant public and private investment, which should be identified to foster tax base growth and employment opportunities for the citizens. The IND district may also exist or be created in an area other than listed in this subsection if the existing or proposed development is compatible with the surrounding area and the overall public good is served.
- (h) *Neighborhood Business, NB*. This district is primarily designed to provide rural business opportunities typically in the form of small retail, service, office, and light manufacturing uses to serve the community's existing and future needs for goods, services, and employment opportunities. Standards within the district are intended to promote context sensitive development appropriately scaled and organized in a manner that would not be detrimental to the surrounding area. Development within this district would contain impacts inherently more intensive than those associated with uses permitted with special requirements in the RA district but significantly less than those in CBI zoned areas. The NB district is generally appropriate in areas identified by an adopted land use plan for rural businesses located on identified minor and major thoroughfares and within community nodes. However, additional consideration may be necessary as some thoroughfare segments would not be conducive to NB designation due to surrounding land use and / or potential negative impacts such as traffic, noise, and visual impacts. Generally, the NB district shall be two (2) acres or larger. However a lot of record, smaller than two (2) acres may be considered for rezoning to NB if the owner of the lot does not own adjacent property which may be included in the rezoning request.
- (i) *Institutional, INST*. The purpose of the Institutional district is to recognize and permit the creation of defined areas for the unified and orderly development of major cultural, educational, medical, governmental, religious and other institutions in order to support and enhance their benefits to the community in a manner which protects adjacent residential uses. Trade school facilities teaching a trade, for example truck driving or welding, which have that activity on site, shall meet zoning requirements for that use.

(Ord. of 1-19-98, § III; Ord. of 2-1-99(1), §§ 2, 9; Ord. of 6-17-02; Ord. of 4-21-03; Amend. of 4-21-14; Amend. of 9-3-19)

Sec. 21-33. Overlay districts.

Overlay districts are zoning districts, which are applied only in conjunction with other zoning districts, and may grant additional use of development requirements upon the underlying zoning districts. The effect is to have both the overlay district and the underlying zoning controlling the use and development of the lot. Overlay districts are applicable on an area wide basis to support specific public policy objectives and as such should be consistent with adopted land use plans. Overlay districts may be applied to conventional and conditional zoning districts. An overlay district may be initiated as an amendment by the board of commissioners, planning board, **planning staff**, or **the** property owner **or their designated representative**.

- (1) *Airport Zone Overlay, AZO.* The zones and restrictions established in this subsection are designed to limit the height of structures surrounding the county airport's established elevation of seven hundred seventy-one ~~two~~ **(771) 772** feet above mean sea level (msl) in order to prevent hazards to the lives and property of the users of the airport and the occupants of land in the vicinity.
 - a. *Uses allowed.* The use requirements of the underlying district apply to the AZO district. However, all uses must be in conformance with the provisions of this section.
 - b. *Establishment of zones.* To carry out the provisions of this section, there are hereby created and established certain civil airport imaginary surfaces which include all of the land lying beneath the approach surface, transitional surface, horizontal surface, conical surface and primary surface. These civil airport imaginary surfaces are established with relation to the Rowan County Airport runway and proposed extensions of thereof. Such imaginary surfaces are shown on the Official County Airport Zoning Map prepared by the Rowan County Planning Department and dated October 4, 2004, which is adopted and incorporated herein by reference. The size of each such imaginary surface is based on the categorization of this runway as a precision instrument runway. The slope and dimensions of the imaginary surfaces, applied to each end of a runway, are determined by the most precise approach existing or planned for the runway end. The surfaces are hereby established and defined as follows:
 1. *Horizontal surface.* A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs with a radius of ten thousand (10,000) feet from the center of each end of the primary surface of each end of the runway, including any planned extensions, and connecting the adjacent arcs by lines tangent to those arcs.
 2. *Conical surface.* A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of four thousand (4,000) feet.
 3. *Primary surface.* A surface longitudinally centered on a runway. The primary surface extends two hundred (200) feet beyond each end of the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is one thousand (1,000) feet as required for precision runway landings.
 4. *Approach surface.* A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.
 - i. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of sixteen thousand (16,000) feet as provided for precision instrument runways.
 - ii. The approach surface extends for a horizontal distance of ten thousand (10,000) feet at a slope of 50:1 with an additional forty thousand (40,000) feet at a slope of 40:1.
 5. *Transitional surface.* These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the

limits of the conical surface, extend a distance of five thousand (5,000) feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

- c. *Height limitations.* Except as otherwise provided in this article, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow within the AZO district extending or projecting into the lowest applicable imaginary surfaces defined herein.

(2) *Water Supply Watershed Overlays, WSO.* The purpose of the watershed overlay is to provide for the protection of public water supplies as required by the Water Supply Watershed Classification and Protection Act (G.S. 143-214.5) and regulations promulgated therein. The watershed overlays may be an overlay in any conventional or conditional zoning district established in this chapter. The overlay districts supplement the uses or development requirements of the underlying zoning districts.

- a. *Uses allowed.* The use requirements of the underlying districts apply to the WS districts, unless otherwise provided in this section. However, all allowed uses must be in conformance with the provisions of this section.
- b. *Expressly prohibited in critical areas.* The following uses are expressly prohibited:
 - 1. Landfills;
 - 2. Sites for land application of sludge/residuals or petroleum contaminated soils.
- c. *Calculating built-upon area.* For the purpose of calculating built-upon area, total project area shall include total acreage in the lot on which the project is to be developed.
- d. *Low Density standard and built-upon limits.* The following density and built-upon limits including nonpoint source and pollution control measures shall apply to development in the water supply watersheds unless expressly provided otherwise.

1. Density and Built-Upon Limits

<i>Watershed</i>	<i>Single family Residential</i>	<i>Multi-family and Nonresidential Development</i>
<i>Watershed-II-Critical Area, WS-II-CA</i>	<i>80,000 sq. ft. minimum lot size or 6 percent built-upon area on a project by project basis</i>	<i>Development shall not exceed 6 percent on a project-by-project basis, unless otherwise provided in this section.</i>
<i>Watershed-II-Balance of Watershed, WS-II-BW</i>	<i>40,000 sq. ft. minimum lot size</i>	<i>Maximum 12 percent built-upon on a project by project basis</i>
<i>Watershed-III-Critical Area, WS-III-CA</i>	<i>40,000 sq. ft. minimum lot size</i>	<i>Maximum 12 percent built-upon on a project by project basis</i>
<i>Watershed-III-Balance of Watershed, WS-III-BW</i>	<i>20,000 sq. ft. minimum lot size</i>	<i>Maximum 24 percent built-upon on a project by project basis</i>
<i>Watershed-IV-Critical Area, WS-IV-CA*</i>	<i>20,000 sq. ft. minimum lot size</i>	<i>Maximum 24 percent built-upon on a project by project basis</i>
<i>Watershed-IV-Protected Area, WS-IV-PA*</i>	<i>20,000 sq. ft. minimum lot size</i>	<i>Maximum of 24 percent built-upon area with curb and gutter or 36 percent built-upon area without curb and gutter</i>

* Development activities which require an erosion/sedimentation control plan must meet these requirements.

2. Nonpoint Source and Stormwater Pollution Control.

i. *Vegetated Conveyances.* Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. In determining whether this criteria has been met, Rowan County shall take into account site-specific factors such as topography and site layout as well as protection of water quality. Vegetated conveyances shall be maintained in perpetuity to ensure continued function as designed. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this Sub-Item:

(1) Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to Rowan County that soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and

(2) The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations.

ii. *Curb Outlet Systems.* In lieu of vegetated conveyances, low density projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:

(1) The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;

(2) The longitudinal slope of the swale or vegetated area shall not exceed five percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;

(3) The swale's cross section shall be trapezoidal with a minimum bottom width of two feet;

(4) The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);

(5) The minimum length of the swale or vegetated area shall be 100 feet; and

(6) Low density projects may use treatment swales designed in accordance with 15A NCAC 02H .1061 in lieu of the requirements specified in Sub-Items (1) through (5) of this Sub-Item.

e. Special nonresidential intensity allocation (SNIA) permit.

1. *Purpose.* The purpose is to provide a method for the board of commissioners to allow ten (10) percent of the county's portion of the balance of watershed area (excluding a critical area) to be granted an SNIA permit to be developed at up to seventy (70) percent built-upon surface area.

2. *Application and review procedures.* Applications shall include a site plan as prescribed in section 21-52.

3. *Review and approval.* The site plan shall be reviewed by the board of commissioners. Approval of the plan may include the addition of reasonable and appropriate conditions.

4. *Applicable areas.* Areas in which SNIA permits may be approved are as follows:

i. WS-II-BW.

- ii. WS-III-BW.
 - iii. WS-IV-PA.
5. *Eligibility for an SNIA permit.* Non-residential uses subject to compliance with section 21-113 shall be eligible unless otherwise indicated in this chapter.
- f. High Density standard and built-upon limits.
1. Purpose. New development activities within a Watershed IV Critical Area (WS-IV-CA) or a Watershed IV Protected Area (WS-IV-PA) that require a soil erosion and sedimentation control plan pursuant to **NCCS G.S.** 113A Article 4 or Chapter 18 of the Rowan County Code of Ordinances and exceed the low density standards of subsection 2(d) of this Chapter must seek approval under the High Density standards when affected by any of the following:
 - a. Proposing a major subdivision as defined in Section 22-56 of the Rowan County Subdivision Ordinance; or,
 - b. Proposing a Planned Development Subdivision (PDS) as defined in Section 22-58 of the Rowan County Subdivision Ordinance; or,
 - c. Located in a development node or corridor in an adopted Rowan County Land Use Plan and proposes three (3) acres or more in built-upon area.
 - (2) Intent. High Density standards will allow for creation of denser development projects while ensuring impacts to water quality within the watershed are minimized by utilizing Best Management Practices to control stormwater runoff and resulting pollution. Furthermore, the application of High Density standards to projects referenced in 21-33(2)(f)(1) will preserve the SNIA provision for development activities within the watershed that are of a scale and scope that do not warrant high density standards.
 - (3) Standards and built-upon limits. The Board of Commissioners may approve a project application(s) for use of High Density development standards based on the following:
 - a. WS-IV-CA. Where new development exceeds the low density standards of Section 21-33(2)(d), engineered stormwater controls shall be used to control runoff from the first inch of rainfall and development shall not exceed fifty percent (50%) built-upon area.
 - b. WS-IV-PA. Where new development exceeds the low density standards of Section 21-33(2)(d), engineered stormwater controls shall be used to control runoff from the first inch of rainfall and development shall not exceed seventy percent (70%) built-upon area.
 - c. Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area.
 - (4) Application. Projects subject to the conditions of subsection 2(f)(1) of this Chapter shall submit an application for consideration by the Board of Commissioners subject to the process outlined in Section 21-317 of this Chapter.
 - (5) Waivers. New development activities in a WS-IV-PA subject to the requirements of this subsection may request the Board of Commissioners consider granting a waiver from the High Density standards and instead allow the project to utilize the provisions of Section 21-33(2)(e). In granting a waiver, the Board of Commissioners shall affirm the project is not consistent with the purpose and intent of this subsection; water quality impacts resulting from the development project will be minimized; and the waiver lends itself to a better project design.

(3) *Agricultural Overlay, AO.* The purpose of the Agricultural Overlay District is to provide additional requirements to encourage the maintenance of viable agricultural areas. This district should be comprised primarily of open farm land used for extensive agricultural and livestock production. The district will provide guidelines to promote the maintenance of the general rural character of openness. Development in this district shall be subject to the criteria below.

a. *Uses allowed.* The following agricultural and related uses are allowed:

Code 1987 U.S. SIC Description

01 Agricultural production—crops

02 Agricultural production—livestock

07 Agricultural services **except 0751(pt), custom slaughtering; 0752(pt), animal shelter, boarding kennel, and dog pound.**

515 Wholesale farm products and raw material part of a bona fide farm operation

5261 Retail nurseries, lawn and garden supply stores part of a bona fide farm operation
Other similar agricultural uses such as feed and seeds part of a bona fide farm operation

Family subdivisions of up to three (3) lots plus the remainder

Family manufactured home parks of up to three (3) manufactured homes occupied by members of the immediate family of the property owner

Rural home occupations

b. *Development of property not part of a bona fide farm located in AO District.* Within the AO district setback of fifty (50) feet shall be provided from land in agricultural use.

(4) *Manufactured Home Overlay, MHO.*

a. *Purpose and intent.* The purpose of the Manufactured Home Overlay is to provide for the development of Type II and Type III manufactured homes in established residential zoning districts while maintaining the overall residential, rural or agricultural character of those districts. Because of the potential impacts of the establishment of this district, it has prescribed conditions contained in this subsection to ensure compatibility with the surrounding area.

b. *Permitted districts.* The Manufactured Home Overlay supplements the range of uses and regulations in the underlying district. The overlay is allowed in the following districts permitting residential development; RA, RR, CBI and MFR. All other uses in the underlying district shall continue to remain in effect and subject to the regulations and conditions of approval of the underlying district.

c. *Procedures for district designation.* The following procedures are required for MHO district designation:

1. Designation as an MHO district shall require a rezoning as provided in article XIV of this chapter.

2. Upon approval of an MHO district by the board of commissioners, the area so designated shall be labeled "MHO" on the zoning map.

d. *Review.* The petitioner seeking to rezone property to this district must illustrate that the proposed development will comply with the evaluation criteria contained in section 21-59. A site plan is required as provided by section 21-52. In approving the district reasonable conditions may be included to protect the public health, safety and welfare and to meet the intent of this chapter.

e. *Development standards.* The following standards shall apply for the location of type II and type III manufactured homes unless specifically provided otherwise in this chapter:

1. Location of type II and type III manufactured homes on subdivisions of one (1) or more lots shall require establishment of an MHO zoning district.

2. Upon establishment of an MHO district the following types of homes may be located in the

following districts:

- i. RA district: Type II and type III.
 - ii. RR district: Type II.
 - iii. CBI district: Type II and type III.
 - iv. MFR district: Type II and type III.
3. Side & rear yard setbacks for the district's external boundary is 30 feet.

(Ord. of 1-19-98, § III; Ord. of 6-7-99; Ord. of 12-18-00(2); Ord. of 10-4-04; Amend. of 11-2-09; Amend. of 4-21-14; Amend. of 9-6-16; Amend. of 08-19-19)

Sec. 21-34. Economic development districts established for I-85.

- (a) The following district are hereby established to preserve, encourage and enhance the economic development opportunities in areas adjacent and near I-85 in accordance to plans adopted by the county board of commissioners. It is recognized that I-85 is uniquely important the future of the county because of the great potential for development of all types that exist along this corridor. Development within these districts shall be of types which maximize the economic benefits to the county while minimizing the potential impacts.
- (b) The district are designed to accommodate, as appropriate, uses such as manufacturing, distribution, retail, service industries, corporate parks. Certain individual uses may be allowed as uses by right in some districts, while other more intensive uses may require a higher level of review and approval by the county. The districts encourage and allow more creative design of land development than may be provided on other general zoning districts. This flexibility is provided for planned unit developments.
- (c) The district are labeled as 85-ED 1 through 4. "85" represents the relationship to I-85. "ED" represents the economic development designation for the sites.

- (1) *85-ED-1*. The purpose of the 85-ED-1 district is to encourage the location of "high capital investment/high wage/low employment/clean" industries. Certain industries shall be allowed as permitted uses standards provided to protect adjacent neighborhoods. Other heavy industries may be allowed as **conditional special** uses. If part of a larger master plan limited accessory and ancillary retail and service uses may be allowed.

- a. In the 85-ED-1 district the following uses are permitted by right with a minimum lot size of five (5) acres:

Construction group:

General Building Contractors (SIC 15)

Special Trade Contractors (SIC 17)

Manufacturing group:

Printing and publishing (SIC 27).

Drugs (SIC 283)

Soap, detergents, and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC 284)

Rubber and miscellaneous plastics products (SIC 30).

Fabricated metal products (SIC 34), except:

Ammunition, except for small arms (SIC 3483).

Ordnance and accessories (SIC 3489).

Industrial machinery and equipment (SIC 35).

Electrical and electronic equipment (SIC 36), except:

Power distribution and specialty transformers (SIC 3612).

Transportation equipment (SIC 37).

Instruments and related products (SIC 38).

Miscellaneous manufacturing industries (SIC 39).

Transportation, communication, and utilities group:

Non-Residential and Roof Mounted Solar Energy Systems (SIC 491 (pt)) subject to the size and locational restrictions of 21-56(6)c

b. The following are allowed with the issuance of a conditional special use permit:

Construction group:

General Building Contractors (SIC 15)

Special Trade Contractors (SIC 17)

Manufacturing group:

Lumber and wood products (SIC 24).

Furniture and fixtures (SIC 25).

Paper and allied products (SIC 26).

Plastic materials, synthetic resins, etc. (SIC 282).

Stone, clay, glass, and concrete products (SIC 32).

Primary metal industries (SIC 33).

Transportation, communication, and utilities group:

Communications and telecommunication towers (SIC 48 (pt)).

Services group:

Racing, including track operation (SIC 7948).

c. Approval of a PUD with a minimum lot size of twenty (20) acres will allow the above uses in addition to accessory and ancillary uses on up to ten (10) percent of the total acreage.

Transportation, communication, and utilities group:

Local and interurban passenger transit (SIC 41).

Transportation services (SIC 47).

Retail trade group:

General merchandise stores (SIC 53).

Food stores (SIC 54).

Eating and drinking places (SIC 58).

Miscellaneous retail (SIC 59).

Finance, insurance, and real estate group:

Depository institutions (SIC 60).

Service industries group:

Hotels, rooming houses, camps, and other lodging places (SIC 70).

Personal services (SIC 72).

Business services (SIC 73).

Automotive repair, services, and parking (SIC 75).

(2) *85-ED-2*. In areas where existing conditions such as surrounding development, access etc. may make the area less marketable for uses listed exclusively in the *85-ED-1* district then the *85-ED-2* district may be appropriate. The primary additions to this district are distribution and wholesaling operations.

- a. Certain industries shall be allowed as permitted uses with standards provided to protect adjacent neighborhoods. Other heavy industries and distribution and wholesale operations may be allowed as **conditional special** uses. If part of a larger master plan limited accessory and ancillary retail and service uses may be allowed.

Construction group:

General Building Contractors (SIC 15)

Special Trade Contractors (SIC 17)

Manufacturing group:

Printing and publishing (SIC 27).

Drugs (SIC 283)

Soap, detergents, and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC 284)

Rubber and miscellaneous plastics products (SIC 30).

Fabricated metal products (SIC 34), except:

Ammunition, except for small arms (SIC 3483).

Ordnance and accessories (SIC 3489).

Industrial machinery and equipment (SIC 35).

Electrical and electronic equipment (SIC 36), except:

Power distribution and specialty transformers (SIC 3612).

Transportation equipment (SIC 37).

Instruments and related products (SIC 38).

Miscellaneous manufacturing industries (SIC 39).

Transportation, communication, and utilities group:

Non-Residential and Roof Mounted Solar Energy Systems (SIC 491 (pt)) subject to the size and locational restrictions of 21-56(6)c.

Service industries group:

Engineering and management services (SIC 87).

- b. The following are allowed with the issuance of a ~~conditional~~ **special** use permit:

~~Construction group:~~

~~General Building Contractors (SIC 15)~~

~~Special Trade Contractors (SIC 17)~~

Manufacturing group:

Lumber and wood products (SIC 24).

Furniture and fixtures (SIC 25).

Paper and allied products (SIC 26).

Plastic materials, synthetic resins, etc. (SIC 282).

Stone, clay, glass, and concrete products (SIC 32).

Primary metal industries (SIC 33).

Transportation, communication, and utilities group:

~~Local and interurban passenger transit (SIC 41).~~

Motor freight transportation and warehousing (SIC 42).

Transportation services (SIC 47).

Communications and telecommunication towers (SIC 48 (pt)).

Wholesale trade group:

Wholesale trade--durable goods (SIC 50).

Wholesale trade--nondurable goods (SIC 51).

Services group:

Racing, including track operation (SIC 7948).

- c. Approval of a PUD with a minimum lot size of twenty (20) acres will allow the above uses in addition to accessory and ancillary uses on up to ten (10) percent of the total acreage.

Transportation, communication, and utilities group:

Local and interurban passenger transit (SIC 41).

~~Transportation services (SIC 47).~~

Retail trade group:

General merchandise stores (SIC 53).

Food stores (SIC 54).

Eating and drinking places (SIC 58).

Miscellaneous retail (SIC 59).

Finance, insurance, and real estate group:

Depository institutions (SIC 60).

Service industries group:

Hotels, rooming houses, camps, and other lodging places (SIC 70).

Personal services (SIC 72).

Business services (SIC 73).

Automotive repair, services, and parking (SIC 75).

- (3) *85-ED-3 Corporate Park District.* Some areas with good interstate visibility, good access and good surrounding environment may be suitable for high-end corporate headquarters. This may or may not include manufacturing. The purpose of the district is to provide for a high-quality mixture of employment uses of varying types in a single coordinated development. Minimum development size is twenty (20) acres and will require approval of a PUD.

a. Allowed primary uses are:

Manufacturing group:

Lumber and wood products (SIC 24).

Furniture and fixtures (SIC 25).

Paper and allied products (SIC 26).

Printing and publishing (SIC 27).

Plastic materials, synthetic resins, etc. (SIC 282).

Drugs (SIC 283).

Soap, detergents, and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC 284)

Rubber and miscellaneous plastics products (SIC 30).

Stone, clay, glass, and concrete products (SIC 32).

Primary metal industries (SIC 33).

Fabricated metal products (SIC 34), except:

Ammunition, except for small arms (SIC 3483).

Ordnance and accessories (SIC 3489).

Industrial machinery and equipment (SIC 35).

Electrical and electronic equipment (SIC 36), except:

Power distribution and specialty transformers (SIC 3612).

Transportation equipment (SIC 37).

Instruments and related products (SIC 38).

Miscellaneous manufacturing industries (SIC 39).

Transportation, communication, and utilities group:

~~Local and interurban passenger transit (SIC 41).~~

Motor freight transportation and warehousing (SIC 42).

Transportation services (SIC 47).

Non-Residential and Roof Mounted Solar Energy Systems (SIC 491 (pt)) subject to the size and locational restrictions of 21-56(6)c.

Service industries group:

Hotels, rooming houses, camps, and other lodging places (SIC 70).

Personal services (SIC 72).

Business services (SIC 73).

Automotive repair, services, and parking (SIC 75).

Health services (SIC 80).

Legal services (SIC 81).

Educational services (SIC 82).

Membership organizations (SIC 86).

Engineering and management services (SIC 87).

- b. Allowed accessory and ancillary uses on up to twenty (20) percent of the total acreage:

Transportation, communication, and utilities group:

Local and interurban passenger transit (SIC 41).

~~Transportation services (SIC 47).~~

Wholesale trade group:

Wholesale trade--durable goods (SIC 50).

Wholesale trade--nondurable goods (SIC 51).

Retail trade group:

General merchandise stores (SIC 53).

Food stores (SIC 54).

Eating and drinking places (SIC 58).

Miscellaneous retail (SIC 59).

Finance, insurance, and real estate group:

Depository institutions (SIC 60).

Service industries group:

Hotels, rooming houses, camps, and other lodging places (SIC 70).

Personal services (SIC 72).

Business services (SIC 73).

- c. The following are allowed with the issuance of a conditional special use permit:

Transportation, communication, and utilities group:

Communications and telecommunication towers (SIC 48(pt)).

- (4) *85-ED-4 Retail Center.* Many areas near the interstate will draw interest from retailers. It is often appropriate or desirable to have a portion of an area zoned for larger retail development. This helps ensure availability of most retail and service needs in a location nearby and accessible to major employment and residential areas. Minimum development size is twenty (20) acres and will require approval of a PUD.

- a. Allowed primary and accessory uses are:

Transportation, communication, and utilities group:

Non-Residential and Roof Mounted Solar Energy Systems (SIC 491 (pt)) subject to the size and locational restrictions of 21-56(6)c.

Retail trade group:

Building materials, hardware, garden supply, and mobile (SIC 52).

General merchandise stores (SIC 53).

Food stores (SIC 54).

Automotive dealers and gasoline service stations (SIC 55).

Apparel and accessory stores (SIC 56).

Furniture, home furnishings and equipment stores (SIC 57).

Eating and drinking places (SIC 58).

Miscellaneous retail (SIC 59).

Finance, insurance, and real estate group:

Depository institutions (SIC 60).

Non-depository credit institutions (SIC 61).

Security, commodity brokers, and services (SIC 62).

Insurance carriers (SIC 63).

Insurance agents, brokers, and service (SIC 64).

Real estate (SIC 65).

Holding and other investment offices (SIC 67).

Service industries group:

Hotels, rooming houses, camps, and other lodging places (SIC 70).

Personal services (SIC 72).

Business services (SIC 73).

Automotive repair, services, and parking (SIC 75).

Miscellaneous repair services (SIC 76).

Motion pictures (SIC 78).

Amusement and recreational services (SIC 79).

Health services (SIC 80).

Legal services (SIC 81).

Educational services (SIC 82).

Social services (SIC 83).

Museums, art galleries, botanical and zoological garden (SIC 84).

Membership organizations (SIC 86).

Engineering and management services (SIC 87).

Miscellaneous services (SIC 89).

- b. The following are allowed with the issuance of a **conditional special** use permit:

Transportation, communication, and utilities group:

Communications and telecommunication towers (SIC 48 (pt)).

- (5) *Approval process for PUDs.* All PUDs shall be reviewed and approved as required for **conditional special** use permits in article III of this chapter. Uses included in PUDs which require **conditional special** use approval as freestanding uses shall not require separate a separate **conditional special** use permit approval if approved as part of a PUD.
- (6) *Other zoning criteria.* Notwithstanding limits on reduction of setbacks in article XIII of this chapter, all standards are subject to modification in site plan approval process. However, in no situation shall the required buffer from project perimeter be reduced if adjacent to a residentially zoned area.
- a. *Buffers.* Forty (40) feet from project perimeter.
- b. *Screening.* In accordance with article IX, screening for a PUD shall be determined using the predominant use of the PUD or relevant portion thereof.
- c. *Street frontage.* Minimum of one hundred (100) feet for development.
- d. *Maximum lot coverage.* Eighty (80) percent of lot area.
- e. *Development size.* Development sizes are as permitted below. Permitted and **conditional special** uses on lots five (5) acres or more but less than twenty (20) acres in size are only allowed on lots of record existing at the effective date of the ordinance from which this chapter derives, or on aggregations of lots existing at the effective date of the ordinance, creating a lot five (5) acres or larger in size.
1. *85-ED-1.*

Permitted used	5 acres
Conditional Special uses	5 acres
PUDs	20 acres
 2. *85-ED-2.*

Permitted used	5 acres
Conditional Special uses	5 acres
PUDs	20 acres
 3. *85-ED-3.*

PUDs	20 acres
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 4. *85-ED-4.*

PUDs	20 acres
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- f. *Subdivision requirements.* All subdivisions of property must be approved as a PUD.

- g. *Maximum building height.* No maximum height.
- h. *Parking.* As required in zoning ordinance.
- i. *Signs.* As provided in zoning ordinance.
- j. *Circulation system.* Requires access to major or minor thoroughfare or interstate service road. No access to local streets is allowed. Interior streets are designed to connect to other adjoining property within a 85-ED district. This requirement may be waived if it is found that connection to adjoining property is not appropriate due to incompatibility of adjacent development.
- k. *Nuisance conditions.* The project shall no cause detrimental levels of noise, dust, odor etc. to nearby areas.
- l. *Loading, maintenance and outdoor storage areas.* All loading, maintenance and outdoor storage areas shall be located to the rear or side of the building, but shall not face a side street unless approved as such during the PUD process.
- m. *Open space.* Open space shall be suitably landscaped with grass and/or trees and shrubs. Within a PUD the open space shall be pedestrian oriented. Parking or vehicular access is not allowed.
- n. *Lighting.* Lighting shall be provided at intersections, along walkways and in parking lots. The maximum height of lighting is twenty-five (25) feet. Spacing of lighting shall be four (4) times the height.
- o. *Building character and style.* Building designs within a PUD shall strive to establish a distinctive style and maintain a high quality development standard. Buildings should include similar architectural styles but should not be identical throughout the development. The site plan shall at a minimum describe building materials colors and architectural features of the development.
- p. *Pedestrian facilities and design.* Within a PUD, the site plan shall provide for a unified and well-organized arrangement of buildings, service areas, parking, etc., to provide a high level of convenience and safety for pedestrians, employees, and visitors.
- q. *Landscaping.* Approval of PUD shall include at a minimum the following:
 - 1. Trees shall be planted on both sides of interior access streets used by the public. These trees shall be ten (10) feet tall at planting and a minimum of twenty (20) feet tall at maturation, and shall be of similar size and shape. The trees shall be planted no further than forty (40) feet apart.
 - 2. Entranceways and medians shall be landscaped with trees and/or shrubs as appropriate for the type of development.

(Ord. of 12-18-00(2); Amend. of 3-7-05; Amend. of 11-2-09; Amend. of 9-6-11; Amend. of 3-4-13; Amend. of 8-19-13; Amend. of 4-21-14; Amend. of 10-17-16; Amend. of 7-13-20)

Secs. 21-35--21-50. Reserved.

ARTICLE III. SITE PLANS, SPECIAL REQUIREMENTS, RURAL HOME OCCUPATIONS, ~~CONDITIONAL~~ SPECIAL USE PERMITS, CONDITIONAL ZONING DISTRICTS, AND SPECIAL REQUIREMENTS IN THE NB DISTRICT.

Sec. 21-51. Purpose.

This article provides regulations and conditions for selected uses which are unusual in their nature or complexity. These uses may require areas of unusual size, or are potentially incompatible with their surroundings unless special development standards are applied, or which depend on sound site planning

and design to prevent them from becoming detrimental to the health, safety, or general welfare of the public or neighboring land uses.

(Ord. of 1-19-98, § IV)

Sec. 21-52. Site plan required.

Site plans are necessary to demonstrate the proposed use of land and / or structures will comply with the specifications set forth in this chapter prior to the issuance of a zoning permit. All non-residential uses shall submit a site plan containing the following information in addition to other standards required by this chapter:

- (1) Zone lot with dimensions and development setbacks;
- (2) Tax parcel number;
- (3) Property address;
- (4) Adjoining deeded properties and their uses;
- (5) Existing structures;
- (6) Proposed structure with size;
- (7) Proposed use;
- (8) Number of employees, if applicable;
- (9) Hours of operation, if applicable;
- (10) Off-street parking, loading and unloading, access to existing streets;
- (11) Easements and rights-of-way;
- (12) All pertinent development requirements of this chapter;
- (13) Any additional information required by the zoning administrator to assess the merits of the application, including but not limited to a commercial driveway permit, traffic impact analysis, environmental impact statements;
- (14) Floodplains;
- (15) Name, location and dimension of any proposed streets, drainage facilities, parking areas, recreation areas, required yards, required turnarounds as applicable;
- (16) Screening & Buffering, if applicable;
- (17) Zoning District;
- (18) Proposed phasing, if applicable;
- (19) This required site plan shall be in sufficient detail to allow the zoning administrator to reasonably understand the proposed development. The scale shall be one (1) inch equals one hundred (100) feet or greater for zone lots three (3) acres or less in size, or one (1) inch equals two hundred (200) feet for zone lots more than three (3) acres in size.

(Ord. of 1-19-98, § IV; Amend of 4-21-14; Amend. of 9-3-19)

Sec. 21-53. Permitted uses with special requirements and rural home occupations (RHOs).

Uses listed as SR (Special Requirements) in section 21-113, except those in the NB zoning district, which are subject to section 21-65, shall comply with the pertinent regulations listed in the following subsections. Site plan approval by the zoning administrator shall be required unless expressly provided otherwise prior to issuance of a zoning permit and such approval shall be given if all requirements herein are met. The plan

shall become part of the building permit.

(1) *Rural Home Occupations [RHO].*

- a. *Purpose and Intent.* Rowan County recognizes the important role RHOs offer residents and the community in creating business opportunities to fulfill or supplement the resident's employment needs. Standards are established herein to protect adjoining properties from potential adverse impacts associated with these uses.
- b. *Development Standards.* All proposed operations are subject to general standards identified in sections 21-54 through 55, applicable specific standards in section 21-56, and other pertinent requirements of this chapter.
- c. *Combination Use.* In addition to the principal residential use, development of a RHO may constitute a second principal use whose occupancy classification is subject to the North Carolina Building Code for non-residential use as determined by the Rowan County Inspections Department.
- d. *Change in Operation.* RHOs permitted to comply with the provisions of section 21-55(2)b shall be classified as non-conforming if a change in association between the residence and business operator occurs. As such, applicants should consider potential investment in the development of land and / or structures for RHOs and the inherent future limitations should the use become non-conforming. Many RHO locations would not adhere to the purpose and intent or land use recommendations for rezoning to a non-residential district.

(2) *Specific criteria for uses listed as SR.* The SR standards required in Section 21-54 & 55 do not apply to uses in the residential group from 21-113; Common Sand Mining (SIC 1442); Dead storage of manufactured homes (SIC 42); Co-location of wireless facilities, eligible facilities requests, alternative tower structures, and public safety tower (SIC 48 (pt)); and uses listed as SR in non-residential districts.

(Ord. of 1-19-98, § IV; Amend. of 12-2-13; Amend. of 4-21-14; Amend. of 10-15-18; Amend. of 9-3-19)

Sec. 21-54. Maximum building size and setback requirements for RHOs.

Building size and setbacks for certain uses listed as "SR" in Section 21-113 shall be as provided in this section.

- (1) *Building size.* The maximum allowable building size for uses listed in section 21-113 as "SR" in the RA and RR districts shall not exceed ten (10) percent of the gross acreage of the lot, excluding right-of-way with a maximum of 12,000 sq. ft. in the RA district and 2,000 sq.ft. in the RR district. Existing accessory structures for personal use not associated with uses permitted in this section must be considered within the maximum allowable building size for the property listed in section 21-285.
- (2) *Building Setbacks.* Maximum square footage and related setback requirements shall be as specified below.

<i>Building Square Footage</i>	<i>Setback, Front (in feet)</i>	<i>Setback, Side, Side Street and Rear Yards (in feet)</i>
0--2,000	30	20
2,001--4,000	40	30
4,001--8,000	50	40
8,001--12,000	60	50

Existing structures proposed for use as a rural home occupation that do not comply with these setbacks shall not be precluded from such use if all other requirements are met.

(Ord. of 1-19-98, § IV; Ord. of 6-29-99; Amend. of 11-2-09; Amend. of 4-21-14; Amend. of 9-3-19)

Sec. 21-55. General criteria for RHO uses listed as SR in Section 21-113.

Uses listed as SR in article III shall comply with the following criteria, as applicable:

- (1) *Site plan.* A site plan shall be provided showing the existing lot and all existing and proposed buildings.
- (2) *Location.* The RHO must be located on property which meets the following criteria:
 - a. The property must have at least thirty-five (35) feet of state road frontage. Properties that do not meet the requisite road frontage requirement are limited to a maximum building size of 2,000 sq. ft. and must comply with all other applicable standards herein.
 - b. The business must be on or adjacent to the primary residence of the business owner / operator but nonetheless shall be located on a lot containing required road frontage in subsection (a).
- (3) *Lighting.* The lighting shall be shielded to prevent light and glare spillover to adjacent residentially developed properties.
- (4) *Square footage.* The maximum square footage allowed for a use shall include all buildings used for retail sales of any type on that property.
- (5) *Parking.* Parking shall be provided off-street subject to article VII for that use.
- (6) *Signage.* Signage shall be as prescribed in article VIII for the underlying district.
- (7) *Noise.* Noise shall not exceed the levels prescribed in the county noise ordinance for residential districts.
- (8) *Outdoor storage.* All outside storage areas including dumpsters shall be:
 - a. Sited to the rear of the building;
 - b. Not within the required setbacks.
 - c. Outdoor storage shall be screened as provided in article IX for that use.
- (9) *Smoke, odors and dust.* The use will not create any smoke, odors, or dust at a level discernible at any of its lot lines.
- (10) *Required licenses and permits.* The applicant shall provide a copy of all required licenses and permits prior to issuance of a zoning permit.
- (11) *Handling waste and other by-products.* A description shall be provided of the method of collecting, handling, disposal and storage of all wastes, by-products, scraps, etc. which meets all applicable federal, state and local regulations and all other requirements of this chapter.
- (12) *Activities.* Manufacturing activities are confined to the building.
- (13) *Outdoor display.* Outdoor display shall be limited to two thousand five hundred (2,500) square feet unless otherwise provided.
- (14) *Screening.* Any structures and operational areas used for the business must be screened in accordance with Article IX. This requirement does not apply to a residence(s) on the same parcel or an adjacent parcel if in the same ownership as the land on which the RHO is located or is owned by an immediate family member as defined by this ordinance.

(Ord. of 1-19-98, § IV; Ord. of 6-29-99; Amend. of 9-3-19)

Sec. 21-56. Specific criteria for uses listed as SR in section 21-113.

Uses listed as SR in section 21-113 shall meet the following requirements expressly provided below.

(1) *Additional standards applicable to specific uses listed as SR in the residential group.*

- a. *Duplex, individual located in the RR district; minimum lot size.* The minimum lot size shall be one hundred fifty (150) percent of the lot size required for a single-family dwelling.
- b. *Family care home.*
 1. *Occupancy.* No more than six (6) **handicapped** persons **with disabilities** may reside in a family care home.
 2. *Separation.* No family care home shall be located within a four-hundred-foot radius of another family care home.
- c. *Family manufactured home park.*
 1. *Application.* The proposed park must be located on a lot of record existing prior to June 8, 1999. An application and site plan shall be completed by the applicant. Applications that do not meet the standards of this subsection may be considered under the family subdivision provisions of the Subdivision Ordinance.
 2. *Setbacks within park.* Setbacks for spaces within parks, measured from edge of applicable street or property line:

Front	20 feet
Side	15 feet
Rear	20 feet
 3. *Setbacks from external property lines.* Setbacks for manufactured homes from adjacent property lines and rights-of-ways are fifty (50) feet.
 4. *Occupancy of homes.* Manufactured homes shall be occupied by members of the immediate family of the property owner.
 5. *Number of units in park.* The maximum number of manufactured homes allowed under this subsection are subject to the lesser of the density standards in section 21-84 or the following:
 - i. No more than three (3) manufactured homes are allowed in a family manufactured home park in the RA district.
 - ii. No more than two (2) manufactured homes are allowed in a family manufactured home park in the RR district.

Single-family dwellings existing prior to the family manufactured home park application shall be included toward the number of homes permitted under this subsection.
 6. *Type of manufactured homes allowed.* The manufactured homes shall meet the placement criteria for manufactured homes in section 21-284 (1) and the skirting requirements of subsection 21-276(b). While single-family dwellings are not eligible as new dwelling units under this provision, their existence prior to a family manufactured home park application would not preclude the application from consideration.
 7. *Change of occupancy or ownership.* When occupancy or change of ownership of the family manufactured home park occurs which results in such park not meeting the original criteria for approval as a family manufactured home park, the manufactured homes shall become conforming with the underlying district.

(2) *Additional standards applicable to specific uses listed as SR in the agriculture, forestry and fishing in the rural district.*

- a. *Veterinary services **for animal specialties** (SIC 0742) and **Animal specialty services, except veterinary, all except Boarding Horses, Training Horses, except racing,** Animal Shelters, Boarding Kennels, Dog Pounds (SIC 0752 pt).*

1. *Site plan.* A site plan shall be provided showing the lot, ~~and~~ all existing and proposed buildings, ~~as well as all~~ **outdoor** runs and/or training facilities, **fencing, and all areas accessible to the animals.**
2. *Siting.* ~~Kennels not wholly enclosed by a security fence at least six (6) feet in height; and all kennels not wholly enclosed within a building shall be located at least one hundred (100) feet from the lot line of any residentially developed lot.~~ **All structures used to shelter animals and outdoor run areas shall be at least one hundred (100) feet from all property lines. Outdoor runs shall be enclosed by a security fence at least six (6) feet in height.**
3. ~~*Runs.* No run area is allowed with the setback.~~ ***Screening.* All structures used to shelter animals and outdoor run areas shall be screened according to section 21-215 (1) from adjacent residentially zoned parcels and are not subject to the distance exemption from section 21-219.**

b. *Reserved.*

(3) *Additional standards applicable to specific uses listed as SR in the mining group.*

a. *Common sand mining (SIC 1442) ~~special requirements.~~*

1. *Site plan.* A site plan shall be provided showing the existing lot and all existing and proposed buildings, quarries, pits, stock piles, and other relevant features of the quarrying operation.
2. *Access.* All access roads shall be at least twenty feet from any adjoining property line not part of the mining operation; constructed with a paved, gravel, or crushed stone surface; and maintained in a dust-free manner.
3. *Setbacks.* All land disturbing activities shall be located at least one hundred (100) feet from any zone lot line.
4. *Operation.* Hours of operation shall be limited to sunrise to sunset.
5. *Minimum lot size.* The minimum lot size is five (5) acres.
6. *Smoke, odors, dust.* Operations shall not create any smoke, odors, or dust at a level which creates a nuisance to any person or normal sensitivities at the zone lot line.

b. *Reserved.*

(4) *Additional standards applicable to specific uses listed as SR in the construction group.*

a. *Heavy construction other than building construction contractors (SIC 16).*

1. *Minimum lot size.* The minimum lot size is one (1) acre.
2. *Storage.* All storage shall be a minimum of fifty (50) feet from adjoining residentially developed property lines.

b. *Reserved.*

(5) *Additional standards applicable to specific uses listed as SR in the manufacturing group.*

a. *Saw mills and planing mills, general (SIC 2421); dimension hardwood (SIC 2426 (pt)); sawmills, special product (SIC 2429 (pt)).*

1. *Location.* All mechanized sawing equipment must be located a minimum of five hundred (500) feet from lot boundary lines. Residential lots owned by the sawmill operator are exempt from this requirement.

2. *Reserved.*

b. *Winery (SIC 208(pt)).*

1. *Setbacks.* The facility shall meet the setback requirements of Section 21-84. (Table of dimensional requirements)
2. *Screening.* The facility shall meet the screening requirements of Article IX. (Screening and Buffering)
3. *Licenses and permits.* All required licenses and permits (i.e. Environmental Health, ABC, etc.) shall be obtained prior to operation of the facility.

(6) *Additional standards applicable to specific uses listed as SR in the transportation, communication, electric, gas and sanitary services group.*

a. *Trucking (SIC 421).*

1. *Minimum lot size.* The minimum lot size is three (3) acres.
2. *Buffer.* All operations shall be a minimum of fifty (50) feet from adjacent residentially developed property lines.
3. *Applicability.* The provisions of this subsection shall apply to trucking businesses with three (3) or more trucks.

b. *Dead storage of manufactured homes (SIC 4221).*

1. Compliance with applicable standards of Chapter 14.5, Nuisance Ordinance.
2. Dead storage of more than one (1) manufactured home by an individual is not allowed in the RA, RR, and MFR district.
3. Dead storage of more than one (1) manufactured home is allowed in the CBI and IND district on property owned or leased by a licensed manufactured home dealer.
4. Dead storage of more than one (1) manufactured home is allowed in the MHP district in a manufactured home park.
5. Manufactured homes shall not be kept in dead storage for more than sixty (60) days in accordance with chapter 14.5 section 34 of the Nuisance Ordinance.

c. *Solar energy systems (SIC 491 (pt.)).* These standards are intended to encourage and promote use of solar collectors as an alternative or supplemental energy source in the following formats for residential and commercial applications.

1. *Residential system.* Solar collectors shall be considered an accessory use and conform to the lesser of 6,000 sq.ft. or 10% of the lot size and are subject to setback standards in Section 21-285.
2. *Non-Residential system.*
 - i. *Setbacks.* The system area setbacks shall be fifty feet (50') from adjoining property lines and road rights-of-way. As applicable, all solar energy equipment, excluding solar collectors, must be located a minimum of one hundred feet (100') from an existing residence, church or school on an adjoining property.
 - ii. *Location.* These systems shall not be located within the conical or horizontal surfaces associated with the Mid-Carolina Regional Airport.
 - iii. *Fencing.* Security fencing, a minimum of six feet (6') in height, shall be installed at the system area perimeter.

- iv. Documentation. For those systems having a panel area greater than six thousand (6,000) square feet, the applicant shall provide documentation from a registered North Carolina Professional Engineer qualified to perform electrical design services substantiating the solar energy system is primarily designed to provide or off-set power for on-site use and does not exceed one megawatt (1 MW).
3. *Roof Mounted system.* Solar collectors may not be attached to any structure located in the conical or horizontal surface of the Mid-Carolinas Regional Airport.
- d. Co-location of Wireless and Eligible Facilities Requests (SIC 48 **part (pt)**). Co-location of wireless and eligible facilities requests are recognized as an efficient method for providing wireless facilities and are encouraged due to their minimization of adverse visual impacts and the opportunity for an expedited and effective administrative review.
 1. Applications for co-location of wireless facilities shall include two (2) copies of a site plan prepared by a registered professional engineer or a professional land surveyor as provided in Section 21-52 including items in Section 21-56 (6)(e)5 and Section 21-60(3)(4)a.1.i..
 2. Consideration of eligible facilities requests pursuant to this subsection shall comply with all standards prescribed below, otherwise the request may be deemed a substantial modification and subject to the provisions of Section 21-60 (3)(4) (a):
 - i. Not increase the existing vertical height of the structure by the greater of (a) more than ten percent (10%) or (b) the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet (20') regardless of height limitations prescribed in Section 21-60(3)(4)b.
 - ii. Not add an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (a) more than 20 feet or (b) more than the width of the wireless support structure at the level of the appurtenance. A statutory exception (ref. **NCCGS G.S. 153A-349.51(7a) 160D-931(19)(b)**) to this standard allows for sheltering the antenna from inclement weather or to connect the antenna to the tower via cable.
 - iii. Not increase the square footage of the existing equipment compound by more than 2,500 square feet.
 - iv. Provide information from Section 21-56 (6) (e) 4, and 5; and Section 21-60(3)(4) (a) 1.i. and 21-60(3)(4) (c)
- e. Use of alternative tower structures (SIC 48 **part (pt)**). The county acknowledges the merits of alternative tower structures for their innovative use as a means to provide current and future wireless telecommunications coverage and are encouraged as a secondary option to co-location and eligible facilities requests. Wireless facilities applications for placement on or within alternative tower structures may be evaluated in all zoning districts and approved administratively, provided the following SR are met:
 1. The addition of an antenna shall not add more than twenty (20) feet in height.
 2. The associated wireless facilities shall comply with the setbacks for the underlying zoning district, screened according to section 21-215(1)b.1.--3. and be constructed of similar materials/color as the host structure.
 3. The existing host structure may not be externally altered, except to accommodate the addition of the antenna.
 4. Two (2) copies of a site plan as provided in section 21-52 and photograph documentation as required in Section 21-60(3)(4)a. 4 and 5.
 5. Certification from a North Carolina registered professional engineer that any and all structures

have sufficient structural integrity to accommodate the addition of an antenna with a design minimum of TIA/EIA-222F (as amended).

6. Failure to comply with any of the criteria in items 1. through 5. shall require the application to be reviewed as a new wireless support structure.
 - f. Public Safety Tower. The deployment of wireless infrastructure for use by local, state and federal government agencies is critical to ensuring the public safety and general welfare of the County's citizens at all times. The provision of reliable and uniform radio and telecommunications coverage by these agencies can only be secured through construction, operation and maintenance of its own infrastructure. Applications for a public safety tower shall include:
 1. Two (2) copies of a site plan prepared by a registered professional engineer or a professional land surveyor as provided in section 21-52 including items in Section 21-60(3)(4)a.1.i.
 2. Documentation substantiating the owner and applicant for the public safety tower is either a local, state or federal agency.
 3. Fall zone certification from an NC Registered Professional Engineer in compliance with Section 21-60(3)(4) (c).
 4. No Hazard to Air Navigation determination from the Federal Aviation Administration (FAA) and No Adverse Effect determination from the NC State Historic Preservation Office (NCSHPO). Both determinations must be dated within twelve (12) months of the public safety tower application submittal.
 5. A public safety tower is not subject to the height and location standards of Section 21-60(3)(4) (b).
 6. Co-locations of commercial wireless facilities on a public safety tower may be considered under the provisions of Section 21-56(6)(d).
- (7) *Additional standards applicable to specific uses listed as SR in the wholesale trade group.*
- a. *Motor vehicle parts, used (indoor) in the CBI and IND districts (SIC 5015).*
 1. *Operation.* Operations including but not limited to dismantling of motor vehicles and storage of motor vehicle parts must be completely contained within a building enclosed on all sides. No junked or wrecked motor vehicles, motor vehicle parts, or junk may be kept outside an enclosed building for any period of time other than periodic unloading of received vehicles and loading of parts or dismantled motor vehicles for off-site delivery completed in a timely manner. Uses that comply with the standards of this subsection are not subject to the specific standards from section 21-246
- (8) *Additional standards applicable to specific uses listed as SR in the retail sales group*
- a. *Automotive dealers and gasoline service stations (SIC 55).*
 1. *Display area.* The outdoor display area for automotive sales shall not exceed five thousand (5,000) square feet.
 2. *Reserved.*
- (9) *Additional standards applicable to specific uses listed as SR in the services group.*
- a d** *Educational services (SIC 82) that include overnight boarding or lodging.*
 1. Proof of accreditation by a recognized board, or provide proposed articles of incorporation and by-laws that provide specific criteria for a board of directors including membership makeup and general responsibilities for oversight of the facility.
 2. Projected school enrollment and number of boarders.

3. Description of curriculum.
4. Traffic study.
5. Overnight staffing.
- b. *Membership sports and recreation clubs (SIC 7997 (pt)) all except gun and shooting clubs; baseball club, football club, soccer club, and similar athletic field operation.*
 1. *Required licenses and permits.* The applicant shall provide a copy of all required licenses and permits prior to issuance of a zoning permit.
 2. Recreational facilities located within a major subdivision used exclusively by resident members and their guests in the RA, RR, and RS districts are exempt from the requirements of Section 21-55 (2). All other facilities shall be subject to section 21-60(7)(8)(d).

e a. Automotive repair and services (SIC 75).

1. *Screening required.* Junked motor vehicles and motor vehicle parts shall be screened from adjacent property by a six-foot high opaque screening. Vegetative screening, if used, shall be opaque during all seasons of the year and planted and maintained in accordance with article IX.
2. *Storage of junked motor vehicles.* The junked motor vehicles shall not be stored in the front yard of the property or in the required front yard setback.
3. *Setbacks for stored junked motor vehicles.* The junked motor vehicles shall be a minimum of fifteen (15) feet off the side and rear property line or side street right-of-way and twenty (20) feet off the right-of-way existing at the effective date of this chapter or fifty (50) feet off the centerline of the road if the right-of-way is not established.
4. *Stacking of junked motor vehicles.* The junked motor vehicles shall not be stacked higher than the screening.

d c. Archery and shooting range (indoor) (SIC 7999 (pt)).

1. *Operation.* All discharged shots or arrows must occur within a building enclosed on all sides designed for such use.

(10) Additional standards applicable to specific uses listed as SR in the unclassified uses group.

a. Multitenant developments.

1. *Application.* An application shall be provided with:
 - i. Site plan as provided in section 21-52; and
 - ii. Development name, name(s) and address(es) of owners and park designers.
2. *Board of commissioners review of the development proposal.* The board of commissioners shall review the site plan and other pertinent information to ensure that the general health, safety and public welfare have been adequately protected.
3. *Uses allowed.* Uses are limited to those provided in the district the multitenant development is located. Uses requiring conditional special use permits shall obtain the required approval prior to issuance of a building permit.

b. Reserved.

(11) Residential storage facilities.

- a. The parcel shall be in fee simple ownership.

- b. Minimum lot size shall be the same as for a single-family residence.
- c. The structure shall not exceed the lesser of three (3) percent of the lot size or three thousand (3,000) square feet.
- d. Setbacks shall be at a minimum the same as single family dwellings.
- c. No outdoor storage is allowed except as specifically provided otherwise.
- d. Storage of vehicles shall not be in the front yard.
- e. Outside lighting shall be designed to prevent direct glare on adjoining residences.

Requests for residential storage facilities that exceed three (3) percent of the lot size referenced in subsection (c) but do not exceed three thousand (3,000) sq.ft. may be considered as a **conditional special** use subject to the process outline in sections 21-57 through 21-59 if all other standards in this subsection are met.

(Ord. of 1-19-98, § IV; Ord. of 2-1-99(1), §§ 6, 7; Ord. of 10-18-99(1); Ord. of 4-21-03; Amend. of 2-20-06(1); Amend. of 4-21-08; Amend. of 11-2-09; Amend. of 9-6-11; Amend. of 3-5-12; Amend. of 3-4-13; Amend. of 8-19-13; Amend. of 12-2-13; Amend. of 4-21-14; Amend. of 9-6-16; Amend. of 10-15-18; Amend. of 9-3-19)

Sec. 21-57. Review and approval of **conditional special uses.**

- (a) The classification of **conditional special** use is established to provide for the location of those uses which are generally compatible with other land uses permitted in the zoning district in which the **conditional special** use is located but which, because of their unique characteristics or potential impacts on the surrounding areas or the county as a whole, require individual consideration of their location, design, configuration and/or operation at the particular location proposed. Such individual consideration may also call for the imposition of individualized conditions in order to ensure that the use is appropriate at a particular location.
- (b) Any use designated in article V as a **conditional special** use shall be reviewed by the planning director. The planning director shall consult with other appropriate agencies when evaluating **conditional special** use permits and shall prepare an evaluation report. At a minimum, the staff report shall address the general criteria outlined in section 21-60 of this article.

(Ord. of 1-19-98, § IV; Ord. of 10-18-04; Amend. of 3-7-05; Amend. of 11-2-09)

Sec. 21-58. Review procedures.

- (a) *Submission.* Applications for **conditional special** use permits shall be submitted to the county planning department accompanied by a nonrefundable fee set by the county board of commissioners. Once received, the Planning Director shall review the request and, if deemed complete, submit a recommendation to the Board of Commissioners to schedule a **public quasi-judicial** hearing regarding the request. Incomplete applications will be **retuned returned** to the applicant with the deficiencies noted.
- (b) **Conditional Special** use review. Planning staff shall prepare and present a report on the application to the board(s) reviewing the application. The board shall evaluate the application with reference to applicable conditions contained in this section as well as general criteria contained in this chapter. When deciding **conditional special** use permits, the board of commissioners shall follow quasi-judicial procedures. The board of commissioners may impose reasonable and appropriate conditions **consistent with G.S. 160D-705(c)** upon the **conditional special** use permit that support the findings found in this article. **Conditions and safeguards imposed shall only include requirements for which statutory authority is established.**

- (c) *Site plan required.* Application for ~~conditional~~ **special** use permit review shall require a site plan as provided in section 21-52 of this article. The planning director may also require additional information reasonably required to review the development proposal.
- (d) *Oath.* All evidence presented at the ~~public~~ hearing with regard to applications for ~~conditional~~ **special** use permits shall be under oath.
- (e) *Required findings.* All decisions regarding a ~~conditional~~ **special** use permit application shall not be approved or denied unless each of the following findings has been made:
- (1) The development of the property in accordance with the proposed conditions will not materially endanger the public health or safety;
 - (2) That the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity; and
 - (3) That the location and character of the development in accordance with the proposed conditions will be in general harmony with the area in which it is located and in general conformity with any adopted county plans.
- (f) *Amendments of ~~conditional~~ **special** use permits.* Amendments to approved ~~conditional~~ **special** use permits may be made as follows:
- (1) *Minor changes.* ~~Conditional~~ **Special** use permits are considered through a quasi-judicial process and the county recognizes slight deviations in site-specific development proposals may arise, warranting changes to the plans and therefore offers a provision for administrative approval of a minor change. The applicant may submit a written request to the planning director that includes supporting documentation (e.g. federal / state permits, survey / engineering information) substantiating the need for the minor change. After reviewing the record of proceedings, the planning director may consider minor changes that are substantially similar to that approved by the Board of Commissioners subject to the following criteria:
 - (a) Relocation of operational area improvements that do not project into the required setback;
 - ~~(b) One time expansions that do not exceed the lesser of ten (10) percent of the approved structure or one thousand (1,000) square feet for nonresidential uses;~~
 - ~~(c) One time expansions that do not exceed the lesser of ten (10) percent of the development or five (5) units;~~
 - ~~(d)~~ **(b)** Structural alterations that do not significantly effect the basic style, ornamentation, and / or character of the building; or
 - ~~(e)~~ **(c)** Change in detail which does not affect the basic relationship of the use to the required standards of the applicable ordinances or condition(s) of approval.

Regardless of Sec. 21-58(f)(1)(a-~~e~~ **c**), the planning director may forward the requested change to the Board of Commissioners for consideration in the same procedure as required for the original issuance of the ~~conditional~~ **special** use permit as per Sec. 21-58(a). All other changes shall be reviewed by the Board of Commissioners as per Sec. 21-58(a). Modifications requesting reduction of the minimum standards within the zoning ordinance shall be treated as a variance request and not considered herein.

- (2) *Timing of amendment proposal.* Requests for a minor change may be submitted to the planning director at any time, although proposals to change or amend any approved ~~conditional~~ **special** use permit shall not be considered by the Board of Commissioners within one (1) year after date of original authorization of such permit or within one (1) year after hearing of any previous proposal to amend or change any such permit unless deemed appropriate by the planning director. ~~The applicant may appeal the decision of the planning director to the planning board. The planning~~

~~board will make a recommendation for the board of commissioner's consideration.~~ **Applicants of amendment proposals to the Board of Commissioners within the one (1) year period denied by the planning director may request referral to the Board.** Failure of the Board of Commissioners to set a **public quasi-judicial** hearing regarding an amendment shall constitute denial of the request and conditions of the original permit shall remain in effect.

- (g) *Action.* Following the required review, the board shall take final action on each **conditional special** use permit request. After the required **public** hearing is closed, the board shall take one (1) of the following actions:

- (1) Approve the issuance of the permit as requested;
- (2) Approve the issuance of the permit, with additional conditions;
- (3) Continue the request; or
- (4) Deny the request for the permit.

~~In accordance with section 21-11, an approved conditional use permit secures a vested right to undertake a project for two (2) years unless a longer duration is requested by the applicant and approved by the Board of Commissioners. See section 21-315 for additional procedures.~~ **If approved, a special use permit shall expire two (2) years from the date of issuance if the work authorized by the permit has not substantially commenced unless a vesting period longer than two (2) years has been granted in accordance with section 21-11.**

- (h) *Notification of decision.* Notifications shall be delivered in accordance with section 21-315.
- (i) *Notice and **public quasi-judicial** hearing.* Notice and **public quasi-judicial** hearings shall be as provided in section 21-315.
- (j) *Revocation.* The Board of Commissioners may consider revocation of an approved **conditional special** use permit through the same procedure as the original permit. Following the hearing, the Board of Commissioners may elect to revoke the permit if it is factually determined that one or more instances listed below have occurred:

- (1) ~~The vested rights time period from Sec. 21-11 lapsed~~ **Substantial departure from the approved application, plans, or specifications;**
- (2) ~~The permit was obtained by fraud~~ **Refusal or failure to comply with the requirements of any applicable local development regulation;**
- (3) ~~Non-compliance with the approved site plan and / or conditions of approval~~ **False statements or misrepresentations made in securing the approval; or**
- (4) ~~Repeated zoning code violations or criminal activity; or~~ **Mistakenly issued in violation of an applicable State or local law.**
- (5) ~~Eminent threat to public health or safety.~~

Failure to validate at least one of these instances shall allow the **conditional special** use permit to remain valid. Petitioners may appeal this decision to superior court.

(Ord. of 1-19-98, § IV; Ord. of 10-18-04; Amend. of 3-7-05; Amend. of 2-20-06(1); Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 3-5-12; Amend. of 4-21-14; Amend. of 9-6-16)

Sec. 21-59. Evaluation criteria.

In addition to meeting special standards for a particular use, the applicant must illustrate that he/she can comply with the following criteria when any **conditional special** use is proposed.

- (1) Adequate transportation access to the site exists;

- (2) The use will not significantly detract from the character of the surrounding area;
 - (3) Hazardous safety conditions will not result;
 - (4) The use will not generate significant noise, odor, glare, or dust;
 - (5) Excessive traffic or parking problems will not result; and
 - (6) Use will not create significant visual impacts for adjoining properties or passersby.
- (Ord. of 1-19-98, § IV)

Sec. 21-60. Conditional Special use requirements for specific uses.

The following criteria shall be used in evaluating specific conditional special use permit applications. If no specific requirements are listed for a specific use, then only the general criteria will be used in evaluating the application.

(1) **Agriculture, forestry and fishing group.**

a. Animal Shelters, Boarding Kennels, Dog Pounds (SIC 0752 (pt)).

- 1. Site plan.** A site plan shall be provided showing the lot, all existing and proposed buildings, outdoor runs, fencing, and all areas accessible to animals.
- 2. Siting.** All structures used to shelter animals and outdoor run areas shall be at least one hundred (100) feet from all property lines. Outdoor runs shall be enclosed by a security fence at least six (6) feet in height.
- 3. Screening.** All structures used to shelter animals and outdoor run areas shall be screened according to section 21-215 (1) from adjacent residentially zoned parcels and are not subject to the distance exemption from section 21-219.

~~(4)~~ (2) **Mining group: Metal mining (SIC 10), mining and quarrying of non-metallic minerals (SIC 14) except common sand mining.**

a. New Facilities. Facilities regulated under this section are considered to be those operations where no mining or quarrying activity has ever occurred; or operations have been abandoned or discontinued for a period of three hundred sixty (360) consecutive days; or its NC Department of Environmental Quality authorized mining permit has expired.

- 1. Site plan.** A site plan showing the existing lot, all existing and proposed buildings, quarries, pits, stock piles and other relevant features of the quarry operation.
- 2. Access.** Access shall be gained from a principal arterial or major collector. All access roads shall be fifty (50) feet from any property line and maintained in a dust free manner.
- 3. Setbacks.** All land disturbing activities shall be located at least three hundred (300) feet from any zone lot line, except uses listed as SIC 1459 "Clay, Ceramic and Refractory Minerals, Not Elsewhere Classified" may reduce the setback to one hundred (100) feet as provided below:
 - i. There is no residence within five hundred (500) feet of the property line.
 - ii. A fifty-foot wide solid vegetative buffer separates the properties which contains, at a minimum, a row of trees, forty (40) percent of which are large maturing trees and which are not less than ten (10) feet high at the time of planting and are spaced not more than six (6) feet apart.
 - iii. The buffer may be used for drainage, erosion control or similar uses but shall not contain areas from which material extraction occurs.
- 4. Noise.** Noise shall not exceed levels prescribed in Section 21-241 of this Chapter.

b. *Existing Facilities.* Facilities regulated under this section are those mining or quarrying operations that existed prior to enactment of this chapter [February 16, 1998] and have continuously operated and maintained an active mining permit with NC Department of Environmental Quality. Said facilities seeking conforming use status or expansions to their operational areas are subject to these standards.

1. *Site plan.* A site plan showing the existing lot, all existing and proposed buildings, quarries, pits, stock piles and other relevant features of the quarry operation.
2. *Access.* Current and proposed roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and maintained in a dust free manner.
3. *Setbacks.* All operational areas not in common ownership of the facility entity shall be setback a minimum of fifty feet (50') from adjoining property lines.
4. *Noise.* Noise shall not exceed the levels prescribed in Section 21-241 of this Chapter.
5. *Blasting.* All activities and operations involving blasting that are discernable beyond the external property line shall only be conducted during daylight hours.

(2) (3) Manufacturing trade group.

a. *Pulp mills (SIC 261); paper mills (SIC 262); chemicals and allied products (SIC 28) except Drugs (SIC 283) and Soap, detergents, and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC 284); petroleum refining and related products (SIC 29); leather and finishing (SIC 311); hydraulic cement (SIC 324); structural clay products (SIC 325); concrete, gypsum and plaster products (SIC 327); abrasives, asbestos, non-metallic mineral products (SIC 329); primary metal industries (SIC 33); ammunition except for small arms (SIC 3483), ordinance and accessories (SIC 3489); power, distribution and specialty transformers (SIC 3612); and wholesale trade group: chemical and allied products (SIC 516) and petroleum and petroleum related products (SIC 517).*

1. *Minimum lot size.*
 - i. Five (5) acres for manufacturing group uses regulated under this subsection.
 - ii. Ten (10) acres for wholesale trade group uses regulated under this subsection.
2. *Location of structures, storage of materials.* The location of principal structures and storage of flammable or hazardous materials shall be two (2) times the required buffer area in article IX. However, parking, storage of nonflammable and nonhazardous materials, etc. may be placed up to the required additional buffer.
3. *Site location.* Site shall have primary access to arterial or major collector street. This requirement is not applicable to expansions of facilities regulated under this subsection, which are contiguous to facilities existing prior to August 16, 2004.
4. *Security restrictions.* Access shall be controlled through the use of gates, fences, etc. to prevent entrance to the operational area by unauthorized persons. Fencing standards shall be as specified in section 21-215(2)(b)2.
5. *Dust, odor, glare.* Dust, odor, and glare shall not be noticeable at adjacent residential property lines.
6. *Removal and reclamation.* Applications for new facilities classified in SIC 28 except Drugs (SIC 283) and Soap, detergents, and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC 284), 29, 3612, 516 & 517 & temporary use permits for facilities classified as SIC 2951 & 3241 seeking approval pursuant to section 21-281(2) of this chapter may be required to provide written documentation substantiating that the applicant or operator has and will maintain a surety bond payable to Rowan County sufficient to disassemble and remove any outdoor equipment, stockpiles, etc. or reclaim any excavated areas once the facility ceases production for a period of three hundred sixty (360) days. The bond amount shall be based on an estimate provided by a registered professional engineer or architect having professional credentials, recognized expertise or specialization in construction and removal of similar facilities. Renewable bonds are expected to provide updated estimates and reflect increases due to labor costs,

demolition practices, addition of equipment, etc. The requirements of this item are not applicable to expansions of facilities regulated under this subsection, which are contiguous to the facilities that existed prior to August 16, 2004.

7. *Screening.* Screening standards for new facilities and expansions to existing facilities regulated under this subsection shall be as follows:

- i. *New facilities.* When a new facility shares a common property line(s) with a more restrictive zoning district, Type B screening requirements established in section 21-215(2)(b)1.--3. of this chapter are applicable to the portion of the facility's operational area bordering that property line(s). New facilities sharing a common property line with an identical zoning district are subject to the screening requirements based on the land use relationships established in section 21-216. However, Type B screening may be necessary in some instances to provide visual separation from the side and rear property lines when characteristics of the site such as topography, vegetation, line of sight with adjacent developed properties, etc. prevent effective screening when employing the standards of section 21-216. Type A screening requirements established in section 21-215(1)(b)1.--4. are applicable to the front yard of the operational area of the facility. Notwithstanding the screening requirements of this section, the preservation of existing vegetation as outlined in section 21-218 shall be depicted of the site plan as appropriate. Applicability of screening and buffering standards of this section are not preempted when adjacent tracts are in common ownership or a tract is subdivided in an attempt to circumvent these requirements.
- ii. *Expansions to existing facilities.* Contiguous expansions of facilities regulated under this subsection, which existed prior to August 16, 2004, are subject to the land use relationships established in section 21-216.

8. *Separation.* The facility shall be no closer than one-half (1/2) mile from a church, licensed daycare, public or private school, health care facility, public park or existing inhabited dwelling. The distance shall be measured from any portion of the property dedicated or utilized for the function of the church, licensed daycare, public or private school, health care facility, public park or existing inhabited dwelling including but not limited to buildings, recreation and parking areas, etc. and the nearest point of the operational area of the proposed facility. The standards of this item are not applicable to expansions of facilities regulated under this subsection, which are contiguous to the facilities that existed prior to August 16, 2004.

b. *Winery (SIC 208 (pt)).* Facilities must be operated in association with an on-site vineyard sufficient to serve as the primary crop source in the production.

1. *Setbacks.* The facility shall meet the setback requirements of Section 21-84. (Table of dimensional requirements)
2. *Screening.* The facility shall meet the screening requirements of Article IX. (Screening and Buffering)
3. *Licenses and permits.* All required licenses and permits (i.e. Environmental Health, ABC, etc.) shall be obtained prior to operation of the facility.

 (4) *Transportation, communications, electric, gas and sanitary services group: Communications and Wireless support structures (SIC 48(part pt)).*

a. *New wireless support structures.* For all new wireless support structures, the county encourages the applicant to investigate preferred sites and those locations that minimize the impact to the North Carolina Scenic Byway corridor. In the event the new wireless support structure cannot be located at a preferred site, evidence that the applicant has investigated the possibilities for co-location on an existing wireless support structure shall be presented with its application. At a minimum the evidence should contain:

1. Copies and responses of certified letters sent to owners/operators of all existing towers and

structures with telecommunications facilities within the search ring of the proposed site, requesting the following information:

- i. Height above ground and sea level.
 - ii. Existing tenants, including any telecommunication service providers and planned tower use.
 - iii. Whether the existing site could accommodate the addition of their wireless facilities.
 - iv. If the addition of their wireless facilities cannot be accommodated, an assessment of whether the existing site could be upgraded and a general description of the means and projected costs of shared use of the tower.
 2. Inventory of all preferred sites, and alternative tower structures considered within the search ring, including specific analysis of each preferred site and alternative tower structure outlining positive and negative aspects for utilizing.
 3. A completed application for a new wireless support structure shall include:
 - i. Two copies of a site plan registered professional engineer or a professional land surveyor as provided in section 21-52.
 - ii. Topography information for the equipment compound and fall zone including base elevation of wireless support structure or alternative tower structure.
 - iii. Tower height and height of antenna location (if different).
 - iv. Setbacks including ingress and egress easements, fall zone, fencing and screening requirements found in section 21-215(1)b.1.--3.
 - v. Adjacent land uses and the separation distance from antenna facility to the nearest occupied residential dwelling.
 4. Using the latitude and longitude of the proposed wireless support structure location as a fixed point, obtain actual photographs of the site that present a 0 degree (north); 90 degree (east); 180 degree (south); 270 degree (west) perspective toward the fixed point from the nearest North Carolina DOT maintained roads in relation to the site.
 5. Utilizing each of the photographs from item 4. above, create a simulated photographic image of the proposed wireless support structure or antenna addition to an alternative tower structure from each of the perspectives referenced above depicting the tower at a scale relative to its surroundings with specific regard to height and width.
 6. Engineering report certifying the tower is compatible for co-location with a minimum of five (5) compatible users including the primary user and copy of co-location policy.
- b. *Tower heights and types.* To maintain the character of the rural areas of the county and allow for placement in the commercial and industrial areas of the county, new wireless support structures will be regulated in the following manner:
1. Rural Agricultural (RA), Rural Residential and Neighborhood Business (NB) districts. Monopole not to exceed one hundred ninety-nine (199) feet based on five (5) co-located antenna arrays.
 2. Commercial, business, industrial (CBI), Industrial (IND), 85-ED-1, 85-ED-2, 85-ED-3, and 85-ED-4. Monopole or lattice tower not to exceed two hundred fifty (250) feet based on six (6) co-located antenna arrays.
 3. Requirements 1. and 2. of this subsection may be modified by the board of commissioners based upon:
 - i. Evidence presented by the applicant that demonstrates a height increase is in the interest of public safety or is necessary to provide the applicant's designed service.
 - ii. An alternative design would better blend into the surrounding environment regardless of

zoning district.

- c. *Provisions for tower safety.* New towers must either be so designed as to land upon its own property or lease area in the event of a fall as certified by a North Carolina registered professional engineer or have a minimum lot size or lease area no less than ten thousand (10,000) square feet and have an accompanying fall zone easement equal to the tower height plus ten (10) feet. New composite tower shall, at a minimum, fully loaded, comply with TIA/EIA-222F.
- d. *Retention of consultant.* The county may elect to retain a consultant or professional services to review the application and make determinations and recommendations on relevant issues including, but not limited to, verification of the applicant's due diligence, analysis of alternatives and compliance with state and federal rules and regulations. The applicant shall pay any expense for consulting or professional services in excess of the application fee. The county shall require any consultants to disclose any potential conflicts of interest and to hold confidential any proprietary information supplied by the applicant. At the request of the applicant, the zoning administrator shall arrange an informal consultation with the applicant to review the consultant's report prior to any public hearing on the application. All determination costs not excluded by ~~NCCS~~ **G.S. 153A-349.52(f)** **160D-933(d)** are reimbursable by applicant.
- e. *Obstruction lighting and marking.* Wireless support structures located within the county's airport zone overlay may exhibit obstruction lighting and marking in accordance with the Federal Aviation Administration standards. All other towers shall be of galvanized finish, or painted with a rust protective paint of an appropriate color to harmonize with the surroundings as approved by the board of commissioners. Requirements of this subsection may be modified by the board of commissioners based upon an increase in tower height or location in another jurisdiction's regulated air space or in the interest of public safety.
- f. *FCC license required.* The applicant for a new wireless telecommunication facility must be currently licensed by the FCC to provide fixed or mobile wireless communication services, or if the applicant is not such an FCC licensee, must demonstrate that it has binding commitments from one (1) or more FCC licensees to utilize the wireless telecommunication site once constructed.

(4) (5) Electric, Gas, and Sanitary Services.

- a. *Electric services (SIC 491) all except Solar Energy Systems, Gas Production and Distribution (SIC 492), Combination electric and gas and other utility (SIC 493), sewerage systems (SIC 4952), permitted refuse systems (SIC 4953 (pt)), and Land Clearing and Inert Debris Landfill [LCID] (SIC 4953 (pt)).*
 - 1. *Setbacks.* All improved areas, including disposal areas, shall be at least two hundred (200) feet from a zone lot line.
 - 2. *Separation.* Improved areas shall be at least three hundred (300) feet from any residence, church, or school.
 - 3. *Dust, odor, glare.* All access roads and storage areas shall be at least twenty (20) feet from any property line constructed with a paved, gravel, or crushed stone surface; and maintained in a dust-free manner.
 - 4. *Operation.* An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator, types of material accepted, and hours of operation.
 - 5. *Security restrictions.* Access shall be controlled through the use of gates, fences, etc. to prevent unregulated dumping of materials.
 - 6. *Other special conditions.* Proof of a permit issued by the state in accordance with applicable provisions of the General Statutes.
 - 7. *LCID operations.* An LCID site comprising one-half (.5) acre or less is governed by Section

21-277(b)5; otherwise, LCID sites are subject to the standards of this subsection.

b. *Utility Scale Solar energy systems* (SIC 491 (pt.))

1. *Setbacks.* The system area and equipment setbacks shall be as follows:

i. *System Area.*

1. One hundred feet (100') from adjoining property lines and road rights-of-way.
2. Common property lines within the system area are not subject to setback standards.

ii. *Equipment Setbacks.* All proposed inverters, substations, buildings, or other structures not utilized as a solar collector shall be located within the system area and separated by a minimum of three hundred feet (300') from any existing residence, church or school.

2. *AZO.* Location within the conical or horizontal surfaces of the Mid-Carolina Regional Airport is not permitted. Systems proposed within the approach surface of the AZO shall provide an approved FAA form 7460-1.

3. *Size.* To preserve industrial properties for job creation, tax base and economic development opportunities, the maximum system area shall be no greater than twenty-five (25) acres.

4. *Screening, Buffering and Fencing.* To reduce visual impacts and provide separation between the system area and an existing residence, church or school on an adjoining property located within three hundred (300) feet of the system area perimeter, the applicant may propose use of option (i) or (ii) noted below:

- i. Standards contained in Sections 21-215(2)(b)(1) and (2) applied to the segment(s) of the system area perimeter adjacent to the developed parcel, or
- ii. Demonstrate by photo simulation that use of Alternative Buffer and Screening per Section 21-217 and, or Existing Vegetation per Section 21-218 will achieve or exceed the standards of item (i) herein.
- iii. Security fencing six (6) feet in height shall be provided along the entire system area boundary, except along a segment where 21-215(2)(b)(2) is required.

5. *Glare.* All solar collectors utilized in the solar energy system shall have an anti-reflective coating. The applicant shall provide the manufacturer, model number and any other information that readily identifies the solar collector to be utilized at the site.

6. *Supplementary Materials.* The applicant shall provide the following with the conditional use permit application:

- i. Any relevant studies, reports, documents, recommendations or approvals related to the site that were prepared or received as part of its application to the NC Utilities Commission.
- ii. Evidence that the electrical utility provider has been informed by the applicant of their intent to install an interconnected system. Evidence may consist of copies and responses of certified letters (or similar) to the utility provider detailing their solar energy system plans, location, etc.
- iii. A copy of the Certificate of Public Convenience and Necessity for facilities over 2 megawatts or a copy of the Report of Proposed Construction for facilities under 2 megawatts approved by the North Carolina Utilities Commission.

7. *Required Plans.*

Decommissioning Plan. The applicant shall provide a decommissioning plan that includes a cost estimate prepared by an NC Professional Engineer having professional credentials, recognized expertise or specialization in construction and removal of similar facilities detailing how the solar energy system will be removed and system area will be reasonably restored to its original condition in the event it does not produce energy for a three hundred sixty (360) day continuous basis. Acceptance of the decommissioning plan and cost estimates by Rowan County shall be subject to independent review by an NC Professional Engineer of the County's selection. Prior to permitting, the applicant shall provide Rowan County financial surety at 1.25 times the mutually agreed cost estimate amount, which will remain in effect for the first ten (10) years of operation.

At a minimum, the contents of the decommissioning plan shall include the cost estimates referenced herein and information found in the NC Template Solar Ordinance's Example Decommissioning Plan updated to reflect the site's locational attributes. This plan shall be recorded in the Rowan County Register of Deeds prior to construction of the site.

An updated decommissioning plan detailing costs shall be submitted to the Planning Department at least six (6) months prior to the ten-year anniversary of installation and six (6) months prior to every five (5) year anniversary thereafter. In addition to the updated decommissioning plan submittals, the system owner shall provide an analysis of the power produced annually by the facility; an operational efficiency and status report of the panels and equipment; and any intended upgrades or replacements of panels, equipment, etc. Acceptance of the updated plans and estimates by Rowan County shall be subject to independent review by an NC Professional Engineer of the County's selection. A new financial surety at 1.25 times the mutually agreed cost estimate amount shall be provided by the owner / operator to Rowan County for the time period associated with the updated plan.

The system owner / operator may request an extension of the 360 day period to prevent execution of the Decommissioning Plan. The request shall be considered in the same manner as approval was granted.

- i. *Maintenance Plan.* The applicant shall provide a narrative detailing the manner, schedule and party responsible for ensuring routine maintenance of the solar energy system will occur. At a minimum, the plan must address the grounds, buffer, fencing, solar collectors and associated support structures, electrical connections, etc. Similarly, the plan must detail maintenance actions following storm events (wind, snow, etc.) and natural disasters (tornado, fire, etc.) that may cause damage to the facility.
- ii. *Emergency Access Plan.* The applicant shall provide the Rowan County Emergency Services Director, Rowan County Fire Marshal and local fire department having jurisdiction an emergency access plan for their review.

~~(5)~~ (6) *Wholesale trade group.*

a. *Motor vehicle parts (outdoor), used in the IND district (SIC 5015).*

1. *Operation.* Operations, including but not limited to, storage of dismantled motor vehicles or motor vehicle parts or keeping of junk which are not fully contained within a building enclosed on all sides shall be subject to the standards of this subsection.
2. *Setbacks.* No material shall be stored closer than one hundred (100) feet to a public right-of-way.
3. *Security fencing.* Security fencing, a minimum of six (6) feet in height, shall be provided and maintained to preclude unauthorized access.

b. *Livestock yard.*

1. *Setbacks.* One hundred (100) feet between improvements such as buildings, animal

enclosures, and storage areas and any zone lot line.

2. *Dust, odor, glare.* All access roads and storage areas shall be maintained in a dust-free manner.

~~(6)~~ (7) *Retail trade group: Drinking Places (alcoholic beverages – SIC 5813).*

- a. *Separation.* No drinking place shall be located within one thousand (1,000) feet of a church, public or private school, licensed day care, public park, or another drinking place. This distance shall be measured between the nearest point of operational areas for both the above uses and the proposed drinking place. This separation standard does not apply to non-conforming drinking places seeking approval under this subsection to expand within the existing operational area but does apply to drinking places deemed abandoned or discontinued per Sec. 21-137.

~~(7)~~ (8) *Services group.*

- a. *Archery ranges, shooting ranges, skeet ranges, trapshooting facilities and similar establishments including turkey shoots (outdoor) (SIC 7999 (pt)).* The requirements for all facilities requiring a conditional special use permit are as follows. Turkey shoots operated by churches, civic groups or similar nonprofit organizations are exempt from these requirements.
 1. *Shot containment.* Shooting range facilities shall be designed to contain all the bullets, shot, or arrows or any other debris on the range facility.
 2. *Noise mitigation.* Noise levels measured at the property line where the facility is maintained or, in the case of leased land at the property line of any leased parcel shall not exceed the limits as provided in the county noise ordinance.
 3. *Setbacks.* Notwithstanding the performance standards above, all shooting stations on a range facility shall be located a minimum of three hundred (300) feet from any zone lot line for firearm facilities and one hundred (100) feet for archery facilities. All targets shall be a minimum of fifty (50) feet from any property line.
 4. *Warning signs.* Warning signs shall be posted at one-hundred-foot intervals along the entire perimeter of the shooting range facility. The signs shall be constructed of highly visible materials and colors.
 5. *Hours of operation.* Shooting ranges shall be allowed to operate between sunrise and sunset, except that the hours may be extended for other purposes as follows:
 - i. When a permit allowing such activity is issued in advance by the administrator;
 - ii. For operation of the shotgun shooting range; or
 - iii. For purposes of subdued-lighting certification of law enforcement officers; and
 - iv. On Sundays, shooting shall not commence before 12:30 p.m.
 6. *Additional site plan information.* Complete layout of each range, including shooting stations or firing lines, target areas, shotfall zones or safety fans, backstops, berms and baffles, projected noise contours for firearm shooting ranges, and existing and proposed structures, occupied dwellings within one-fourth mile, roads, streets, or other access areas, buffer areas, and parking areas for the range facility.
 7. *Additional requirements for pistol/rifle shooting ranges.* Projectiles from pistol/rifle shooting areas shall be contained by an earthen berm or existing natural topography a minimum of fifteen (15) feet in height.
 8. *Exceptions.* Operational hours may be increased under the following conditions:
 - i. A permit allowing such activity is issued in advance by the administrator; or
 - ii. The hours of operation may be increased no more than six (6) times a year for an official shooting tournament involving thirty (30) or more participants, without requiring a permit

from the administrator.

9. *Lighting.* Lighting shall be located and designed to prevent light from directly shining on adjacent residential property.
10. *Licenses and permits.* All required and permits shall be obtained prior to operation of the facility.
11. *Trail marking.* All trails for archery ranges shall be clearly marked to the shooting stations and shooting station signs shall be clearly visible.
12. *Insurance.* The organization shall maintain a minimum of one million (1,000,000.00) dollars general premises liability insurance for accident or damage suffered by persons on or near the site.

b. *Cabins (SIC 7011), Campgrounds and recreational vehicle parks (SIC 7033).*

1. *Minimum lot size.* The minimum lot size is two (2) acres.
2. *Setbacks.*
 - Front 50 feet
 - Side street 30 feet
 - Side 20 feet
 - Rear 20 feet
3. *Density.* The minimum size of spaces shall be determined by the county health department.
4. *Interior drives.* Interior drives shall be a minimum of eighteen (18) feet compacted gravel six (6) inches thick. "Hammerhead" style turnarounds or suitable alternative shall be provided at the terminus of all interior roads subject to inspection and approval by the Rowan County Fire Marshal. Each internal road shall have a road name and addresses for each site or space displayed, regardless of occupancy, in accordance with provisions of Chapter 19.5 of the Rowan County Code of Ordinances.
5. *Parking.* No parking will be allowed on public streets. Off-street parking and loading space shall be provided in sufficient quantity to accommodate all parking and loading on-site. At a minimum, one (1) parking space per space or unit shall be provided.
6. *Screening and buffering.* Land uses in this category shall be considered a group 2 use and shall be screened accordingly.
7. *Additional Standards.* The standards noted below are in addition to those listed in this subsection, but applicable only to RV parks:
 - i. *Water Supply.* A dedicated method for providing an adequate on-site potable water supply, which may include an individual or multi-connection well system approved and permitted by the Rowan County Health Department or connection to a municipal system where available.
 - ii. *Sewage Disposal.* A dedicated method for providing an adequate on-site sewage collection disposal system, which may consist of an engineered septic tank system or dump station subject to approval by Rowan County Health Department or connection to a municipal system where available.
 - iii. *Trash Removal.* Provide a centralized trash dumpster(s) to accept the solid waste and or garbage generated by the RV park occupants. The dumpster should be emptied on a regular basis to prevent odor, rodents, etc., with its contents being disposed of at a facility licensed to accept the material(s).
 - iv. *Street Addressing.* Unless currently in compliance, the owner or operator of any RV park subject to the jurisdiction of this Chapter, shall have twelve (12) months from the adoption of these amendments to have all internal streets and each site or space addressed and displayed

in accordance with Chapter 19.5 of the Rowan County Code of Ordinances.

v. **Additions.** Additions are not prohibited, but must be freestanding structures and obtain all requisite permits.

c. *Zoological garden (SIC 8422) located in the CBI district.*

1. *Site plan.* A site plan shall be provided showing all fencing, exhibit and storage areas, with types of animals specified.
2. *Minimum lot size.* The minimum lot size is twenty (20) acres.
3. *Smoke, odors, dust.* Operations shall not create any smoke, odors, or dust at a level which creates a nuisance to any person or normal sensitivities at the property lines.
4. *Setbacks.* All animal waste storage areas shall be a minimum of two hundred (200) feet from any zone lot line.
5. *Security restrictions.* Access shall be controlled through the use of gates, fences, etc. to prevent entrance by unauthorized persons. Containment of animals shall be sufficient to ensure the safety of the surrounding area and the county.

d. *Membership sports and recreation clubs (SIC 7997 **part (pt.)**) **all except baseball club, football club, soccer club, and similar athletic field operation.*** The requirements of this section shall not apply to uses that comply with section 21-56(9)(b).

1. *Site plan.* A site plan shall be required as provided in article III, section 21-52.
2. *Buffering.* All parking areas shall be screened by a type A buffer from residentially zoned area.
3. *Lighting.* Lighting shall be located and designed to prevent light from directly shining on adjacent residential property.

e. *Civic, service and social fraternities (SIC 8641).*

1. *Buffers.* All buildings off street parking and service areas will be separated by a type A buffer from an abutting property in a residential zoning district or abutting a residential use.
2. *Site plan.* A site plan is required.
3. *Lot size.* The minimum zone lot size shall be two (2) acres.
4. *Setbacks.* Structures shall have fifty (50) feet side and rear yard setbacks.
5. *Provision of food and refreshments.* Provision for food, refreshment and entertainment for club members and their guests may be allowed in conjunction with this use if the board of commissioners determines that said provisions will not constitute a nuisance.

f. *Model automobile racing (SIC 7999**(pt)**).* Use of these vehicles on a personal basis shall not be regulated in this section.

1. *Minimum lot size.* The minimum lot size shall be three (3) acres.
2. *Setbacks.* A fifty-foot separation from operational area to adjacent properties and road rights-of-way.
3. *Screening.* Type A screen is required around operational area.
4. *Noise.* The operation shall not exceed the maximum allowable noise levels as provided in section 21-241.
5. *Facility.* Track operation must be outdoors. Indoor operations must be located in the NB, CBI, or IND zoning districts. The zoning administrator shall determine elements that constitute indoor.

g. *Rodeos, horse shows, rental of saddle horses, riding academies and schools, and riding stables (SIC 7999 (part pt)).*

1. *Smoke, odors, dust.* Operations shall not create any smoke odors or dust at a level which creates a nuisance to any person or normal sensitivities at the property line.
2. *Setbacks.* All animals and animal storage areas shall be a minimum of one hundred (100) feet from any zone lot line.
3. *Parking.* Adequate off-street parking shall be provided for participants and spectators.
4. *Noise.* Noise shall not exceed the level allowed in the county noise ordinance for residential districts and Chapter 14 of the Rowan County Code of Ordinance for any associated amplified sound.

(9) (9) Unclassified uses: Adult uses.

- a. Spacing. No adult use shall be located within one thousand three hundred twenty (1,320) feet from any church, public or private school, day care, public park, single-family or multifamily residence, any hotel, motel, inn, tourist camp, or similar place designed for overnight accommodation, or another adult use. This distance shall be measured from any portion of the property dedicated or utilized for the function of the above uses and the nearest point of the operational area for the proposed adult use.
- b. Treatment of windows, doors, etc. All windows, doors, openings, etc. for all adult uses shall be so located, covered, screened or otherwise treated so that views into the interior of the establishment are not possible.
- c. No adult use shall include within the establishment any quarters designed for more than one person to view any adult materials while in the same immediate vicinity, other than the primary sales area of said adult establishment.
- d. No adult use shall include within the establishment any private viewing areas designed for use by more than one person at any given time, nor shall any adult use permit more than one person at a time to occupy any private viewing area.
- e. No adult use shall include within the establishment any means of adjoining connections between private viewing areas designed to allow more than one person any access to a single private viewing area at a time. "Adjoining connections" includes, but is not limited to, any doors, windows, access panels, opening of any size whatsoever, in walls that separate individual viewing areas.

An adult use operating as a conforming use shall not be made nonconforming by the subsequent location of a church, public or private school, day care, public park, single-family or multifamily residence, any hotel, motel, inn, tourist camp, or similar place designed for overnight accommodation, or another adult use within one thousand three hundred twenty (1,320) feet of the adult use.

- f. If approved for a **conditional special** use permit, an application and a nonrefundable fee must be presented to the zoning administrator to obtain an adult use license. At a minimum, the application shall include the following:
 1. Sufficient evidence to determine compliance with applicable portions of subsection 21-60**(9)**.
 2. Sufficient evidence to determine compliance with any conditions of approval imposed by the board of commissioners.
 3. Acknowledgement that a supervisor will be present during hours of operation to enforce all applicable standards of approval.
 4. Acknowledgement that the business shall permit staff from appropriate county, state, or federal

governments to inspect site for compliance with all applicable regulations any time during hours of operation.

5. License fee as required by the board of commissioners.
6. Acknowledgement that, if approved, license must be renewed annually to continue operation of business. Applicants must promptly reapply thirty (30) days before the expiration date to ensure a timely response.

The zoning administrator will approve or deny the license request within thirty (30) days of receiving the request. A license may not be issued if one of the following findings has been made:

1. License fee has not been received.
2. Application is not complete or contains false information.
3. Site is currently in violation of zoning ordinance or condition of approval.

No adult use business may operate until the zoning administrator has approved the license request. The license shall expire one year from the date of approval and may only be renewed by a subsequent application.

Inspections. The zoning administrator shall suspend an adult use license for thirty (30) days if one of the following determinations has been made:

1. Refuse inspection by officials permitted by this ordinance during hours of operation.
2. Provided false or misleading information during the ~~conditional~~ **special** use or licensing process.
3. Site is not in compliance with zoning ordinance or conditions of approval.

The adult use license will be revoked if, after the suspension period, the zoning administrator has determined that one of the above findings is still accurate.

(9) (10) Racetracks (SIC 7948 (part pt)).

- a. *Lot size.* The minimum lot size shall be twenty (20) acres for a go-kart track and shall be fifty (50) acres for drag strips and motor speedways.
- b. *Location.* The racetrack facility shall be located on a lot which has direct access to; or is contained in a commercial or industrial park which has direct access to a major thoroughfare, major collector, minor thoroughfare, minor collector, principle arterial, interstate, or service road.
- c. *Lighting.* No lights shine on abutting residential property.
- d. *Setbacks.* Go-kart tracks and stands shall be set back three hundred (300) feet from the property line. All other operations including parking shall be set back one hundred (100) feet from the property line. Drag strip and motor speedway operations, including parking, shall be set back three hundred (300) feet from side and rear property lines and one hundred (100) feet from all front and side street property lines.
- e. *Security fencing.* A secure fence shall be provided to restrict entry when the facility is not open.
- f. *Buffer.* Notwithstanding other provisions of this chapter, a type B buffer shall be provided along all side and rear property lines unless the facility abuts a similar operation.
- g. *Hours of operation.* Hours of operation shall not exceed 7:00 a.m. to 11:00 p.m.
- h. *Muffled race vehicles.* All vehicles shall be equipped with mufflers.
- i. *Noise standards.* The operation of the track will not exceed the maximum allowable noise levels as provided in this chapter or the county noise ordinance.

~~(10) Reserved.~~

(11) *Manufactured home parks.*

- a. *Application.* An application shall be provided with:
 1. Site plan as provided in section 21-52; and
 2. Manufactured home park name, name(s) and address(es) of owners and park designers.
- b. *Board of commissioners review of the development proposal.* The board of commissioners shall review the site plan and other pertinent information to ensure that the general health, safety and public welfare have been adequately protected. In approving the plan, the following criteria must be met:
 1. Adequate transportation access to the site exists;
 2. The use will not significantly detract from the character of the surrounding area;
 3. Hazardous safety conditions will not result;
 4. The use will not generate significant noise, odor, glare, or dust;
 5. Excessive traffic or parking problems will not result; and
 6. The use will not create significant visual impacts for adjoining properties or passersby.
- c. *Setbacks from external property lines.* Setbacks for manufactured homes from adjacent property lines and rights-of-ways are fifty (50) feet.
- d. *Setbacks within park.* Setbacks for spaces within park, measured from edge of applicable street or property line:

Front 20 feet

Side 15 feet

Rear 20 feet
- e. *Proximity to a livestock facility.* No manufactured homes within a manufactured home park shall be located within three hundred (300) feet of any livestock facility.
- f. *Parking.* Each manufactured home space shall have four hundred (400) square feet of parking with four (4) inches of compacted stone on a well compacted subgrade.
- g. *Public road frontage.* The park is required to have thirty-five (35) feet of frontage on a publicly maintained road.
- h. *Internal street standards.*
 1. *Generally.* All lots shall be served by an internal street. No access directly to an existing state road is allowed for individual lots. Internal streets shall be paved a minimum of sixteen (16) feet wide. The base course shall be six-inch ABC or three-inch BCBC. The pavement surface shall consist of BST or one and one-half inch BST or I-2. All materials shall meet the standards set forth in the latest edition of the North Carolina Standard Specifications for Roads and Structures. The subgrade, base course, and pavement surface shall be inspected and approved by the county planning and development department before a certificate of occupancy is issued. The owner of the park shall be responsible for coordinating inspection of each phase of street construction with county planning and development department. The owner of the manufactured home park shall be responsible for arranging required internal street inspections with the planning department a minimum of twenty-four (24) hours in advance. Drainage shall be reviewed prior to issuing a

certificate of occupancy for the manufactured home park. All storm drainage shall be adequate so that the road may be maintained without excessive cost and will not cause flooding. In areas where ditch grades or qualities of flow deem it impractical to maintain and establish vegetation, an erosive resistant lining, such as paving or rock riprap may be required. Subsurface drainage shall be adequate to maintain a stable subgrade.

Note: Subgrade. No base course shall be placed on muck, pipe clay, organic matter or other unsuitable material. The zoning administrator may require a subgrade soil test, if needed, to determine the soils classification type.

2. Abbreviations.

ABC: Aggregate Base Course, No. 7 Stone.

BCBC: Bituminous Concrete Base Course, Type HB (Black Base).

BST: Bituminous Surface Treatment.

I-2: Bituminous Concrete Surface Course, Type I-2 (Note: I-1 may be used in lieu of I-2).

SA: Bituminous Concrete Surface Course, Type F-1 (Sand Asphalt).

- i. *Street names.* Permanent street names shall be assigned to all internal streets.
- j. *Signs.* Signs shall be provided as follows:
 - 1. Street name signs shall be provided;
 - 2. One (1) identification sign is required at each entrance to the manufactured home park.
- k. *Space numbering.* Each space shall have a site number, a minimum of four (4) inches in height clearly visible from the internal street serving the space.
- l. *Lighting.* Street light at all intersections, internal and with public roads. Street lights at intervals no greater than five hundred (500) feet for parks with ten (10) or more spaces.
- m. *Trash removal.* The owner of the park shall provide one (1) of the following methods:
 - 1. Provision of centralized trash dumpsters; or
 - 2. Provision of individual covered trash containers, picked up at least once a week.
- n. Density shall be calculated per gross acre as follows:
 - 1. Individual well and septic tank: Twenty thousand (20,000) square feet per unit.
 - 2. Public water or public sewer: Fifteen thousand (15,000) square feet per unit.
 - 3. Public water and public sewer: Ten thousand (10,000) square feet per unit.

(12) *Broadcast towers: SIC 4832 radio and SIC 4833 television broadcasting.*

- a. *Co-location.* In order to limit visual impacts in the RA district, co-location of radio and broadcast antennas on existing broadcast towers should be the primary method for providing new or expanded radio and television coverage. Inasmuch as co-location is the preferred method for providing new or expanded radio and television coverage, co-locations may be approved administratively provided the following criteria accompanies the request:
 - 1. Two (2) copies of a site plan prepared by a registered professional engineer or professional land surveyor as provided in section 21-52.
 - 2. Height above ground and sea level of broadcast tower and height of antenna for proposed co-location.

3. Existing tenants on the broadcast tower and their heights above ground and sea level.
- b. *Analysis of existing broadcast towers.* In the event the broadcast antennas cannot be co-located on an existing broadcast tower, evidence that the applicant has explored co-location opportunities with all broadcast towers in Rowan County shall accompany an application for a new broadcast tower. At a minimum, evidence of their due diligence should include:
1. Inquires and responses to existing broadcast tower owners/operators within Rowan County requesting the following information:
 - i. Tower height and height available for co-location.
 - ii. Assessment of whether tower could be upgraded to accommodate their co-location, i.e. structural and/or increase in height.
 2. Using each of the broadcast towers inventoried above, provide a station coverage map depicting the anticipated signal contours for city grade vs. market grade based on height available for co-location. Areas of signal overlap and interference with other broadcast stations (as applicable) should be distinguished as well or provided on a separate map. The map(s) should depict principal arterial roads, municipal and county boundaries.
- c. *New broadcast towers.* All applications for new broadcast towers should contain the following:
1. Two (2) copies of a site plan prepared by a registered professional engineer or professional land surveyor as provided in section 21-52.
 2. Topography information for site; base elevations of tower site; tower height and antenna location.
 3. Setbacks including access easements, fall zone, fencing and screening requirements found in section 21-215(1)b.1.--3.
 4. Using the latitude and longitude of the proposed tower location as a fixed point, obtain actual photographs of the site that present a 0 degree (north); 90 degree (east); 180 degree (south); 270 degree (west) perspective toward the fixed point from the nearest North Carolina DOT maintained roads in relation to the site.
 5. Create photo simulations from each of the perspectives referenced above depicting the tower at a scale relative to its surroundings with specific regard to height and width.
 6. Certification from registered professional engineer that channel, frequency and power of transmitter are operating within FCC licensing limits.
 7. Provide a station coverage map depicting the anticipated signal contours for city grade vs. market grade. The map should depict principal arterial roads, municipal and county boundaries.
 8. Indicate the total population and number of persons located within the coverage area based on most recent decennial census; specifically indication the same for Rowan County.
 9. If the broadcast tower application is a site move or city of licensure change, provide the total population based on most recent decennial census and population based on most recent decennial census that will no longer receive coverage.
- d. *Tower viewshed.* New broadcast tower locations should limit visual impacts to the North Carolina Scenic Byway, National Register of Historical Properties and those on the statewide study list for inclusion in the National Register program. In an effort to portray the visual impacts the tower has on the surrounding area, the applicant shall provide terrain profile maps prepared in the following manner:

1. Using the latitude and longitude of the proposed tower location as a fixed point, prepare terrain profile maps portraying line-of-sight from the highest point on tower to limits of its visibility.
 2. Maps should be from the perspective that present 0 degree (north); 90 degree (east); 180 degree (south); 270 degree (west) perspective from the fixed point to its limit of visibility.
 3. For reference each map should graphically portray the location of the North Carolina DOT maintained road nearest the limits of visibility.
- e. *Provisions for tower safety.* New broadcast towers must either be so designed as to land upon its own property or lease area in the event of a failure as certified by a North Carolina registered professional engineer. In the event tower failure is expected to occur beyond the property boundaries or lease area, a fall zone easement equal to the tower height plus ten (10) feet must be obtained.
- f. *Retention of consultant.* The county may elect to retain a consultant or professional services to review the application and make determinations and recommendations on relevant issues including, but not limited to, verification of the applicant's due diligence, analysis of alternatives and compliance with state and federal rules and regulations. The applicant shall pay any expense for consulting of professional services in excess of the application fee. The county shall require any consultants to disclose any potential conflicts of interest and to hold confidential any proprietary information supplied by the applicant. At the request of the applicant, the zoning administrator shall arrange an informal consultation with the applicant to review the consultant's report prior to any hearing on the application. All determination costs are reimbursable by applicant.
- g. *Removal.* The applicant shall provide a surety bond substantiating that the applicant or tower owner has and will sustain the financial ability to disassemble and remove the tower, once no longer in operation. Notice shall be provided to the zoning administrator when any broadcast tower is not operational for a continuous period of three hundred sixty (360) days. Upon receipt of notification, the owner shall remove the tower within one hundred twenty (120) days.
- h. *Obstruction lighting and marking.* The broadcast tower shall be of a galvanized finish, or painted with a rust protective paint of an appropriate color to harmonize with the surroundings as approved by the board of commissioners. Lighting of the tower shall be as required by the FAA.
- i. *FCC license required.* The applicant for a new broadcast tower must be currently licensed by the FCC to provide AM, FM or television broadcast services within an area of licensure that includes Rowan County.

(13) Specific ~~conditional~~ **special** use criteria for off-premises signs.

- a. Separation of off-premises signs shall be one thousand (1,000) feet per road side as measured parallel to the road travelway. The road side is considered to consist of one (1) side of the road. Only one (1) sign per one thousand (1,000) feet shall be allowed per roadside. This standard shall apply to all roads, except signs exempted in section 21-181.
- b. Location of off-premises signs, excluding those exempted in sections 21-135(g) and 181, shall be limited to the CBI and IND zoning districts. In addition the property shall meet the following standards.
 1. On property (tax parcel) which has one (1) or more permanent structures devoted to commercial or commercial activity or otherwise on which commercial or industrial activity is conducted extending outward five hundred (500) feet beyond the edge of the activity. The building shall be within six hundred sixty (660) feet of nearest edge of right-of-way.
 2. Said activity shall have been on the site three (3) months or more.

3. Site shall have all required local state and federal privilege licenses as required by law.
4. The activity shall be serviced by approved utilities.
5. The activity shall have direct or indirect vehicular access and be a generation of traffic volume.
6. Employees shall be on site during usual normal and customary hours for that activity.
7. The activity shall be visible and recognizable as commercial or industrial.
- c. For the purpose of this section none of the following activities shall be commercial or industrial:
 1. Outdoor advertising structures or activity or any other business or industrial activity carried on in connection with an outdoor advertising activity.
 2. Agricultural uses.
 3. Transient or temporary activities including seasonal activities.
 4. Activities conducted in a building principally used as a residence.
 5. Railroad tracks or sidings.
 6. Sign face area per side shall not exceed four hundred fifty (450) square feet on I-85 or three hundred (300) feet on all other roads. "Double-decker" signs are prohibited as are tandem signs.
 7. Height shall not exceed fifty (50) feet over roadway.
 8. The signs shall have a one thousand-foot separation from residences to limit detrimental effects on the residential property.

(14) ~~Winery, Wine Tasting Room~~ **Reserved**

- ~~a. Setbacks. The facility shall meet the setback requirements of Section 21-84. (Table of dimensional requirements)~~
- ~~b. Screening. The facility shall meet the screening requirements of Article IX. (Screening and Buffering)~~
- ~~c. Licenses and permits. All required licenses and permits (i.e. Environmental Health, ABC, etc) shall be obtained prior to operation of the facility.~~

(15) *Residential clustering.*

- a. *Purpose.* The purpose is to encourage innovative development by allowing variations from normal regulations pertaining to dimensional criteria provided in article IV. In addition to the requirements of this subsection, approval of cluster subdivisions shall require approval as required by the subdivision ordinance.
- b. *Development standards.* Proposed residential clustering shall contain a minimum of four (4) dwelling units on a total area of two (2) or more acres.
- c. *Setbacks from exterior lot lines.*

Front, from rights-of-way	75 feet
Side	40 feet
Side street, from rights-of-way	50 feet
Rear	40 feet
- d. *Internal setbacks.*

Front, from edge of roadway 20 feet
Side 0 or 10 feet
Rear 0 or 10 feet

- e. *Buffers.* As required for MFR districts.
- f. *Density.* To determine the total number of dwellings allowed for gross acreage excluding rights of way on public roads shall be divided by the minimum lot size allowed in the zoning district the subject property is in.
- g. *Common areas.* Maintenance of the common areas shall be the responsibility of a homeowner's association, unless a written agreement is made or the area has been deeded or accepted by the county or a local municipality. If required, the homeowners association shall be responsible for the maintenance, payment of taxes, and shall control the open space area subject to restrictive covenants.

(16) *Multi-family developments.*

- a. *Application.* An application shall be provided with:
 - 1. Site plan as provided in section 21-52; and
 - 2. Development name and name(s) and address(es) of owners and designers.
- b. *Density.* The maximum number of units allowed is as follows:

Public water and sewer: Twelve (12).

Public or community water or public sewer or approved package treatment plant: Eight (8).

Individual or multi connection well & individual septic tank: Three (3).
- c. *Modification of dimensional requirements.* Notwithstanding other provisions of this chapter, the Board of Commissioners may approve a site plan as provided herein which modifies the dimensional criteria from Article IV. Additionally, the subdivision of lots may be allowed as provided by chapter 22 section 58 of the Subdivision Ordinance for a planned unit development (PUD).

(17) *Event center.*

- a. *Minimum lot size.* The minimum lot size shall be five (5) acres.
- b. *Public road frontage.* The event center property is required to have at least thirty-five (35) feet of frontage on a publicly maintained road.
- c. *Setbacks.* All operational areas with the exception of the driveway shall be a minimum of one hundred (100) feet from property lines.
- d. *Parking.* Adequate off-street parking shall be provided for all attendees.
- e. *Lighting.* Lighting shall be located and designed to prevent light from directly shining on adjacent residential property.
- f. *Noise.* Amplified sound is subject to Chapter 14 of the Rowan County Code of Ordinances.

(Ord. of 1-19-98, § IV; Ord. of 7-12-99; Ord. of 10-18-99(2), § 2; Ord. of 1-15-01; Ord. of 7-9-01; Ord. of 3-18-02(2); Ord. of 8-19-02(2); Ord. of 5-19-03; Ord. of 8-16-04; Ord. of 9-20-04; Ord. of 11-15-04; Amend. of 3-7-05; Amend. 7-1-05; Amend. of 8-20-07; Amend. of 4-21-08; Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 9-6-11; Amend. of 3-5-12; Amend. of 1-22-13; Amend. of 3-4-13; Amend. of 8-19-13; Amend. of 12-2-13; Amend. of 4-21-14; Amend. of 1-5-15; Amend. of 9-6-16; Amend. of 10-17-16; Amend. of 10-15-18; Amend. of 2-4-19; Amend. of 9-3-19)

Sec. 21-61. Conditional districts.

(a) *Purpose.* There are instances where certain uses may have significant impacts on the surrounding area and the county which cannot be predetermined and controlled by general district standards. As a result, a general zoning district designation is clearly inappropriate for a property, but a specific use or uses permitted as a conditional district subject to development requirements to address the anticipated impacts would be consistent with the spirit and intent of this chapter. This voluntary procedure **must be petitioned by the property owner or their authorized agent** is intended for **as a** firm development proposals, **proposal** and **not is neither intended nor suited** for securing early zoning for tentative uses which may not be undertaken for a long period of time.

<i>General Zoning Districts</i>	<i>Conditional Districts</i>
RS	RS (CD)
RR	RR (CD)
RA	RA (CD)
MHP	MHP (CD)
MFR	MFR (CD)
CBI	CBI (CD)
85-ED-1	85-ED-1 (CD)
85-ED-2	85-ED-2 (CD)
85-ED-3	85-ED-3 (CD)
85-ED-4	85-ED-4 (CD)
IND	IND (CD)
NB	NB (CD)
INST	INST (CD)

(b) *Applications.* Applications for conditional districts shall be on forms provided by the county planning and development department. Only property owners or their authorized agents shall apply for rezoning to an appropriate conditional district (amended 6-19-00). In addition to the general information required in section 21-52 and other applicable sections of this chapter, the petitioner may propose additional limitations or restrictions to ensure compatibility between the development and the surrounding area. Only uses listed in section 21-113 as permitted by right may and as a CD be considered within a conditional district.

(d) *Permitted uses and development requirements.* Upon approval of a conditional district, only the use or uses identified in the conditional district are allowed subject to any associated conditions or limitations therein. All use requirements of the underlying general use district shall apply as well as all other requirements of the ordinance. In no situation shall approval of a conditional district reduce required standards of this ordinance unless otherwise provided herein.

(e) *Review Procedures.* Conditional district requests shall follow review procedures referenced in Sec. 21-362.

(f) *Conditional District Approval.* The board of commissioners may approve a reclassification of a property to a conditional district only upon determining that the proposed use or uses will meet all standards and regulations in this chapter that are applicable. Specific conditions applicable to the districts may be proposed by the petitioner or the board of commissioners, but only those conditions mutually approved **consented** by the **board and the** petitioner **in writing consistent with G.S. 160D-703(b)** may be incorporated into the zoning regulations. Conditions and site-specific standards imposed

in a conditional district shall be limited to those that address the conformance of the development and use of the site to applicable ordinances, ~~and an~~ officially adopted comprehensive ~~or other plan plans,~~ ~~and or those that address the~~ impacts reasonably expected to be generated by the development or use of the site. The approval of the district and any requested conditions shall be included on an approval form provided by the county. If the approval and any attached conditions are acceptable to the petitioner, then this acceptance shall be indicated by the petitioner signing the approval form.

(Ord. of 1-19-98, § IV; Ord. of 6-17-02; Amend. of 3-7-05; Amend. of 2-20-06(1); Amend. of 6-16-08; Amend. of 6-19-10; Amend. of 3-5-12; Amend. of 9-6-16)

Sec. 21-62. Effect of approval for conditional districts.

- (a) *Conditions attached to approval.* Approval of a conditional district and the attached conditions are binding on the property as an amendment to the zoning maps. All subsequent development and use of the property shall be in accordance with the standards for the approved conditional district, the approved rezoning request, and all conditions attached to the approval. In accordance with Sec. 21-11(c), an approved conditional district secures a vested right to undertake a project for two (2) years unless a longer duration is requested by the applicant and approved by the Board of Commissioners.
- (b) *Uses allowed.* Only uses and structures indicated on the approved site plan shall be allowed on the subject property. All uses and structures in a conditional district shall also comply with all standards and requirements for development in the underlying zoning district.
- (c) *Effect on zoning maps.* Following approval of the rezoning request for a conditional district, the subject property shall be identified on the zoning map by the appropriate district designation as listed in section 21-61 (a). All parallel conditional use districts approved prior to September 6, 2016 shall hereby be replaced by a comparable conditional district. For example, a pre-existing CBI-CUD designation will be changed to a CBI-CD designation. Associated applications, site plans, conditions, and limitations placed on the conditional use district are incorporated without change into the standards and conditions for the new conditional district. Changes to a pre-existing conditional use district are subject to the conditional district process identified in subsection (d). Nothing in the section shall be interpreted to invalidate a pre-existing conditional use district.
- (d) *Alterations to approval.* Alterations to an approved plan for a conditional district shall be as provided in this subsection.
 - (1) Except as provided in subsection (2) below, changes to the approved conditional district and maps shall be treated as amendments to this chapter and the zoning maps.
 - (2) Minor changes.
 - a. The county recognizes slight deviations in site-specific development proposals may arise, warranting changes to the plans and therefore offers a provision for administrative approval of a minor change. The applicant may submit a written request to the planning director that includes supporting documentation (e.g. federal / state permits, survey / engineering information) substantiating the need for the minor change. After reviewing the record of proceedings, the planning director may consider minor changes that are substantially similar to that approved by the Board of Commissioners subject to the following criteria:
 - 1. Relocation of operational area improvements that do not project into the required setback;
 - 2. One time expansions that do not exceed the lesser of ten (10) percent of the approved structure or one thousand (1,000) square feet for nonresidential uses;
 - 3. One time expansions that do not exceed the lesser of ten (10) percent of the development or five (5) units;
 - 4. 2. Structural alterations that do not significantly effect the basic style, ornamentation, and /

or character of the building; or

5.3. Change in detail which does not affect the basic relationship of the use to the required standards of the applicable ordinances or condition(s) of approval.

- b. Regardless of Sec. 21-62(d)(2)(a)(1-~~5~~ **3**), the planning director may forward the requested change to the Board of Commissioners for consideration in the same procedure as required for the original issuance of the conditional district as per Sec. 21-61(b). All other changes shall be reviewed by the Board of Commissioners as per Sec. 21-61(b). Modifications requesting reduction of the minimum standards within the zoning ordinance shall be treated as a variance request and not considered herein.
- c. Requests for a minor change may be submitted to the planning director at any time, although proposals to change or amend any approved conditional district shall not be considered by the Board of Commissioners within one (1) year after date of original authorization of such permit or within one (1) year after hearing of any previous proposal to amend or change the district unless deemed appropriate by the planning director. ~~The applicant may appeal the decision of the planning director to the Planning Board. The Planning Board will make a recommendation for the Board of Commissioners' consideration.~~ **Applicants of amendment proposals to the Board of Commissioners within the one (1) year period denied by the planning director may request referral to the Board.** Failure of the Board of Commissioners to ~~set~~ **schedule** a ~~public~~ **legislative** hearing regarding an amendment shall constitute denial of the request and conditions of the original district shall remain in effect.
- d. The Board of Commissioners may consider revocation of an approved conditional district through the same procedure as the original permit. Following the hearing, the Board of Commissioners may elect to revoke the district if it is factually determined that one or more instances listed below have occurred:

- (1) ~~The vested rights time period from Sec. 21-11 lapsed~~ **Substantial departure from the approved application, plans, or specifications;**
- (2) ~~The permit was obtained by fraud~~ **Refusal or failure to comply with the requirements of any applicable local development regulation;**
- (3) ~~Non-compliance with the approved site plan and / or conditions of approval~~ **False statements or misrepresentations made in securing the approval; or**
- (4) ~~Repeated zoning code violations or criminal activity; or~~ **Mistakenly issued in violation of an applicable State or local law.**
- (5) ~~Eminent threat to public health or safety.~~

Failure to validate at least one of these instances shall allow the conditional district to remain valid. Petitioners may appeal this decision to superior court. Should a conditional district be revoked, the Board of Commissioners will rezone the property back to a general zoning district.

(Ord. of 1-19-98, § IV; Ord. of 10-18-04; Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 3-5-12; Amend. of 9-6-16)

Sec. 21-63. Application re-submittal for ~~conditional~~ **special use permits and conditional districts.**

- (a) If conditionally approved, the applicant may submit a revised application within forty-five (45) days of having received the decision of the appropriate board. The revised application shall include provisions described in conditions placed on the application. If the conditionally approved application is not resubmitted within the prescribed time period the application shall be deemed to be disapproved.
- (b) If a ~~conditional~~ **special** use permit or conditional district application is denied, the administrator shall not accept another application similar to the denied application for the same property or a portion of the

same property for a period of twelve (12) months from the date of the **public** hearing, unless the administrator determines that:

- (1) There has been a significant zoning district reclassification of an adjacent property;
- (2) A new or updated land use plan which changes public policy regarding the property is adopted by the county; or
- (3) Public facilities such as roads, waterlines, sewer lines, or other infrastructure are constructed or expand to serve the property and enable the proposed development to be accommodated.

(Ord. of 1-19-98, § IV; Amend. of 9-6-16)

Sec. 21-64. Conditional District Standards for Specific Uses.

The standards contained in this section are for specific land uses submitting conditional district applications.

(a) Utility Scale Solar Energy Systems (SIC 491 pt.)

1. *Setbacks.* The system area and equipment setbacks shall be as follows:
 - i. *System Area.*
 - a. One hundred feet (100') from adjoining property lines and road rights-of-way.
 - b. Common property lines within the system area are not subject to setback standards.
 - ii. *Equipment Setbacks.* All proposed inverters, substations, buildings, or other structures not utilized as a solar collector shall be located within the system area and separated by a minimum of three hundred feet (300') from any existing residence, church or school on an adjoining property.
2. *AZO.* Location within the conical or horizontal surfaces of the Mid-Carolina Regional Airport is not permitted.
3. *Screening, Buffering and Fencing.* To reduce visual impacts and provide separation between the system area and an existing residence, church or school on an adjoining property located within three hundred (300) feet of the system area perimeter, the applicant may propose use of option (i) or (ii) noted below. Nonetheless, the standards of this subsection may be increased or supplemented as provided in Section 21-61(e).
 - i. Standards contained in Sections 21-215(2)(b)(1) and (2) applied to the segment(s) of the system area perimeter adjacent to the developed parcel, or
 - ii. Demonstrate by photo simulation that use of Alternative Buffer and Screening per Section 21-217 and, or Existing Vegetation per Section 21-218 will achieve or exceed the standards of item (i) herein.
 - iii. Security fencing six (6) feet in height shall be provided along the entire system area boundary, except along a segment where 21-215(2)(b)(2) is required.
4. *Access Roads.* Internal roads shall be constructed of aggregate base course (ABC) stone a minimum of six inches (6") thick. Gated entrance(s) shall be installed to prevent unauthorized access. When applicable, connection to an NCDOT maintained roadway shall be issued by an approved commercial driveway permit from NCDOT and the apron and roadway to the system area shall be paved.

5. *Decommissioning Plan.* Decommissioning Plan. The applicant shall provide a decommissioning plan that includes a cost estimate prepared by an NC Professional Engineer having professional credentials, recognized expertise or specialization in construction and removal of similar facilities detailing how the solar energy system will be removed and system area will be reasonably restored to its original condition in the event it does not produce energy for a three hundred sixty (360) day continuous basis. Acceptance of the decommissioning plan and cost estimates by Rowan County shall be subject to independent review by an NC Professional Engineer of the County's selection. Prior to permitting, the applicant shall provide Rowan County financial surety at 1.25 times the mutually agreed cost estimate amount, which will remain in effect for the first ten (10) years of operation.

At a minimum, the contents of the decommissioning plan shall include the cost estimates referenced herein and information found in the NC Template Solar Ordinance's Example Decommissioning Plan updated to reflect the site's locational attributes. This plan shall be recorded in the Rowan County Register of Deeds prior to construction of the site.

An updated decommissioning plan detailing costs shall be submitted to the Planning Department at least six (6) months prior to the ten-year anniversary of installation and six (6) months prior to every five (5) year anniversary thereafter. In addition to the updated decommissioning plan submittals, the system owner shall provide an analysis of the power produced annually by the facility; an operational efficiency and status report of the panels and equipment; and any intended upgrades or replacements of panels, equipment, etc. Acceptance of the updated plans and estimates by Rowan County shall be subject to independent review by an NC Professional Engineer of the County's selection. A new financial surety at 1.25 times the mutually agreed cost estimate amount shall be provided by the owner / operator to Rowan County for the time period associated with the updated plan.

The system owner / operator may request an extension of the 360 day period to prevent execution of the Decommissioning Plan. The request shall be considered in the same manner as approval was granted.

6. *Supplementary Materials.* The applicant shall provide the following with the conditional district permit application:
- i. Any relevant studies, reports, documents, recommendations or approvals related to the site that were prepared or received as part of its application to the NC Utilities Commission.
 - ii. Evidence that the electrical utility provider has been informed by the applicant of their intent to install an interconnected system. Evidence may consist of copies and responses of certified letters (or similar) to the utility provider detailing their solar energy system plans, location, etc.
 - iii. A copy of the Certificate of Public Convenience and Necessity for facilities over 2 megawatts or a copy of the Report of Proposed Construction for facilities under 2 megawatts approved by the North Carolina Utilities Commission.

(b) *Dumps, Garbage, Landfills, Refuse Systems, Rubbish, Sludge Disposal and Land Clearing and Inert Debris Landfill [LCID] (SIC 4953 pt.).*

1. *Setbacks.* All improved areas, including disposal areas, shall be at least two hundred (200) feet from a zone lot line.
2. *Separation.* Improved areas shall be at least three hundred (300) feet from any residence, church, or school.
3. *Dust, odor, glare.* All access roads and storage areas shall be at least twenty (20) feet from any property line constructed with a paved, gravel, or crushed stone surface; and maintained in a dust-

free manner.

4. *Operation.* An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator, types of material accepted, and hours of operation.
5. *Security restrictions.* Access shall be controlled through the use of gates, fences, etc. to prevent unregulated dumping of materials.
6. *Other special conditions.* Proof of a permit issued by the state in accordance with applicable provisions of the General Statutes.
7. *LCID Operations.* Standards of this subsection are applicable to LCID operations greater than one-half (.5) acre in size.

(c) *Motor vehicle parts (outdoor), used in the RA district (SIC 5015).*

1. *Operation.* Operations, including but not limited to, storage of dismantled motor vehicles or motor vehicle parts or keeping of junk which are not fully contained within a building enclosed on all sides shall be subject to the standards of this subsection and section 21-246.
2. *Front yard setback.* The facility shall be one hundred (100) feet from the edge of the right-of-way.
3. *Separation from certain uses.* The facility shall be a minimum of one thousand (1,000) feet from a school, residence, church or place of public assembly. The separation shall be measured from the closest point of the structure containing the school, residence, church or place of public assembly and the nearest point of the operational area of the automobile salvage yard. This requirement shall not apply to residences owned by the operator of the facility.
4. *Side and rear yard buffering and screening.* The facility shall be completely surrounded by type B buffer and screening, as provided in article IX.
5. *Operational area.* No operations shall occur in the required buffer.

(d) *Zoological garden (SIC 8422).*

1. *Site plan.* A site plan shall be provided showing all fencing, exhibit and storage areas, with types of animals specified.
2. *Minimum lot size.* The minimum lot size is twenty (20) acres.
3. *Smoke, odors, dust.* Operations shall not create any smoke, odors, or dust at a level which creates a nuisance to any person or normal sensitivities at the property lines.
4. *Setbacks.* All animal waste storage areas shall be a minimum of two hundred (200) feet from any zone lot line.
5. *Security restrictions.* Access shall be controlled through the use of gates, fences, etc. to prevent entrance by unauthorized persons. Containment of animals shall be sufficient to ensure the safety of the surrounding area and the county.

(e) *Membership sports and recreation clubs (SIC 7997 (pt.)): baseball club, football club, soccer club, and similar athletic field operation.*

- 1. *Site plan.* A site plan shall be required as provided in article III, section 21-52.**
- 2. *Buffering.* All parking areas shall be screened by a type A buffer from residentially zoned area.**
- 3. *Lighting.* Lighting shall be located and designed to prevent light from directly shining on adjacent residential property.**

Editor's note: An amendment of July 1, 2005 renumbered § 21-64 as § 21-60(12). Former § 21-64 pertained to specific conditional special use criteria for off-premises signs and derived from Ord. of 11-19-01(1); Ord. of 12-3-01; and Ord. of 3-25-04.

Sec. 21-65. General criteria for uses listed SR in the NB District in section 21-113.

Uses listed as SR in the NB District in section 21-113, the table of uses, shall comply with the following criteria, as applicable:

- (1) *Site plan.* A site plan shall be provided showing the existing lot and all existing and proposed buildings. As well as all criteria required herein.
- (2) *Lighting.* The lighting shall be shielded to prevent light and glare spillover to adjacent residentially developed properties.
- (3) *Minimum zone lot size.* The minimum zone lot size shall be two (2) acres.
- (4) *Building size.* The maximum building size per parcel shall not exceed ten (10) percent of the lot area up to ten thousand (10,000) square foot and five (5) percent of the lot acreage thereafter up to twenty-five thousand (25,000) sq.ft. Multiple buildings may be used in calculating the maximum allowable building size.
- (5) *Impervious surface.* The maximum impervious surface shall not exceed sixty-five (65) percent of the lot.
- (6) *Hours of operation.* Hours of operation shall not exceed 6:00 a.m. to 11:00 p.m.
- (7) *Parking.* Parking shall be as prescribed in article VII, Parking, for that use.
- (8) *Signage.* Shall be as prescribed in article VIII, Signs, for the underlying district.
- (9) *Noise.* Noise shall not exceed the decibel levels during time periods prescribed in section 21-241 for construction, manufacturing, transportation, communications, electric, gas and sanitary services, wholesale, and service uses.
- (10) *Outdoor storage.* All outside storage areas including dumpsters shall be:
 - a. Sited to the rear of the building;
 - b. Not within the required setbacks.
 - c. Notwithstanding other requirements of this subsection, outdoor storage shall be completely screened from adjacent residentially zoned property
- (11) *Smoke, odors and dust.* The use will not create any smoke, odors, or dust at a level discernible at any of its lot lines.
- (12) *Required licenses and permits.* The applicant shall provide a copy of all required licenses and permits prior to issuance of a zoning permit.
- (13) *Handling waste and other by-products.* A description shall be provided of the method of collecting, handling, disposal and storage of all wastes, by-products, scraps, etc. which meets all applicable federal, state and local regulations and all other requirements of this ordinance.
- (14) *Screening and buffering.* Screening as required by Sec. 21-216.
- (15) *Outdoor display.* Outdoor display shall be limited to five thousand (5,000) square feet.

(Ord. of 6-17-02; Amend. of 5-7-07; Amend. of 9-6-11; Amend. of 9-3-19)

Secs. 21-66--21-80. Reserved.

ARTICLE IV. DIMENSIONAL CRITERIA

Sec. 21-81. Dimensional requirements; general.

Requirements for lot area, width, depth, and frontage, front, side and rear yard shall be provided in section 21-84, unless modified by the Board of Commissioners through residential clustering, multi-family developments subject to section 21-60 (16), Planned Development Subdivisions subject to chapter 22 section 58 of the Subdivision Ordinance, or as otherwise provided.

(Ord. of 1-19-98 § V; Amend. of 10-4-10; Amend. of 4-21-14)

Sec. 21-82. Measurement of setback or building line.

Setbacks or front or side street building lines and other applicable elements of this chapter shall be measured from the street or road rights-of-way. If no recorded rights-of-way exists, the assumed rights-of-way shall be thirty (30) feet from the centerline of the road.

(Ord. of 1-19-98, § V)

Sec. 21-83. Rear yard triangular lot.

A triangular shaped lot where the side lot lines intersect at the rear of the lot, shall provide a rear yard as required for that district. The rear yard shall be determined by locating a point on each side lot line measured from the intersection of the side yards toward the front of the lot, and connecting these two (2) lines.

(Ord. of 1-19-98, § V)

Sec. 21-84. Table of dimensional requirements.

DISTRICTS	RA	RR	RS	MHP	MFR	CBI	NB	INS T	IND
Minimum zone lot size⁽¹⁾⁽³⁾									
Septic tank and individual or multi-connection well	20,000 sq ft	20,000 sq ft	20,000 sq ft	6 acres	2 acre with 3 du/acre ⁽²⁾	N/A ⁽²⁾	20,000 sq ft	N/A	N/A
Minimum zone lot size⁽¹⁾⁽³⁾									
Public water or community water or Public sewer or approved package treatment plant	15,000 sq ft	15,000 sq ft	15,000 sq ft	6 acres	2 acre with 8 du/acre ⁽²⁾	N/A ⁽²⁾	15,000 sq ft	N/A	N/A
Minimum zone lot size⁽¹⁾⁽³⁾									
Public water and sewer	10,000 sq ft	10,000 sq ft	10,000 sq ft	6 acres	2 acre with 12 du/acre ⁽²⁾	N/A ⁽²⁾	10,000 sq ft	N/A	N/A
Minimum lot width at right-of-way	35 ft	35 ft	35 ft	35 ft	35 ft ⁽⁶⁾	35 ft	35 ft	35 ft	35 ft
Minimum lot width at Building setback line	70 ft	70 ft	70 ft	70 ft	70 ft ⁽⁶⁾	70 ft	50 ft	70 ft	70 ft
Minimum lot depth									
Without public water & sewer	150 ft	150 ft	150 ft	150 ft	150 ft ⁽⁶⁾	100 ft ⁽²⁾	100 ft ⁽²⁾	150 ft	150 ft
Public water and sewer	125 ft	125 ft	125 ft	125 ft	125 ft ⁽⁶⁾	100 ft	100 ft	125 ft	150 ft
Principal structure setback									
Front Yard ⁽⁴⁾	30 ft	30 ft	50 ft	50 ft	50 ft ⁽⁶⁾	50 ft ⁽²⁾	30 ft	30 ft	50 ft
Side street	20 ft	20 ft	25 ft	50 ft	50 ft ⁽⁶⁾	30 ft ⁽²⁾	20 ft	20 ft	30 ft
Side yard ⁽⁴⁾	10 ft	10 ft	10 ft	50 ft	50 ft ⁽⁶⁾	10 ft or 0 ft ⁽²⁾	10 ft or 0 ft ⁽⁷⁾	10 ft	10 ft or 0 ft
Rear yard ⁽⁴⁾	10 ft	10 ft	20 ft	50 ft	50 ft ⁽⁶⁾	10 ft or 0 ft ⁽²⁾	10 ft or 0 ft ⁽²⁾⁽⁷⁾	10 ft	10 ft or 0 ft
Accessory structure setback⁽⁸⁾									
Front	30 ft	30 ft	50 ft	50 ft ⁽⁵⁾	50 ft ⁽⁶⁾	10 ft	10 ft	10 ft	10 ft
Any right-of-way	10 ft	10 ft	10 ft	30 ft ⁽⁵⁾	50 ft ⁽⁶⁾	10 ft	10 ft	10 ft	10 ft
Side and rear yard	10 ft	10 ft	10 ft	10 ft ⁽⁵⁾	10 ft ⁽⁶⁾	10 ft	10 ft	10 ft	10 ft

(1) May be increased based on location in regulated watershed.

(2) For single family use standards for RA district.

(3) For individual lot size/space standards in an MHP district refer to section 21-60(11)n.

(4) For individual space setbacks in an MHP district refer to section 21-60(11)d.

- (5) From exterior property lines.
- (6) Requirements may be modified or exempted as provided by section 21-60(16). Dimensional criteria for subdivided lots shall be as provided for in the RA district, excluding external boundaries of the development.
- (7) See "special requirements" for NB district for setbacks from residential zoning districts.
- (8) Refer to section 21-285 for additional standards.

(Ord. of 1-19-98, § V; Ord. of 2-1-99(1), § 12; Ord. of 10-18-99(1); Ord. of 6-17-02; Amend. of 3-7-05; Amend. of 11-2-09; Amend. of 3-5-12; Amend. of 1-22-13; Amend. of 4-21-14)

Secs. 21-85--21-110. Reserved.

ARTICLE V. PERMITTED AND **CONDITIONAL SPECIAL** USES

Sec. 21-111. Generally.

The range of uses permitted as of right and under prescribed conditions established in this article is summarized in section 21-113. In the event of a conflict between section 21-113 and the text of this chapter, the text shall control.

(Ord. of 1-19-98, § VI)

Sec. 21-112. Relation to Standard Industrial Classification (SIC) Manual, 1987; executive office of the president, office of management and budget.

Section 21-113, Table of uses, **and** section 21-166, Parking requirements, **and section 21-216, Screening and buffering** are based on the SIC Manual. **SIC codes followed by "(pt)" mean "part" of the uses within the specified group.** Specific uses listed under headings in that manual shall be subject to the guidelines prescribed for general use categories as listed in these tables. Where specific uses are not listed, the administrator may apply the standards set forth in this chapter for similar uses.

(Ord. of 1-19-98, § VI)

Sec. 21-113. Table of uses.

P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements CS- Conditional Special Use CD – Conditional District		Zoning Districts								
		Residential					Nonresidential			
		RA	RR	RS	MH P	MF R	CBI	NB	INS T	IN D
Use										
Residential										
SIC	Single family dwelling, site built	P	P	P	P	P	P	P		
	Single family dwelling, modular	P	P	P	P	P	P	P		
	Manufactured home	P Typ e I (1)	P Typ e I (1)		P Typ e I, II, III	P Typ e I (1)	P Typ e I (1)			
(1) Refer to section 21-284 for exception to this criteria, section 21-137 for replacement of nonconforming manufactured homes and section 21-281 for temporary uses										

	Temporary family health care structure	P (A)	P (A)	P (A)	P (A)	P (A)	P (A)	P (A)		
	Duplex, individual	P	SR			P	P			
	Duplexes, triplexes, quadraplexes, other multi-family developments					C S				
	Accessory structure, residential	P (A)	P (A)	P (A)	P (A)	P (A)	P (A)	P (A)		
	Home occupations	P	P	P	P	P	P	P		
	Residential clustering	C S	C S	C S		C S				
	Family care homes	SR	SR	SR	SR	SR	SR	SR	SR	
	Manufactured home park				C S					
	Manufactured home park, family	SR	SR		SR	SR				
	Major Subdivisions for residential use	P	P	P	P	P				
Agriculture, forestry and fishing										
01	Agricultural Production - Crops	P	P	P	P	P	P	P	P	P
02	Agricultural production livestock and animal specialties	P	P	P	P	P	P	P	P	P
07	Agricultural services, <i>all except</i>	P	P	P	P	P	P	P	P	P
0741	Veterinary Services for Livestock	SR or C S	SR or C S				P	SR		P
0742	Veterinary Services for Animal Specialties	SR	SR				P	SR		P
0751	Livestock Services, except veterinary, <i>all except</i>	SR or C S	SR or C S				P	SR		P
0751 (pt)	Slaughtering, custom	C S					P	C S		P
0752	Animal specialty services, except veterinary, <i>all except</i>	SR or C S	SR or C S				P	SR		P
P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements C S- Conditional Special Use CD – Conditional District		Zoning Districts								
		Residential					Nonresidential			
Use		RA	RR	RS	MH P	MF R	CBI	NB	INS T	IN D
Agriculture, forestry and fishing cont.										
0752 (pt)	Boarding horses, training horses, except racing	P	P				P	P		P
0752 (pt)	Animal Shelter, Boarding Kennel, and Dog Pound	C S					P	C S		P
0782	Lawn and garden services	SR	SR				P	SR		P
0783	Ornamental Shrub and Tree Services	SR	SR				P	SR		P
08	Forestry	P	P	P	P	P	P	P	P	P
09	Fishing, hunting and trapping	P	P	P	P	P	P	P	P	P
	Greenhouses	P	P				P	P		P

Mining										
10	Metal mining									C S
12	Coal mining									C S
13	Oil and gas extraction									C S
14	Mining and quarrying of non-metallic minerals except fuels, <i>all except</i>									C S
1442	Common sand mining	SR	SR				P			P
Construction										
15	Building construction- general contractors and operative builders	SR	SR				P	SR		P
16	Heavy construction other than building construction – contractors	SR	SR				P	SR		P
17	Construction – special trade	SR	SR				P	SR		P
Manufacturing										
20	Food and kindred products, <i>all except</i>	SR	SR				P	SR		P
201	Meat products						P			P
207	Fats and oils									P
208 (pt)	Winery	SR or C S	SR or C S				P	SR		P
2091	Canned and cured fish and seafood						P			P
2092	Prepared fresh or frozen fish and seafood						P			P
21	Tobacco products	SR	SR				P	SR		P
22	Textile mill products, <i>all except</i>						P			P
226	Dyeing and finishing textile									P
23	Apparel & other finished products made from fabrics & similar material	SR	SR				P	SR		P
24	Lumber and wood products, except furniture, <i>all except</i>	SR	SR				P	SR		P
241	Logging	P	P	P	P	P	P	P	P	P
2421	Sawmills and planing mills, general	SR								P
2426 (pt)	Dimension, hardwood	SR								P
2429 (pt)	Sawmills, special product	SR								P
2491	Wood preserving									P
25	Furniture and fixtures	SR	SR				P	SR		P
26	Paper and allied products, <i>all except</i>						P			P
261	Pulp mills									C S

262	Paper mills									C S
27	Printing, publishing, allied industries	SR	SR				P	SR		P
28	Chemicals and allied products, <i>all except</i>									C S
283	Drugs						P			P
284	Soap, detergents, and cleaning preparations; perfumes, cosmetics, and other toilet preparations						P			P
29	Petroleum refining, related products									C S
30	Rubber and miscellaneous products	SR	SR				P	SR		P
31	Leather & leather products, <i>all except</i>	SR	SR				P	SR		P
311	Leather and finishing									C S
32	Stone, clay, glass and concrete products, <i>all except</i>	SR	SR				P	SR		P
324	Hydraulic cement									C S
325	Structural clay products									C S
327	Concrete, gypsum, plaster products									C S
329	Abrasives, asbestos, Non-metallic mineral products									C S
33	Primary metal industries									C S
P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements C S- Conditional Special Use CD – Conditional District		Zoning Districts								
		Residential					Nonresidential			
Use		RA	RR	RS	MH P	MF R	CBI	NB	INS T	IN D
Manufacturing cont.										
34	Fabricated Metal products, except machinery and transportation equipment, <i>all except</i>	SR	SR				P	SR		P
3483	Ammunition except for small arms									C S
3489	Ordnance and accessories									C S
35	Industrial and commercial machinery and computer equipment	SR	SR				P	SR		P
36	Electronic and other electrical equipment and components,	SR	SR				P	SR		P

	except computer equipment, <i>all except</i>									
3612	Power distribution and specialty transformers						P			P
37	Transportation equipment	SR	SR				P	SR		P
38	Measuring, analyzing and controlling instruments	SR	SR				P	SR		P
39	Miscellaneous manufacturing industries	SR	SR				P	SR		P
Transportation, communications, electric, gas and sanitary services										
40	Railroad transportation									P
41	Local & suburban transit, interurban highway passenger transportation	SR	SR				P	SR		P
42	Motor freight transportation and warehousing, <i>all except</i>	SR	SR				P	SR		P
421	Trucking	SR	SR				P	SR		P
4221	Farm product warehousing and storage	SR or E S	SR or E S				P	SR		P
	Dead storage of manufactured homes	SR	SR		SR	SR	SR			SR
4226 (pt)	Automobile dead storage									E S
4226 (pt)	Oil and gasoline storage caverns for hire and petroleum and chemical bulk stations and terminals for hire						P			P
43	U.S. Postal Service	P	P	P	P	P	P	P	P	P
44	Water transportation, <i>all except</i>						P			P
4493 (pt)	Marinas						P	SR		P
45	Transportation by air						P			P
46	Pipelines, except natural gas	E S	E S	E S	E S	E S	E S	E S	E S	E S
47	Transportation services, <i>all except</i>						P			P
472	Arrangement of passenger transportation	SR	SR				P	SR		P
48	Communications, <i>all except</i>						P			P
	Transmission tower & Wireless support structures	E S	E S				E S	E S		E S
	Co-location of wireless facilities	SR	SR	SR	SR	SR	SR	SR	SR	SR
	Eligible facilities request	SR	SR	SR	SR	SR	SR	SR	SR	SR
	Alternative tower structures	SR	SR	SR	SR	SR	SR	SR	SR	SR
	Public safety tower	SR	SR	SR	SR	SR	SR	SR	SR	SR
4832	Radio broadcast towers	E S								
4833	Television broadcast towers	E S								
49	Electric, gas, water and sanitary services (SIC 491, 492, 493, 494), <i>all except</i>						E S			E S
	Electric and water distribution lines, gas pipelines	P	P	P	P	P	P	P	P	P

491 (pt)	Residential Solar Energy Systems	SR	SR	SR	SR	SR	SR	SR	SR	SR
491 (pt)	Non-Residential Solar Energy Systems	SR					SR	SR	SR	SR
491 (pt)	Roof Mounted Solar Energy Systems	SR	SR	SR	SR	SR	SR	SR	SR	SR
491 (pt)	Utility Scale Solar Energy Systems	CD					CD			C S
494	Water supply	P	P	P	P	P	P	P	P	P
4952	Sewerage systems	C S	C S				P			P
4953	Refuse systems, all prohibited <i>except</i>									
	Dumps: operation of	CD								C S
	Garbage: collect, destroy & process	CD								C S
	Land clearing and inert debris landfill (LCID)	CD								C S
	Landfills, sanitary: operation of	CD								C S
P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements C S - Conditional Special Use CD – Conditional District		Zoning Districts								
		Residential					Nonresidential			
Use		RA	RR	RS	MH P	MF R	CBI	NB	INS T	IN D
Transportation, communications, electric, gas and sanitary services cont.										
	Refuse systems	CD								C S
	Rubbish collection and disposal	CD								C S
	Sludge disposal sites	CD								C S
4959	Sanitary services, NEC	C S					P			P
496	Steam and air conditioning supply						P			P
Wholesale trade										
50	Wholesale trade, durable goods, <i>all except</i>	SR	SR				P	SR		P
5015	Motor vehicle parts, used (outdoor)	CD								C S
5015	Motor vehicle parts, used (indoor)						SR			SR
5032	Brick, stone & related construction materials						P	SR		P
505	Metal & minerals, except petroleum						P			P
5083	Farm & garden machinery & equipment	SR	SR				P	SR		P

5093	Scrap and waste materials									C S
51	Wholesale trade, nondurable goods, <i>all except</i>	SR	SR				P	SR		P
5153	Grain and field beans	SR or C S	SR or C S				P	SR		P
5154	Livestock (wholesale)									C S
5159	Farm product raw materials, NEC	SR or C S	SR or C S				P	SR		P
516	Chemical and allied products									C S
517	Petroleum and petroleum products									C S
5191	Farm supplies	SR or C S	SR or C S				P	SR		P
SIC 516 and 517 were removed as conditional special uses in the CBI district as a result of Z-10-04 text amendments.										
Retail trade										
52	Building material, hardware, garden supplies and mobile home dealers	SR	SR				P	SR		P
53	General merchandise stores	SR	SR				P	SR		P
54	Food stores	SR	SR				P	SR		P
55	Auto dealers, gas service stations	SR	SR				P	SR		P
56	Apparel and accessory stores	SR	SR				P	SR		P
57	Home furniture, furnishings and equipment stores	SR	SR				P	SR		P
58	Eating and drinking places, all except	SR	SR				P	SR		P
5813	Drinking places (alcoholic beverages)						C S			P
59	Miscellaneous retail	SR	SR				P	SR		P
Finance, insurance and real estate										
60	Depository institutions	SR	SR				P	SR		P
61	Non-depository institutions	SR	SR				P	SR		P
62	Security and commodity brokers	SR	SR				P	SR		P
63	Insurance carriers	SR	SR				P	SR		P
64	Insurance agents, brokers & service	SR	SR				P	SR		P
65	Real estate	SR	SR				P	SR		P
67	Holding and other investment offices	SR	SR				P	SR		P
Services										
70	Hotels, rooming houses, camps and other lodging places, <i>all except</i>	SR	SR				P	SR		

7011	Cabins	C S					C S	C S		
7032	Sporting and recreational camps	C S	C S				P	SR	P	P
7033	Campgrounds and RV parks	C S					C S	C S		
72	Personal services, <i>all except</i>	SR	SR				P	SR		P
7261 (pt)	Crematories						P			P
73	Business services	SR	SR				P	SR		P
75	Auto repair, services and parking	SR	SR				P	SR		P
76	Misc repair services	SR	SR				P	SR		P
78	Motion pictures	SR	SR				P	SR		P
79	Amusement, recreational services, <i>all except</i>	SR	SR				P	SR		P
7941	Sports clubs and promoters						C S			C S
P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements C S - Conditional Special Use CD – Conditional District		Zoning Districts								
		Residential					Nonresidential			
Use		RA	RR	RS	MH P	MF R	CBI	NB	INS T	IN D
Services cont.										
7948(pt)	Racetrack operations, including speedways, go-kart tracks and dragstrips						C S			C S
7992	Public golf courses	C S	C S				P			
7996	Amusement park						C S			C S
7997	Membership sports and recreational clubs, <i>all except</i>	SR or C S	SR or C S	SR			P	SR		P
7997 (pt)	Gun club, shooting clubs	C S					C S			C S
7997 (pt)	Baseball club, football club, soccer club, and similar athletic field operation	CD					S			
7999	Amusement and recreation services, NEC, <i>all except</i>						P	SR		P
7999 (pt)	Archery ranges, shooting range, skeet shooting, and trapshooting facilities (outdoor)	C S					C S			C S
7999 (pt)	Archery and shooting range (indoor)	SR					SR	SR		SR
7999 (pt)	Horse shows, rental of saddle horses, riding academies and schools, riding stables, rodeo operation	C S	C S				P	SR		P

7999 (pt)	Boat / canoe rental for pleasure or fishing, operation of fishing pier and lake	CS	CS				P	SR		P
7999 (pt)	Day camps, sports instructional schools and camps	CS	CS				P	SR		P
7999 (pt)	Model automobile racing	CS					P	SR		P
	Public parks	P	P	P	P	P	P	P	P	P
80	Health services, <i>all except</i>	SR	SR				P	SR	P	P
8059(pt)	Convalescent homes for psychiatric patients						CS		CS	CS
8063	Psychiatric hospitals						CS		CS	CS
8069 (pt)	Drug addiction rehab, Alcohol rehab hospitals						CS		CS	CS
8093 (pt)	Drug and alcohol treatment, outpatient clients						P		P	P
81	Legal services	SR	SR				P	SR		P
82	Educational services, <i>all except</i>	P	P	P			P	P	P	P
	Facility providing overnight habitation								SR	
83	Social services, <i>all except</i>	SR	SR				P	SR	P	P
8322	Individual and family social services						P	CS	P	P
8351 (pt)	Family child care home	P	P	P	P	P	P	P		
8351 (pt)	Child care center in residence	P	P				P	P		
8351 (pt)	Child care center	SR	SR				P	SR	P	P
8361	Residential care, <i>all except</i>						CS		CS	CS
8361 (pt)	Homes for the aged and rest homes within incidental health care	SR	SR				P	SR	P	P
84	Museums, art galleries and botanical gardens, <i>all except</i>	SR	SR				P	SR	P	P
8422	Zoological parks	CD					CS			
86	Membership organizations, <i>all except</i>	SR	SR				P	SR	P	P
8641	Civic, service and social fraternities	CS					P	SR	P	P
8661 (pt)	Churches	P	P	P	P	P	P	P	P	P
87	Engineering, accounting, res. management and related services	SR	SR				P	SR		P
88	Private households	P	P	P	P	P	P	P		
89	Miscellaneous services	SR	SR				P	SR		P
Public administration										
91	Executive, legislative and general government, except finance						P		P	P

92	Justice, public order, safety, <i>all except</i>						P		P	P
9221	Police protection	P	P	P	P	P	P	P	P	P
9224	Fire protection	P	P	P	P	P	P	P	P	P
	Ambulance stations	P	P	P	P	P	P	P	P	P
	Rescue squads	P	P	P	P	P	P	P	P	P
93	Public finances, taxation and monetary policy						P		P	P
94	Administration of human resource programs						P		P	P
P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements C S- Conditional Special Use CD – Conditional District		Zoning Districts								
		Residential					Nonresidential			
Use		RA	RR	RS	MH P	MF R	CBI	NB	INS T	IN D
Public administration cont.										
95	Administration of environmental quality and housing programs						P		P	P
96	Administration of economic programs						P		P	P
97	National security and international affairs						P		P	P
	Solid waste and recycling convenience center	P	P	P	P	P	P	P	P	P
Unclassified										
	Adult uses						C S			
	Construction and demolition landfill									C S
	Event center	C S	C S				P	C S		P
	Major subdivisions for non-residential use						P	P	P	P
	Multi-tenant developments						SR	SR	SR	SR
	Residential storage facility	SR or C S	SR or C S	SR or C S			P	P		
SEE ARTICLE III. FOR SPECIAL REQUIREMENTS AND CONDITIONAL SPECIAL USE CRITERIA FOR SPECIFIC USES.										

(Ord. of 1-19-98, § VI; Ord. of 4-20-98; Ord. of 2-1-99(1), § 13; Ord. of 10-18-99(2), § 3; Ord. of 7-9-01; Ord. of 3-18-02(2); Ord. of 3-18-02(3); Ord. of 6-17-02; Ord. of 8-19-02(2); Ord. of 4-21-03; Ord. of 5-19-03; Ord. of 8-16-04; Amend. of 3-7-05; Amend. of 7-1-05; Amend. of 2-20-06(1); Amend. of 4-21-08; Amend. of 6-16-08; Amend. of 10-4-10; Amend. of 9-6-11; Amend. of 3-5-12; Amend. of 3-4-13; Amend. of 8-19-13; Amend. of 12-2-13; Amend. of 4-21-14; Amend. of 9-6-16; Amend. of 10-17-16; Amend. of 1-16-18; Amend. of 6-4-18; Amend. of 10-15-18; Amend. of 2-4-19; Amend. of 9-3-19)

Secs. 21-114--21-130. Reserved.

ARTICLE VI. NONCONFORMING SITUATIONS*

Sec. 21-131. Purpose and intent.

It is the intent of these provisions to regulate and limit nonconforming situations established prior to the effective date of this article, or subsequent amendments, to prescribe guidelines for their continuance which will strive to achieve the desired character of the county and preserve the integrity of this article. Any nonconforming situation may be continued, maintained, or expanded in accordance with the terms of this section. It is also the intent of this section to provide relief mechanisms which may allow the use of nonconforming lots under certain conditions.

(Ord. of 11-19-01(2))

***Editor's note:** An ordinance adopted Nov. 19, 2001, amended art. VI in its entirety, in effect repealing and reenacting said article to read as herein set out. The former art. VI, §§ 21-131--21-139, pertained to similar subject matter and derived from § VII of an ordinance adopted Jan. 19, 1998.

Sec. 21-132. General provisions.

- (a) A nonconforming situation occurs when, on the effective date of this article or subsequent amendment, an existing lot or structure or use of an existing lot or structure does not conform to one (1) or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matter as density and setback requirement) is not in conformity with this article, because signs do not meet the requirements of this article, or because land or buildings are used for purposes made unlawful by this article.
- (b) Unless otherwise specifically provided for in this article and subject to the restrictions and qualifications set forth in the remaining sections of this article, nonconforming situations that were otherwise lawful on the effective date of this article may be continued. Whenever this section refers to the effective date of this article, the reference shall be deemed to include as originally adopted, creates a nonconforming situation.

(1) Single lot of record with lot area and/or lot width nonconformity.

- a. When an undeveloped lot has an area or width which does not conform to the dimensional requirements of the district where located, but such lot was approved and lot of record at the time of adoption of this article or any subsequent amendment which renders such lot nonconforming, then such lot may be used for a use permitted in the district where located, provided that the setback dimensions and other requirements, except area or width, are complied with. Notwithstanding the above standards, setbacks for nonconforming lots of record may be reduced as provided by section 21-332 of this chapter.
- b. In the RS, RR and RA residential zones, only a single-family dwelling or a manufactured home shall be permitted on the nonconforming lot, if allowed as a permitted use in that district.

(2) Lots with contiguous frontage in one (1) ownership. When two (2) or more adjoining and vacant lots of record are in one (1) ownership and said lots individually have a lot area or lot width which does not conform to the dimensional requirements of the district where located, such lots shall be combined to create one (1) or more lots that meet the standards of the district where located prior to issuance of a zoning permit.

(3) Other standards for lot sizes. Nothing contained herein exempts the contiguous lots considered as a single buildable lot or lots from meeting the applicable provisions of the county board of health regulations or other applicable state standards.

(Ord. of 11-19-01(2); Amend. of 4-21-14)

Sec. 21-133. Continuation of nonconforming use of land.

Any nonconforming situation legally existing at the time of adoption or amendment of this article may be continued so long as it remains otherwise lawful subject to conditions provided in this section.

(Ord. of 11-19-01(2))

Sec. 21-134. Conditions for continuance for a change in nonconforming situation.

Such nonconforming use of land shall be subject to the following conditions:

- (1) No nonconforming situation shall be changed to another nonconforming situation unless such use is determined to be of equal or less intensity **through a special use permit process subject to procedures established for quasi-judicial hearings**. In determining whether a proposed nonconforming situation is of equal or less intensity, the board of commissioners shall consider the following and determine findings of fact relevant to their determination:
 - a. Probable traffic impacts of each use.
 - b. Parking requirements of each use.
 - c. Probable number of persons on the premises of each use at a time of peak demand.
 - d. Off-site impacts of each use, such as noise, glare, dust, vibration or smoke and other impacts on surrounding properties or the public health or safety.
- (2) The number of dwelling units in a nonconforming residential use shall not be increased.

Reasonable and appropriate conditions, permit duration, and revocation process identified in section 21-135 (c) shall also apply to this section.

(Ord. of 11-19-01(2))

Sec. 21-135. Extension, enlargement or replacement of a nonconforming use.

- (a) Except as provided for in subsections (b) through (g), no nonconforming use shall be extended, enlarged, or replaced.
- (b) Any single-family residential nonconforming use (which may be a manufactured home) or accessory structure associated with a residential use may be enlarged or replaced with a similar structure of the same size or of a larger size, so long as the enlargement or replacement does not create new nonconformities or project further into the required setback. Accessory structures permitted in accordance with Sec. 21-54 or as rural home occupations may only be extended, enlarged, or replaced subject to subsections (c) through (f).
- (c) Any other nonconforming use may be extended, enlarged, or replaced only upon the issuance of a special use permit, **subject to procedures established for quasi-judicial hearings**, if the county board of commissioners finds that, in completing the extension, enlargement, or replacement work:
 - (1) There is no increase in the operational area existing on the effective date of this ordinance;
 - (2) There is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking, loading and landscaping requirements; and
 - (3) There is no significant adverse impact on surrounding properties or the public health or safety including but not limited to no increase in the level of noise, dust, odor, glare or other nuisances.

In issuing a special use permit, the board of commissioners may affix other reasonable and appropriate conditions such as, but not limited to, landscaping and buffering to separate dissimilar

uses or to screen parking and loading areas. **If approved, a special use permit shall expire two (2) years from the date of issuance if the work authorized by the permit has not substantially commenced unless** ~~The board may also establish a vesting period from~~ **longer than two (2) to five (5) years is granted in accordance with** ~~subject to~~ section 21-11. **Revocations may be considered in accordance with the process identified in section 21-58 (j) and this subsection.**

- (d) A nonconforming situation may be extended throughout any portion of a completed building that, when the use therein was made nonconforming by this article, was manifestly designed or arranged to accommodate such use. However, a nonconforming situation may not be extended to additional buildings or to land outside the original building unless specifically authorized in accordance with subsection (c). In addition, the level of noise, dirt, odor, glare or other nuisance shall not increase.
- (e) 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 sand pit) may be expanded to the limits of the site plan upon which the mining permit was granted if such permit was obtained in compliance with all applicable laws and ordinances in effect at the time of approval.
- (f) The volume, intensity, or frequency of use of property where a nonconforming use exists may be increased and the equipment or processes used at a location where a nonconforming use exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind or use and no violations of other sections of this article occur.
- (g) The replacement or repair of any off-premise sign for which there is in effect a valid permit issued by NCDOT shall not be subject to the standards of this ordinance so long as the square footage of its advertising surface area is not increased as specified in G.S. 136-131.2. As used in this section, reconstruction includes the changing of an existing multi-pole sign structure to a new monopole structure.

(Ord. of 11-19-01(2); Amend. of 9-6-11; Amend. of 4-21-14)

Sec. 21-136. Repairing damaged nonconforming structures.

- (a) *Conditions for repair of damaged nonconforming uses.* Repair or rebuilding such nonconforming structures shall be subject to the following conditions:
 - (1) In the event of damage by fire or other causes to the extent less than seventy-five (75) percent of its tax value prior to such damage as determined by the county director of Building Inspections, reconstruction of a nonconforming structure shall be permitted for the same use subject to the following conditions:
 - a. There is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking, loading and landscaping requirements.
 - b. In the same manner in which it originally existed.
 - (2) In the event of damage by fire or other causes to the extent exceeding seventy-five (75) percent of its tax value prior to such damage as established by the county director of Building Inspections, reconstruction of a nonconforming structure shall be permitted provided it is constructed:
 - a. In the same manner in which it originally existed subject to compliance with the requirements of the state building code; or
 - b. Relocated in compliance with dimensional and use requirements of the district in which the unit is relocated.
 - (3) No nonconforming structure shall be moved or relocated unless it is made to comply with the dimensional and use requirements of the district in which it is relocated and with the requirements of the state building code.

(4) Off-premise signs may be repaired or replaced subject to section 21-135 (g) or this subsection.

- (b) *Preservation of safe or lawful conditions.* Nothing in this article shall prevent the strengthening or restoration to a safe or lawful condition any building declared unsafe or unlawful by the county building inspector or other duly authorized official.

(Ord. of 11-19-01(2); Amend. of 9-6-11; Amend. of 4-21-14; Amend. of 9-6-16)

Sec. 21-137. Abandonment and discontinuance.

- (a) *Nonconforming use.* A nonconforming manufactured home space, vacated for one hundred eighty (180) days, or left vacated for one hundred eighty (180) days after the effective date of this article shall only be used for a conforming use. A manufactured home space in a MHP zoning district meeting the applicable standards of section 21-283, which contain one or more non-conforming situations from section 21-60(11), left unoccupied for more than one hundred eighty (180) days shall not be considered abandoned, discontinued, or vacated unless all of the spaces within the MHP district are unoccupied for said time period. Other nonconforming uses left vacant, abandoned or discontinued for a period of three hundred sixty (360) days shall only be re-established as a conforming use.
- (b) *Determination of nonconformity.* For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on the zone lot are generally to be considered as a whole. If a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period as provided in subsection (a) shall terminate the right to maintain it thereafter.
- (c) *Existing nonconforming manufactured homes.* Existing nonconforming manufactured homes may be replaced with a newer manufactured home; however, the new manufactured home shall meet current building codes for manufactured housing as set forth by the department of housing and urban development, unless expressly provided otherwise in this article. The new manufactured home shall be as large or larger than the replaced manufactured home. If the space is left vacant for more than one hundred eighty (180) days, the space shall only be used for a conforming use. If the manufactured home is not replaced within one hundred eighty (180) days it can only be replaced with a conforming use.

(Ord. of 11-19-01(2); Amend. of 9-6-16)

Sec. 21-138. Miscellaneous nonconforming situations.

- (a) *Nonconforming situation resulting from governmental acquisition.* Any lot reduced in size by municipal, county or state condemnation or purchase of land shall obtain nonconforming lot or building status to the extent that said condemnation or purchase causes noncompliance with any provisions of this article.
- (b) *Nonconforming parking created by change of use.* Whenever a change of use that does not involve the enlargement of an existing structure is proposed for a lot on which the parking requirements of this article for the proposed new use cannot be met due to insufficient lot area, the proposed change of use shall not be regarded as an impermissible extension or enlargement of a nonconforming situation. However, the permit-issuing authority shall require that the parking requirements be satisfied to the extent possible utilizing the lot area that is available.

(Ord. of 11-19-01(2))

Sec. 21-139. Nonconforming signs.

Nonconforming signs shall be treated as any other nonconforming use.

(Ord. of 11-19-01(2))

Sec. 21-140. Projections into required setbacks.

- (a) *Projection of porches into yards.* Porches, terraces, steps and similar features with a floor level of not more than five (5) feet above the highest adjacent grade, may project eight (8) feet into the required setback but in no case shall be closer than five (5) feet to the adjacent side or rear property line or ten (10) feet to the right-of-way.
- (b) *Projection of cornices, eaves, chimneys, flues, etc.* Cornices, eaves, chimneys, flues, heating and air conditioning units and other similar features may project four (4) feet into any required yard. However, in no case shall such units be closer than five (5) feet to the adjacent property lines or rights-of-way.

(Ord. of 11-19-01(2); Amend. of 10-4-10)

Secs. 21-141--21-160. Reserved.

ARTICLE VII. PARKING

Sec. 21-161. Purpose.

This section is intended to ensure an adequate amount of properly designed parking areas to prevent traffic congestion and to minimize any detrimental effects on adjacent properties.

(Ord. of 1-19-98, § VIII)

Sec. 21-162. General design requirements.

All off-street parking areas shall meet the requirements of this article and shall be properly maintained to ensure continued compliance with this article.

(Ord. of 1-19-98, § VIII)

Sec. 21-163. Parking areas.

Parking areas shall conform to the general criteria listed below unless expressly provided otherwise in this chapter.

- (1) *Location.* Off-street parking areas shall be provided on the same zone lot as the principal use or on a nearby lot a reasonable walking distance away. Such areas shall not be located within any rights-of-way and shall be set back five (5) feet from any zone lot line.
- (2) *Safety.* All parking areas shall be designed so that emergency vehicles may safely enter, maneuver in, and exit such areas without backing onto a street or road.
- (3) *Surfacing.* Notwithstanding the other requirements of this chapter, required parking areas shall be properly graded and improved with an all-weather surface, which may be gravel.
- (4) *Lighting.* Parking areas shall be adequately lighted during business hours. Such lighting shall be designed to minimize adverse effects upon adjoining properties and rights-of-way.

(Ord. of 1-19-98, § VIII; Amend. of 9-6-11)

Sec. 21-164. Parking space requirements.

- (a) *Calculation of minimum spaces required.* The number of standard off-street parking spaces required by this section shall be determined in accordance with section 21-166. Any fraction resulting from the calculation of required parking spaces shall be rounded up to the nearest whole number.

(b) *Minimum space dimensions.*

- (1) *Standard spaces.* Each standard parking space shall be twenty (20) feet long and nine (9) feet wide. Parallel parking spaces shall be at least twenty-two (22) feet long and nine (9) feet wide.
- (2) *Handicapped spaces.* Handicapped spaces shall be as required by the North Carolina Building Code and the Americans With Disabilities Act.

(Ord. of 1-19-98, § VIII)

Sec. 21-165. Flexibility of administration.

The presumptive standards set forth in the parking requirements table cannot cover every possible use or situation, nor can the table be considered exact. Therefore, the administrator is given flexibility to administer this section as follows:

- (1) *Similar use.* Parking space requirements for a use not identified in the table shall be based on a similar, listed use.
- (2) *Other use.* In the case of unique land uses or those that have unusually high parking requirements, the landowner shall demonstrate to the administrator that sufficient off-street parking can be provided.
- (3) *Numerical standard.* Deviations from the number of spaces are permitted when the administrator determines that the requirements for a particular situation are unreasonable. The reasons for allowing the deviation or requirement shall be noted in writing by the administrator.

(Ord. of 1-19-98, § VIII)

Sec. 21-166. Table of parking requirements.

SIC	MINIMUM PARKING SPACES DU = Dwelling Unit = Employee on Largest Shift	SF = Square Feet	ELS
<i>Residential</i>			
	Single family dwelling, site built		N/A
	Single family dwelling, modular		N/A
	Manufactured home, individual lot		N/A
	Manufactured home, MHP		2 spaces / MHP space
	Duplex, individual		2 space / DU
	Duplexes, triplexes, quadruplexes, other multi-family developments		2 spaces / DU
	Home occupations		N/A
<i>Agriculture, forestry and fishing</i>			
	All uses		1 space / 400 SF + 1 space / vehicle
<i>Mining</i>			
	All uses		1 space / ELS + 1 space / vehicle
<i>Construction</i>			
	All uses		1 space / ELS + 1 space / vehicle
<i>Manufacturing</i>			
	All uses		1 space / ELS + 1 space / vehicle
<i>Transportation, communications, electric, gas and sanitary services</i>			

40	Railroad transportation	1 space / ELS + 1 space / vehicle
41	Local and suburban transit and interurban highway passenger transportation	1 space / ELS + 1 space for every 100 SF of Waiting Area
42	Motor freight transportation and warehousing	1 space / ELS + 1 space / vehicle
43	U.S. Postal Service	1 space / ELS + 1 space / 400 SF
44	Water Transportation	1 space / ELS + 1 space / 5 boat slips
45	Transportation by air	1 space / ELS + 1 space / 4 planes
46	Pipelines, except natural gas	1 space / ELS + 1 space / ELS
47	Transportation services	1 space / ELS + 1 space / ELS
48	Communications	1 space / ELS + 1 space / ELS
49	Electric, gas and sanitary services	1 space / ELS + 1 space / vehicle
Wholesale trade		
	All uses	1 space / ELS + 1 space / vehicle
Retail trade		
	All uses	1 space / ELS + 1 space / 400 SF + 1 space / vehicle
Finance, insurance and real estate		
	All uses	1 space / ELS + 1 space / 400 SF
Services		
70	Hotels, rooming houses, camps & other lodging places, <i>all except</i>	1 space / room + 1 space / ELS + 1 space / 200 SF of meeting area
7032	Sporting and recreational camps	1 space / campsite + 1 space / ELS + 1 space / 200 SF of meeting area
7011 & 7033	Cabins, Campgrounds, and RV Parks	1 space / campsite + 1 space / ELS + 1 space / 200 SF of meeting area
72	Personal services	1 space / ELS + 1 space / 400 SF
73	Business services	1 space / ELS + 1 space / 400 SF
75	Auto repair, services, and parking	1 space / service bay + 1 space / ELS
76	Miscellaneous repair services	1 space / ELS + 1 space / 400 SF
78	Motion pictures	1 space / ELS + 1 space / 4 seats
79	Amusement and recreational services, <i>all except</i>	1 space / 400 SF
7948	Racing, including track operations	1 space / 4 seats
7992	Public golf courses	10 spaces / hole

	Shooting ranges, skeet shooting & trapshooting facilities, similar	1 space / ELS + 1 space / station
	Riding stables	1 space / ELS + 1 space / 4 stables
80	Health services	1 space / 200 SF
81	Legal services	1 space / 400 SF
82	Educational services	1 space / ELS + 1 space / 400 SF
83	Social services	1 space / 400 SF
84	Museums, art galleries, and botanical and zoological gardens	
86	Membership organizations, <i>all except</i>	1 space / 400 SF
	Churches	1 space / 5 persons seating capacity
87	Engineering, accounting, res. Management and related services	1 space / 400 SF
88	Private households	N/A
89	Miscellaneous services	1 space / 400 SF
Public administration		
	All uses	1 space / ELS + 1 space / 400 SF
Unclassified		
	Adult uses	1 space / ELS + 1 space / 400 SF
	Construction and demolition landfill	1 space / ELS + 1 space/vehicle
	Event center	1 space / ELS + 1 space / 200 SF of meeting area
Note: The term 'vehicle' includes any and all vehicles used in the normal operation of the business or facility. The term 'station' includes but is not limited to any and all uses as a seat in a barber/beauty shop, or a shooting station in a shooting facility.		

(Ord. of 1-19-98, § VIII; Amend. of 3-5-12; Amend. of 4-21-14; Amend. of 10-17-16; Amend. of 9-3-19)

Secs. 21-167--21-180. Reserved.

ARTICLE VIII. SIGNS*

***Editor's note:** An ordinance adopted Dec. 3, 2001, amended art. VIII in its entirety, in effect repealing and reenacting said article to read as herein set out. The former art. VIII, §§ 21-181--21-183, pertained to similar subject matter and derived from § IX of an ordinance adopted Jan. 19, 1998.

Sec. 21-181. Applicability.

All on premises signs of any size and off-premises signs one hundred (100) square feet and smaller, are exempt from the regulations in this article, unless expressly provided otherwise.

(Ord. of 12-3-01; Amend. of 10-4-10; Amend. of 4-21-14)

Sec. 21-182. Lighting of signs.

No signs may have lighting which:

- (1) Causes glare to shine on adjacent residentially developed property.
- (2) Obstruct views, imitate traffic lights or otherwise confuse or potentially endanger motorists.

(Ord. of 12-3-01)

Sec. 21-183. Off-premises signs.

Off-premises signs, larger than one hundred (100) square feet, are only allowed as **conditional special** uses on the CBI and IND zoning districts. In addition to general evaluation criteria provided for all **conditional special** uses specific criteria are provided in section 21-60(13).

(Ord. of 12-3-01; Amend. of 1-22-13)

Sec. 21-184. Reserved.

(Amend. of 8-20-07; Amend. of 9-6-16)

Secs. 21-185--21-210. Reserved.

ARTICLE IX. SCREENING AND BUFFERING

Sec. 21-211. Purpose.

Certain land uses, because of their character and intensity, may create an adverse impact when developed adjacent to other less intensive land uses. The general purpose of this article is to establish guidelines to preserve the value and appearance of property in the county and to recognize that the transition between certain uses requires attention to protect less intensive land uses. The goal is to identify land use relationships that may be incompatible and to specify an appropriate buffer or screen in order to minimize adverse impacts.

(Ord. of 1-19-98, § X)

Sec. 21-212. Applicability.

The buffering and screening shall be adequate to meet the intent of section 21-211, but shall not exceed one hundred twenty-five (125) percent of the length of the development activity required to install the buffer and screening, unless required on a site plan approved by the board of commissioners. The requirements of this article shall apply to the side and rear yard of the operational area except driveways, sediment ponds, and detention areas unless otherwise indicated herein.

(Ord. of 1-19-98, § X; Amend. of 9-6-11; Amend. of 9-3-19)

Sec. 21-213. Buffer requirements.

(a) *Generally.* Buffers shall be required in accordance with the table in section 21-216 when any use is being developed abutting an existing developed lot, however less intensive uses locating next to more intensive uses shall not be required to comply with the screening portion of the requirements of this article. Where a conflict exists between the buffer requirements for a use and setback requirements for a zoning district, the use requirements shall control. The required buffer may not be used for loading, storage, or similar operational area needs that are either part of or accessory to the proposed use unless otherwise indicated herein.

(b) *Modification of buffer requirements.* Buffer requirements may be modified in accordance with the

provisions of section 21-217.

- (c) *Responsibility for requirements.* One hundred (100) percent of the applicable buffer requirements shall be the responsibility of the developing land use, unless expressly provided otherwise.
 - (d) *Standards for trees and shrubs.* Required trees and shrubs shall meet the following standards:
 - (1) All required large maturing trees shall have a minimum caliper of one and one-half (1 1/2) inches measured six (6) inches above the proper planting level;
 - (2) Shrubs shall be one (1) foot tall or taller when planted; and
 - (3) All specifications for the measurement, quality, and installation of trees and shrubs shall be in accordance with the American Standards for Nursery Stock published by the American Association of Nurserymen, free of disease, and in otherwise sound and healthy condition.
 - (e) *Modification of planting types.* If it is demonstrated that existing vegetation meets the intent of this section, the zoning administrator may waive the requirements for the plant material.
 - (f) *Maintenance of buffer.* The owner of the property where the buffer or screening is shall be responsible for maintaining the buffer and all required plantings in good condition.
 - (g) *Buffering of expanded uses.* Expansion of a use existing prior to the effective date of this chapter shall require the expanded portion of the facility to come into conformance with these requirements.
 - (h) *Watershed buffer areas required.* A minimum 30-foot vegetative buffer for low density and 100-foot buffer for high density and SNIA development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps.
 - (i) *Development in required watershed overlay buffer areas.* Development in the buffer area shall be limited to the following exceptions in conjunction with minimizing built-upon surface area, directing runoff away from surface waters and maximizing the utilization of stormwater best management practices:
 - (1) Artificial streambank or shoreline stabilization;
 - (2) Water dependent structures such as piers, docks, etc.;
 - (3) Other structures such as flag poles, signs, and security lights which result in only minimal increases in impervious area;
 - (4) Public projects such as road crossings and greenways where no practical alternative exists.
- (Ord. of 1-19-98, § X; Ord. of 4-20-98; Amend. of 11-2-09; Amend. of 9-6-11; Amend. of 4-21-14; Amend. of 8-19-19)

Sec. 21-214. Letter of compliance.

When it is impractical to plant required screening during optimal planting seasons, the owner of the property upon which the required screening is to be located may submit a letter of compliance to the zoning administrator. The letter will acknowledge that the owner of the subject property is aware of the applicable screening and buffering requirements and will meet these requirements within a specific date, but in no case more than one (1) year. Failure to comply with the provisions of this article by the time stated in the letter of compliance shall constitute a violation of the zoning ordinance.

(Ord. of 1-19-98, § X)

Sec. 21-215. Required screening type.

Screening shall be required along the side and rear property boundaries of the zoning lot.

(1) *Type A.*

- a. Buffer: Twenty (20) feet.
- b. Screening shall be one (1) of the following:
 1. A row of evergreen conifers or broadleaf evergreens placed not more than five (5) feet apart which would grow to form a continuous hedge of at least six (6) feet in height within two (2) years of planting; or
 2. A masonry wall located within the required buffer; such wall shall be a minimum height of six (6) feet (above finished grade;) and, if a block wall, it shall be painted on all sides; or an opaque fence six (6) feet in height; or
 3. A berm and planting combination, with the berm an average height of three (3) feet and dense plantings which will, when combined with the berm, achieve a minimum height of six (6) feet and seventy-five (75) percent opacity within two (2) years.
 4. Lawn, low-growing evergreen shrubs, evergreen ground cover, or rock mulch covering the balance of the buffer.

(2) *Type B.*

- a. Buffer: Eighty (80) feet.
- b. Screening shall consist of:
 1. A row of trees composed of a mixture of deciduous and evergreen species; forty (40) percent of which shall be large maturing trees. All species used shall be between four (4) and six (6) feet tall at the time of planting and in combination with 2 and 3 of this subsection, creates a visual separation. The design shall be submitted for review and installed by a certified member of the NC Landscape Contractors Licensing Board.
 2. An opaque fence located within the required buffer; such fence shall be a minimum height of six (6) feet; and
 3. Lawn, low-growing evergreen shrubs or broadleaf evergreens, evergreen ground cover, or rock mulch covering the balance of the buffer.

(Ord. of 1-19-98, § X)

Sec. 21-216. Screening and buffering.

- (a) *Land use relationships.* The following land use relationships, **based on the SIC Manual referenced in section 21-112**, shall be used to determine required screening and buffering as provided in section 21-215.

Screening and Buffering

	Group1	Group 2	Group 3	Group 4
Group 1	None	Type A	Type A	Type B
Group 2	Type A	None	Type A	Type B
Group 3	Type A	Type A	None	None
Group 4	Type B	Type B	None	None

(b) *Group 1 (Least intensive):*

- (1) Single-family dwellings.
- (2) Modular homes.

- (3) Manufactured housing on individual lots.
- (4) Duplexes on individual lots.
- (c) *Group 2:*
 - (1) Manufactured home parks.
 - (2) Institutional uses (~~SIC~~ 80, 82, 83, 86 and public administration group [Division JJ]).
 - (3) Multi-family development.
 - (4) Residential clustering.
- (d) *Group 3:*
 - (1) Veterinary services (074).
 - (2) ~~Farm supplies~~ **Livestock Services (0751); and Animal specialty services, except veterinary (0752) all except boarding horses and training horses, except racing).**
 - (3) Lawn and garden services (0782)**
 - (4) Ornamental shrub and tree services (0783)**
 - (5) Common sand mining (1442)**
 - ~~(3)~~ **(6)** Building construction, general contractors (15).
 - ~~(4)~~ **(7)** Heavy construction other than building contractors (16).
 - ~~(5)~~ **(8)** Construction special trades (17).
 - ~~(6)~~ **(9)** Food and kindred products (20).
 - ~~(7)~~ **(10)** Tobacco products (21).
 - ~~(8)~~ **(11)** Textile mill products (22).
 - ~~(9)~~ **(12)** Apparel (23).
 - ~~(10)~~ **(13)** Lumber and wood products (24) except logging and sawmills **and planning mills.**
 - ~~(11)~~ **(14)** Furniture and fixtures (25).
 - ~~(12)~~ **(15)** Paper and allied products (26) except pulp and paper mills.
 - ~~(13)~~ **(16)** Printing, publishing and allied industries (27).
 - ~~(14)~~ **(17)** Drugs (283)
 - ~~(15)~~ **(18)** Soap, detergents, and cleaning preparations; perfumes, cosmetics, and other toilet preparations (284)
 - ~~(16)~~ **(19)** Rubber and miscellaneous products (30).
 - ~~(17)~~ **(20)** Leather and leather products (31) except leather tanning and finishing.
 - ~~(18)~~ **(21)** Stone, clay, glass and concrete products (32) except hydraulic cement, structural clay products, concrete, gypsum and plaster products, **abrasives, asbestos, non metallic mineral products.**
 - ~~(19)~~ **(22)** ~~Abrasives, asbestos, nonmetallic mineral products, fabricated~~ **Fabricated** metal products (34) except ammunition, except for small arms; ordnance and accessories.
 - ~~(20)~~ **(23)** Industrial and computer machinery and equipment (35).

~~(21)~~ **(24)** Electronic and other electrical equipment (36).

~~(22)~~ **(25)** Transportation equipment (37).

~~(23)~~ **(26)** Measuring, analyzing and controlling instruments (38).

~~(24)~~ **(27)** Miscellaneous manufacturing (39).

~~(25)~~ **(28)** Transportation, **communications, electric, gas and sanitary services** and utilities (Division F E), all except **automobile dead storage, sanitary services, sewerage systems, electric and water distribution lines, gas pipelines, water supply, permitted** refuse systems, **dumps, sanitary land fills, rubbish collection and disposal**, and Non-Residential solar energy systems.

~~(26)~~ **(29)** Wholesale trade (50 and 51) all except motor vehicle parts, used (**outdoor**); brick, stone, and related construction materials, metal and minerals, except petroleum, scrap and waste materials, livestock (wholesale); chemical and allied products, petroleum and petroleum products.

~~(27)~~ **(30)** All retail trade (Division G).

~~(28)~~ **(31)** All finance, insurance, and real estate (Division H).

~~(29)~~ **(32)** All services (Division I), except **crematories, racetrack operations, including speedways, go-kart tracks, and dragstrips, outdoor** shooting ranges, **outdoor archery ranges**, skeet shooting facilities, trap shooting facilities, **gun clubs, shooting clubs**, and institutional uses listed in Group 2.

(33) Adult uses.

(34) Event center.

(e) *Group 4 (most intensive):*

(1) ~~Metal mining (10)~~ **All mining (Division B), except common sand mining (1442).**

(2) ~~Mining and quarrying of non-metallic minerals (14)~~ **Reserved.**

(3) Sawmills **and planing mills** (242).

(4) Pulp mills (261).

(5) Paper mills (262).

(6) Chemicals and allied products (28) all except Drugs (283) and Soap, detergents, and cleaning preparations; perfumes, cosmetics, and other toilet preparations (284).

(7) Petroleum refining and related products (29).

(8) Leather tanning and finishing (311**1**).

(9) Hydraulic cement (324).

(10) Structural clay products (325).

(11) Concrete, gypsum and plaster products (327).

(12) Abrasives, asbestos, non-metallic mineral products (329).

(13) Primary metal industries (33).

(14) Ammunition, except for small arms (3483).

(15) Ordnance and accessories (3489).

(16) **Automobile dead storage (4226).**

~~(18)~~ **(17)** Utility Scale solar energy systems **(491 pt.)**

~~(16)~~ **(18)** Permitted refuse systems (4953).

~~(17)~~ **(19) Wholesale trade (50 and 51) in the following categories: motor** ~~Motor~~ vehicle parts, used **(outdoor)**; brick, stone, and related construction materials, metal and minerals, except petroleum, scrap and waste materials, livestock (wholesale); chemical and allied products, petroleum and petroleum products.

(20) Crematories (7261).

(21) Racetrack operations, including speedways, go-kart tracks, and dragstrips (7948).

(22) Construction and demolition landfill.

(Ord. of 1-19-98, § X; Ord. of 4-21-03; Amend. of 11-2-09; Amend. of 3-4-13; Amend. of 7-13-20)

Sec. 21-217. Alternative buffers and screening.

In lieu of compliance with the above buffer and screening requirement, an applicant may submit to the zoning administrator for ~~his~~ **their** review and approval a detailed plan and specifications for landscaping and screening. The zoning administrator may approve the alternative buffering and screening, in writing, upon finding that the proposal will afford a degree of buffering and screening, in terms of height, opacity and separation, equivalent to or exceeding that provided by the above requirements.

(Ord. of 1-19-98, § X)

Sec. 21-218. Existing vegetation.

The retention of existing vegetation shall be maximized to the extent practical, wherever such vegetation contributes to required buffering and screening or to the preservation of significant trees.

(Ord. of 1-19-98, § X)

Sec. 21-219. Applicability of screening and buffering requirements.

Unless otherwise specified, the requirements of this article shall not apply to Permitted and Special Requirements designations in the Table of Uses when an existing adjacent principal or accessory structure and the proposed structure or operational area requiring provision of screening and buffering are separated by a distance of two hundred (200) feet or more. The distance shall be measured from the closest point of each structure.

(Ord. of 1-19-98, § X; Ord. of 6-29-99; Amend. of 9-6-11).

Secs. 21-220--21-240. Reserved.

ARTICLE X. NUISANCES

Sec. 21-241. Noise.

- (a) *Intent.* The intent of this section is to recognize the right of mining operations and manufacturing industries to maintain operations of current facilities during typical first and second shift hours, while promoting an environment free from noise that jeopardizes the aesthetic quality of life for the general public.
- (b) *Applicability.* Regardless of zoning district, all existing uses in the mining and manufacturing division of the Standard Industrial Classification (SIC) and those seeking ~~conditional~~ **special** use approval in the transportation, communications, electric, gas, sanitary services, ~~and~~ **Services, and unclassified** divisions of section 21-113, the table of uses, shall be subject to the decibel based

standards of this section.

- (c) *Sound level measurement.* The sound level meter used in the enforcement of this section shall be comply with ANSI S1.4-1983 requirements or the latest approved version thereof, with calibration and measurement procedures as specified in the "Technical Documentation Manual for the 2237 Controller, Integrating Sound Level Meter" using the A-weighting scale set on slow response for a preset period of eight (8) minutes.
- (d) *Maximum permitted sound levels.* The maximum permitted sound levels for the uses prescribed in subsection (b), shall be obtained at the apparent property line of the noise producer/source and not be in excess of the following decibels during the given time periods:
 - (1) 7:00 a.m.--11:00 p.m. not to exceed seventy (70) decibels.
 - (2) 11:00 p.m.--7:00 a.m. not to exceed sixty-five (65) decibels.

(Ord. of 1-19-98, § XI; Ord. of 5-21-01(1))

Sec. 21-242. Fumes and odors.

No use shall emit fumes, gasses, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities on another property.

(Ord. of 1-19-98, § XI)

Sec. 21-243. Vibration.

No use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line which create a nuisance to any person of ordinary sensitivities on another property.

(Ord. of 1-19-98, § XI)

Sec. 21-244. Junked motor vehicles.

Unless otherwise provided, junked motor vehicles in the RA, RR, and RS districts on private property not associated with a business, shall conform to the following requirements as of the effective date of this chapter.

- (1) *General requirements.*
 - a. The junked motor vehicles shall not be stored or located within thirty (30) feet of any adjoining property line or side street right-of-way; within eighty (80) feet of a centerline of a public road or private road of fifty (50) feet from the edge of the rights-of-way existing on February 16, 1998, whichever is greater.
 - b. The junked motor vehicles are not a health or safety nuisance as defined in section 21-4. No motor vehicle parts are visible from adjoining properties, nor shall the area constitute a health or safety nuisance as defined in section 21-4.
 - c. The junked motor vehicles shall be entirely concealed during all seasons of the year from public view from a public street and from adjoining properties. The vehicles may be concealed by an automobile cover or tarpaulin, with the covering adequately secured to prevent removal by wind. The automobile cover or tarpaulin must remain in good repair and not be allowed to deteriorate.
 - d. The junked motor vehicles shall not be in the front yard of the primary building of the lot.

- e. Only five (5) junked motor vehicles shall be permitted outside any enclosed building unless otherwise specified by this chapter.
- (2) *Exceptions for junked motor vehicles.*
 - a. In addition to the five (5) junked motor vehicles allowed outside any enclosed building in subsection (1)e, five (5) additional classic motor vehicles which meet the definition of a junked motor vehicle, shall be allowed in the RA district. Storage of these vehicles shall meet all other requirements of this chapter.
 - b. The repair of no more than one (1) motor vehicle per household for personal use is exempt from the location, screening, concealment and setback requirements of this chapter. The vehicle shall not constitute a health or safety nuisance as defined in section 21-4.

(Ord. of 1-19-98, § XI; Amend. of 11-2-09)

Sec. 21-245. Standards for junked motor vehicles stored at nonconforming automobile repair facilities.

Automobile repair facilities may store no more than ten (10) junked vehicles outside an automobile salvage yard or enclosed building unless otherwise specified by this chapter. The junked motor vehicle shall comply with the requirements below on February 16, 1998.

- (1) The junked motor vehicles and motor vehicle parts shall be screened from adjacent property by a six-foot high opaque screening. Vegetative screening, if used, shall be opaque during all seasons of the year and planted and maintained in accordance with article IX;
- (2) The junked motor vehicles shall not be stored in the front yard of the property or in the required front yard setback;
- (3) The junked motor vehicles shall be a minimum of fifteen (15) feet off the side and rear property line or side street right-of-way and a minimum of twenty (20) feet off the right-of-way existing at the effective date of this chapter or fifty (50) feet off the centerline of the road if the right-of-way is not established; and
- (4) The junked motor vehicles shall not be stacked higher than the screening.

(Ord. of 1-19-98, § XI)

Sec. 21-246. Standards for automobile salvage yards.

- (a) The standards in this section shall apply to automobile salvage yards created after November 27, 1995, in accordance with the provisions of the "Ordinance to Regulate Automobile Salvage yards as Junked or Abandoned Motor Vehicles" (hereafter referred to as the salvage yard ordinance) and prior to February 16, 1998.
- (b) New automobile salvage yards and expansions of existing salvage yards approved under the provisions of the salvage yard ordinance shall comply with the following provisions:
 - (1) Shall be subject to any conditions of approval placed on the application by the board of commissioners;
 - (2) Shall be located a minimum of one hundred thirty (130) feet of any centerline or one hundred (100) feet from the edge of the right-of-way of any public or private road whichever is greater;

- (3) Shall be located a minimum of one thousand (1,000) feet from a school, residence, church or place of public assembly existing at the date of submittal of a complete application. The one-thousand-foot required separation shall be measured from the closest point of the operational area of the automobile salvage yard. This prohibition shall not apply to the residence of the owner of the junkyard or automobile graveyard;
- (4) Shall be entirely surrounded by an opaque screening at least six (6) feet high. Such screening shall surround the minimum area necessary for the automobile salvage yard to be maintained at its proposed size and that will also allow for a reasonable amount of maneuverability within;
- (5) All operations, equipment, junk and/or inoperable motor vehicles shall be kept within the confines of the fence at all times unless in motion by transportation to and from the site;
- (6) A setback shall be provided so that all equipment, junk and/or inoperable motor vehicles shall not be stored or located within fifty (50) feet of any adjoining property lot line;
- (7) A six-foot high fence designed to reasonably secure the area from unauthorized entry shall surround the entire operational area; and
- (8) Cars shall not be stacked higher than the fence.

(Ord. of 1-19-98, § XI)

Sec. 21-247. Nonconforming salvage yards existing on February 16, 1998.

Automobile salvage yards or automotive repair facilities existing on February 16, 1998, registered in accordance with the county automobile salvage yard and junked motor vehicle ordinance, shall conform to the standards of subsection (1) or (2) below:

(1) *Standards without a fence.*

- a. The automobile salvage yard or automotive repair facility shall be screened from view from adjacent developed lots and the road during all seasons of the year; and
- b. The screen shall be a minimum of six (6) feet in height; and
- c. A setback of fifteen (15) feet shall be provided on all side and rear property lines; and
- d. A setback of eighty (80) feet from the road centerline or fifty (50) feet from the edge of the right-of-way existing at the effective date of the ordinance of any public or private road shall be provided, whichever is greater; and
- e. The operational area existing on February 16, 1998, shall not be expanded, except in conformance with the provisions of this chapter; and
- f. Storage of motor vehicles or motor vehicle parts is not allowed in the setback; and
- g. Junked motor vehicles shall not be stacked higher than the required screening.

(2) *Standards with an opaque fence.*

- a. The automobile salvage yard or automotive repair facility shall be screened from view from adjacent developed lots and the road during all seasons of the year; and
- b. The automobile salvage yard or automotive repair facility shall be separated from adjacent lots by a fence a minimum of six (6) feet in height; and
- c. A setback of five (5) feet shall be provided on all side and rear property lines; and
- d. A setback of thirty-five (35) feet from the road centerline or five (5) feet from the edge of the right-of-way existing at the effective date of the ordinance of any public or private road shall be

provided, whichever is greater; and

- e. The operational area existing on February 16, 1998, shall not be expanded, except in conformance with the provisions of this chapter. Storage of motor vehicles or motor vehicle parts is not allowed in the setback; and
- f. Junked motor vehicles shall not be stacked higher than the required screening.

(Ord. of 1-19-98, § XI; Amend. of 3-7-05)

Sec. 21-248. Removal of junked or abandoned vehicles.

The county may require the removal of junked or abandoned motor vehicles from public grounds, including but not limited to public or private road rights-of-way or private property upon a finding that such removal is necessary and desirable to promote or enhance community, neighborhood, or area appearance or to abate public health or safety nuisances.

(Ord. of 1-19-98, § XI)

Sec. 21-249. Order to remove, disposal by county.

Removal and disposal of vehicles as provided by this article shall be in accordance with G.S. Ch. 20, Art. 7A, as amended.

(Ord. of 1-19-98, § XI)

Secs. 21-250--21-270. Reserved.

ARTICLE XI. GENERAL DEVELOPMENT STANDARDS, EXCEPTIONS AND MODIFICATIONS

Sec. 21-271. Generally.

- (a) The types of development approval governed by this article include uses permitted as of right, uses permitted with special requirements, and ~~conditional~~ **special** uses.
- (b) Uses permitted as of right and uses permitted with special requirements shall require a zoning permit, a building permit and a certificate of occupancy.
- (c) In addition to the requirements listed in subsection (b) above, special uses and ~~conditional~~ **special** uses shall require approval as described in article III.
- (d) Variances from these regulations, appeals of administrative decisions rendered under this chapter, shall be governed by article XIII.
- (e) Amendments to the text of this chapter and to the zoning maps, including the reclassification of property to a conditional zoning district shall be governed by article XIV.

(Ord. of 1-19-98, § XII; Amend. of 9-6-16)

Sec. 21-272. Issuance of building permits.

It is illegal for any person to begin construction, reconstruction, or to make any structural repairs, alterations, or additions to any structure without obtaining required building permits from the Building Inspections Department. The Director of Building Inspections will not issue a building permit for structures located within the zoning jurisdiction of the county unless the plans, specifications, and intended use of the structure conforms to the requirements of these regulations. The application for a building permit shall be

accompanied by a zoning permit or other evidence of compliance with this chapter.

(Ord. of 1-19-98, § XII; Amend. of 10-4-10; Amend. of 9-6-16)

Sec. 21-273. Type and number of uses permitted in all zones.

The number of uses per zone lot shall be governed as follows:

- (1) *Multiple uses per zone lot.* In all districts, combination uses may be placed on the same zone lots, however, the applicable requirements of subsections (2) and (3) below must be met. This includes subsequent permitted development on property that may have received approval of a conditional special use permit, not including conditional districts, unless otherwise indicated.
- (2) *Secondary dwelling units.* Detached secondary units excluding two or more manufactured homes are permitted provided the entire zone lot contains adequate area to meet the zone lot size requirements for each dwelling and all other requirements of this section are met.
- (3) *Subdivision requirements.* Issuance of a zoning permit for multiple single-family dwellings or duplexes in a zoning district where multifamily development is not a permitted use on an individual lot shall meet the minimum requirements of a minor subdivision to allow the parcel to be subdivided into conforming individual lots for each dwelling, while not requiring an approved and recorded subdivision plat.

(Ord. of 1-19-98, § XII; Ord. of 10-18-99(2); Amend. of 3-7-05; Amend. of 10-4-10; Amend. of 3-5-12; Amend. of 4-21-14; Amend. of 9-6-16)

Sec. 21-274. Visibility at intersections.

Nothing may be erected, placed, planted or allowed to grow in such a manner as to materially impede vision at intersections. The area required to be kept free is known as the sight-distance triangle. The sight-distance triangle must be kept free between a height of two and one-half (2 1/2) and ten (10) feet above the centerline grades of the intersecting streets. All roads proposed to be publicly maintained shall comply with applicable NCDOT regulations.

(Ord. of 1-19-98, § XII)

Sec. 21-275. Antennae.

Antennae for private, non-commercial use are subject to the same placement requirements as accessory uses within each zoning district as provided by this chapter. However, when placement based on accessory setback requirements precludes development of a viable reception window, the zoning administrator may authorize placement otherwise if warranted by significantly improved reception.

Antennae and their associated supporting towers subject to the placement criteria in this section only, include: radio and television reception, private citizen's bands, amateur (HAM) radio and any others determined as similar by the Zoning Administrator on a case-by-case basis.

(Ord. of 1-19-98, § XII; Amend. of 12-2-13)

Sec. 21-276. Skirting of manufactured homes.

- (a) *Generally.* All manufactured housing for which building permits are obtained after the effective date of this chapter shall be skirted. Manufactured homes requiring brick or finished masonry skirting as provided in subsection (c) below, issued building permits within one (1) year of the effective date of this chapter, shall complete the required masonry skirting within ninety (90) days of issuance of the certificate of occupancy by the building inspections department. Manufactured homes requiring brick

or finished masonry underpinning, issued a building permit more than one (1) year after the effective date of this chapter shall complete the required underpinning prior to issuance of a certificate of occupancy. All skirting required by subsection (b) below shall be completed prior to issuance of a certificate of occupancy.

(b) *Skirting of manufactured homes in the MHP district or a family manufactured home park.*

- (1) Skirting shall be of material acceptable for exterior construction that will not support combustion.
- (2) Skirting material shall be durable and suitable for exterior exposures.
- (3) Any wood framing used to support this skirting shall be approved moisture resistant treated wood.
- (4) Skirting shall be continuous and unpierced except for ventilation.
- (5) Skirting manufactured specifically for underpinning shall be installed in accordance with the manufacturer's specifications.
- (6) Notwithstanding other provisions of this section, manufactured homes in a MHP district may install masonry skirting as provided in this section.

(c) *Skirting of manufactured homes outside the MHP district or a family manufactured home park.*

- (1) Skirting shall consist of brick or finished masonry.
- (2) Skirting shall be continuous and unpierced except for ventilation.
- (3) Regular unfinished block may not be used for required skirting. However, split-face block may be used.

(Ord. of 1-19-98, § XII; Ord. of 4-20-98; Amend. of 4-21-14)

Sec. 21-277. Exceptions and modifications.

(a) *Minor structures and improvements.* Except where otherwise expressly addressed, the following minor, accessory structures and improvements on individual lots or parcels are not intended to be regulated by this chapter:

- (1) Flagpoles and mailboxes;
- (2) Landscaping features such as fences, trees and shrubs, terraces, gazebos, and similar items;
- (3) Piers, wharves, and bulkheads;
- (4) Recreational improvements such as swing sets and playgrounds;
- (5) Wells and pumphouses.

(b) *Utilities.* Except where otherwise expressly addressed, the following utility structures and facilities are not intended to be regulated by this chapter:

- (1) Utility lines, pipes, cables, & associated minor equipment & structures, including transformers, pumping stations, "signal boosters", & maintenance buildings;
- (2) Electronics cabinets for telephone switching and similar devices used by public service providers;
- (3) Water towers or tanks;
- (4) Water systems or sewage disposal systems as an exclusive accessory use for a development project; and
- (5) LCID operations (SIC 4953 pt). LCID landfills consistent with the specific standards of this subsection are not regulated by this Chapter, but shall nonetheless adhere to applicable NCDEQ standards:

1. Landfills with a disposal area of .50 acre or less on an individual parcel; or
 2. Beneficial fill used to improve the property's land use potential where no excavation of soil is proposed or has occurred within the area receiving fill.
- (c) *Exceptions to front setback requirements for dwellings.* Setback requirements for dwellings may be modified when the setbacks of contiguous existing buildings are less than required. These decreased setbacks are determined by computing the average setback on adjacent lots one hundred (100) feet on either side of the lot of the proposed dwelling. The modified setback may be equivalent to the average setback or ten (10) feet from the rights-of-way line, whichever is greater.
- (d) *Antennae for private or public safety use.* Antennae for private use or for use by "police protection" or "fire protection" are exempt from the requirements contained in Sections 21-56 (6)(d)(e) and (f). Private, non-commercial antennae exempted under this provision include: residential radio and television, private citizen's bands, amateur (HAM) radio and any others determined as similar by the Zoning Administrator on a case-by-case basis.

(Ord. of 1-19-98, § XII; Ord. of 2-1-99(1); Amend. of 3-4-13; Amend. of 12-2-13; Amend. of 9-6-16)

Sec. 21-278. Skirting in existing manufactured home parks.

All manufactured homes in manufactured home parks shall be skirted as provided in subsection 21-276(b) of this article within two (2) years of February 16, 1998.

(Ord. of 1-19-98, § XII)

Sec. 21-279. Exceptions for certain turkey shoots.

Turkey shoots operated by churches, civic group or similar nonprofit organizations are exempt from the ~~conditional~~ **special** use requirements of section 21-60 ~~(7)~~**(8)**(a) and 21-113, Table of uses.

(Ord. of 1-19-98, § XII; Amend. of 9-3-19)

Sec. 21-280. Construction trailers.

Construction trailers may be used in conjunction with construction projects provided:

- (1) The trailers are located on a building site where there is a valid building permit for a project on that site.
- (2) The trailer remains on the site for the duration of the building project.

(Ord. of 1-19-98, § XII)

Sec. 21-281. Temporary uses.

Temporary uses are allowed subject to the following requirements:

- (1) Certain uses of a temporary nature, defined as being less than forty-five (45) days in duration and held no more than five (5) times a year, including, otherwise not permitted in a particular district:
 - a. Christmas tree sales;
 - b. Religious activities;

- c. Activities by civic organizations;
 - d. Yard sales;
 - e. Other similar uses.
- (2) Other temporary uses not listed may be granted by the board of commissioners. In considering approval of a temporary use the board may attach reasonable and appropriate conditions to ensure that the public health, safety and welfare are protected. The approval of a temporary use shall be in accordance with the following:
- a. The proposed use will not endanger the public health, safety and welfare;
 - b. The proposed use will not have a substantial negative impact on the adjoining properties;
 - c. The use will be approved for a specific period of time, not to exceed two (2) years unless deemed necessary by the Board of Commissioners in accordance with Sec. 21-11. Extension of the temporary use beyond the approved time shall require approval of the board of commissioners in the same manner as the original.
- (3) Type I, II, and III manufactured homes with skirting as provided by section 21-276 may be approved for certain temporary use by the zoning administrator, contingent on a documented need. Temporary uses may be approved for:
- a. A temporary residence during construction of a dwelling. Documentation shall be provided that the construction of the dwelling will commence and be completed within a reasonable time. In no situation shall this temporary use be granted for more than twenty-four (24) months.
 - b. As a temporary residence for a medical hardship. This use shall be allowed for the duration of the medical hardship.
- When the situation resulting in the temporary use no longer is needed, or the time period allowed expires, the subject manufactured home shall be removed or made a conforming use.
- (4) Temporary family health care structures, as defined by this ordinance, may be permitted as an accessory use in accordance with section 21-113 subject to the following standards:
- a. The structure must be used by a caregiver or a named legal guardian in providing care for a mentally or physically impaired person on property containing the caregiver or legal guardian's residence or on property owned by the caregiver;
 - b. Subject to principal structure setbacks listed in section 21-84;
 - c. Only one temporary family health care structure shall be allowed on a lot or parcel of land and may not contain a permanent foundation;
 - d. Application for a temporary family health care structure must include a doctor's certification identifying the mentally or physically impaired person's need. Subsequent annual certifications are necessary to maintain the structure's status as a qualified temporary family health care structure; and
 - e. The temporary health care structure shall be removed within sixty (60) days of the mentally or physically impaired person no longer receiving or is no longer in need of the assistance provided for in this section.

(Ord. of 1-19-98, § XII; Ord. of 2-1-99(1); Amend. of 3-7-05; Amend. of 9-6-11; Amend. of 4-21-14; Amend. of 9-6-16)

Sec. 21-282. Reserved.

Editor's note: Section 21-282 was automatically repealed 18 months from April 20, 1998. Said section

has been deleted at the direction of the county.

Sec. 21-283. Maintenance of manufactured home parks.

Manufactured home park districts, as defined by this chapter, shall be maintained in a neat and orderly manner. This shall include but not be limited to maintenance of adequate roads and drainageways, yards, trees and shrubs. Specific standards are as provided below.

Manufactured home parks shall comply with the following criteria. Separate standards are established for manufactured home parks registered under the county manufactured home park ordinance as existing or otherwise zoned MHP in the initial adoption of county-wide zoning, manufactured home parks created or expanded under the county manufactured home park ordinance between December 15, 1989, and February 15, 1998, and manufactured home parks created or expansions of manufactured home parks as provided in this chapter. The following subsections prescribe manufactured home park standards for which compliance is required and the time allowed to come into compliance with a specific requirement. Time allowed to come into compliance with specific items varies and is provided with each requirement. A park will be in violation of this chapter if the individual specifications are not met within the required time. In addition to enforcement procedures provided otherwise in this chapter, zoning permits will not be issued for manufactured home parks in violation of this section. All manufactured home parks will be inspected biannually to determine compliance with these standards.

- (1) Manufactured home parks existing prior to the adoption of the county manufactured park ordinance adopted on December 15, 1989, or which were otherwise zoned as manufactured home parks are subject to the following standards:
 - a. *Internal streets.* Internal streets must maintained in good condition either hard surfaced or graveled. Repairs are required to be of the same material as the existing internal street. If the street is gravel then all repairs shall be a minimum of six (6) inches of compacted gravel. If the street is paved the repair shall be a minimum of four (4) inches of compacted stone as base and paved. (Compliance required within one (1) year.) Roads shall be free of potholes, rough surfaces and ponding of water. (Compliance required within six (6) months.)
 - b. *Parking.* Each manufactured home space shall have a minimum four hundred (400) square feet of graveled or paved parking. On-street parking is allowed. (Compliance required within six (6) months.)
 - c. *Grounds.* Grounds shall be kept free of obnoxious weeds, trash litter or debris. This shall include but not be limited to appliances and furniture not designed for outdoor use. (Compliance required within six (6) months.)
 - d. *Drainage.* Property is required to have adequate drainage facilities which will keep their premises free from standing water and permit the natural flow of water across and off the site. Internal streets are to be equipped with adequate drainage. (Compliance required within one (1) year.)
 - e. *Trash disposal.* The owner of the park shall provide one (1) of the following methods:
 1. Provision of centralized trash dumpsters; or
 2. Provision of individual covered trash containers, picked up at least once a week. (Compliance required within six (6) months.)
 - f. *Street signs and addressing.* Park name and address sign shall be provided at the main entrance, which shall be clearly visible from the publicly maintained road. All numbering shall comply with the county addressing ordinance. (Compliance required within six (6) months.)
- (2) Manufactured home parks created or expansions of manufactured home parks approved as provided by the county manufactured park ordinance between December 15, 1989, and February

15, 1998, are subject to the following standards:

- a. *Internal streets.* Internal streets shall be kept free of potholes, rough surfaces and ponding of water and are required to be maintained to one (1) of the following standards:

- 1. The internal street must be an eighteen-foot wide gravel road with six-inch base; or
- 2. Sixteen-foot wide paved road, four-inch base.

(Compliance required within thirty (30) days.)

- b. *Grounds.* Grounds shall be kept free of obnoxious weeds, trash litter or debris. This shall include but not be limited to appliances and furniture not designed for outdoor use. (Compliance required within thirty (30) days.)

- c. *Drainage.* Property is required to have adequate drainage facilities which will keep their premises free from standing water and permit the natural flow of water across and off the site. Internal streets are to be equipped with adequate drainage. (Compliance required within thirty (30) days.)

- d. *Trash disposal.* The owner of the park shall provide one (1) of the following methods:

- 1. Provision of centralized trash dumpsters; or
- 2. Provision of individual covered trash containers, picked up at least once a week.
(Compliance required within thirty (30) days.)

- e. *Park identification sign.* A park identification sign is required. (Compliance required within thirty (30) days.)

- f. *Street signs and addressing.* Park name and address sign shall be provided at the main entrance, which shall be clearly visible from the publicly maintained road. All numbering shall comply with the county addressing ordinance. (Compliance required within thirty (30) days.)

- g. *Screening.* Required adjacent to all developed properties. For the purposes of this subsection, a developed property is one with at least one (1) principal structure located within three hundred (300) feet of the manufactured home park property line used for a residential, commercial, governmental, institutional, or industrial purpose. The required buffer is fifteen (15) feet wide, evergreen shrubs five (5) feet apart and six (6) feet high or equivalent as approved by the zoning administrator. (Compliance required within thirty (30) days.)

- (3) Manufactured home parks created or expansions of manufactured home parks approved as provided by the county zoning ordinance are subject to the following standards:

- a. *Maintenance of facility.* The manufactured home park or expansion approved as provided by this chapter shall maintain the development to the standards required as a condition of approval of the development. (Compliance required within thirty (30) days.)

- b. *Grounds.* Grounds shall be kept free of obnoxious weeds, trash litter or debris. This shall include but not be limited to appliances and furniture not designed for outdoor use. (Compliance required within thirty (30) days.)

- c. *Drainage.* Property is required to have adequate drainage facilities which will keep their premises free from standing water and permit the natural flow of water across and off the site. Internal streets are to be equipped with adequate drainage. (Compliance required within thirty (30) days.)

(Ord. of 2-1-99(1); Ord. of 8-20-01)

Sec. 21-284. Location of manufactured homes not provided in the table of uses.

This section provides specific exceptions for location of manufactured homes not otherwise provided by this chapter.

- (1) *Placement of manufactured homes on existing lots.* Notwithstanding other provisions of this chapter, including standards contained in the "table of uses", Type II and Type III manufactured homes may be placed on lots of record or in a subdivision for which the planning department has received a complete preliminary plat or final plat application as provided by the county subdivision ordinance, existing prior to June 8, 1999. All applicable requirements, such as skirting requirements, setbacks, etc. of the underlying district and as provided otherwise shall apply. The types of manufactured homes allowed in each district as provided by this section are as follows:
 - a. RA District: Type II and Type III.
 - b. RR District: Type II.
 - c. CBI District: Type II and Type III.
 - d. MFR District: Type II and Type III.
- (2) *Placement of manufactured homes in family manufactured home parks.* Location of manufactured homes is allowed in family manufactured home parks as provided below:
 - a. The proposed park is located on a lot or lots of record existing prior to June 8, 1999.
 - b. The proposed park meets the requirements of section 21-56.
 - c. The manufactured home type is in compliance with subsection (1) above.
- (3) *Placement of manufactured homes in family subdivisions.* Location of manufactured homes is allowed in family subdivisions as provided below:
 - a. The family subdivision is defined and approved as provided in the county subdivision ordinance.
 - b. The intent of the family subdivision is for occupancy and/or purchase of the lots by members of the immediate family and not for the sale, rental or occupancy of the lots by persons not members of the immediate family of the property owner.
 - c. The manufactured home type is in compliance with subsection ~~a.~~ (1) above.
- (4) *Temporary uses.* Location of manufactured homes is allowed for temporary uses as provided by this chapter.

(Ord. of 6-7-99; Amend. of 4-21-14)

Sec. 21-285. Accessory structures.

Accessory structures in the RA, RR, RS, MHP and MFR zoning districts shall conform to the following regulations, unless otherwise provided in this chapter:

- (1) Accessory structure footprints including those used as RHOs ~~including those used as RHOs~~ shall not exceed ten (10) percent of the size of the lot on which it is located.
- (2) Setbacks shall be based on building size as provided in the following table:

Building Square Footage	Setback, Side and Rear Yards
0-4,000	10 feet
4,001-8,000	40 feet
8,001 and over	80 feet

(3) Accessory structures shall not be allowed in the required front setback.

(4) These regulations shall not apply to fences, mailboxes, landscaping features, gazebos and similar structures.

(Ord. of 3-18-02(4); Amend. of 3-5-12; Amend. of 9-3-19)

Secs. 21-286--21-310. Reserved.

ARTICLE XII. ADMINISTRATION AND HEARING REQUIREMENTS

Sec. 21-311. Board of commissioners.

The board of commissioners shall have the following powers and duties to be carried out with this chapter which include, but are not limited to, the following:

- (1) Conducting hearings on certain **conditional special** use permits as provided by this chapter;
- (2) Authorizing, **and** approving, **and reasonably maintain** land use plans **or comprehensive plans** which guide the implementation and modification of this chapter;
- (3) Initiating and making amendments to the text of these regulations and to zoning maps;
- (4) Hearing, reviewing and adopting or rejecting amendments to the text of these regulations and to zoning maps;
- (5) Appointing planning board and **zoning** board of adjustment members;
- (6) Establish rules and procedures for the enforcement and administration of this chapter;
- (7) Taking such other action not delegated to the planning board or **zoning** board of adjustment as the board of commissioners may deem desirable and necessary to implement the provisions of these regulations.

(Ord. of 1-19-98, § XIII)

Sec. 21-312. Planning board.

(a) Authority. The planning board is an appointed, advisory body making recommendations to the board of commissioners as generally authorized by G.S. **Ch. 153A, Art. 18 160D-301.**

(b) Duties and responsibilities. The Planning Board shall carry out **Powers and** duties **are** as provided by **chapter 17 and 21 of the Rowan County Code of Ordinances and others as directed by** the board of commissioners.

(c) Composition. The Board of Commissioners shall appoint members to the Planning Board as provided by Chapter 17 of the Rowan County Code of Ordinances.

(d) Meetings and procedure. Unless otherwise amended by the Board of Commissioners, the Planning Board shall maintain its own rules of procedure for the transaction of official business consistent with this chapter and G.S. 160D. All meetings shall be open to the public. The Planning Board shall keep a written public record of member attendance and decisions.

(e) Oath of office. Prior to performing duties referenced in subsection (b), new and reappointed

members shall take an oath of office referenced in G.S. 11-7 and 153A-026.

(Ord. of 1-19-98, § XIII)

Sec. 21-313. ~~Zoning board~~ Board of adjustment (ZBA BOA).

- (a) *Authority.* As an appointed, quasi-judicial body, the **ZBA BOA** hears and decides appeals and variance requests as authorized by G.S. **153A-345 160D-405 and 705** ~~and zoning map interpretations subject to section 21-334.~~
- (b) *Duties and responsibilities.* The **ZBA BOA** shall carry out duties expressly provided in article XIII or as directed by the board of commissioners.
- (c) *Composition.* The board of commissioners shall appoint members to the **ZBA BOA** as provided by G.S. **153A-345 160D-302.**
- (d) *Meetings and procedure.* **Unless otherwise amended by the board of commissioners, the** ~~The~~ **ZBA BOA** shall ~~adopt~~ **maintain its own** rules of procedure for the transaction of official business **consistent with this chapter and G.S. 160D.** All meetings shall be open to the public. The **ZBA BOA** shall keep a written public record of member attendance, findings and decisions.

(e) Oath of office. Prior to performing duties referenced in subsection (b), new and reappointed members shall take an oath of office referenced in G.S. 11-7 and 153A-026.

(Ord. of 1-19-98, § XIII; Amend. of 4-21-14)

Sec. 21-314. Planning department.

- (a) *Duties and responsibilities.* The planning department serves as the lead agency for the overall administration of this article and serves as the primary professional staff of the planning ~~and zoning~~ board and board of adjustment.
 - (1) *Planning director.* The planning director performs the following duties:
 - a. Supervises the various activities of the department;
 - b. Develops and maintains the comprehensive plan, ~~area plans~~, other specialized plans, policies, regulations for plan implementation **consistent with G.S. 160D-501;**
 - c. Serve as zoning administrator for the county and is hereby charged with the authority and duty to enforce this chapter. In this capacity the zoning administrator shall include staff authorized by the planning director to perform any function of this position.
 - d. Provides recommendations to the planning board, ~~zoning~~ board of adjustment, board of ~~county~~ commissioners, and county manager;
 - e. Provides administrative assistance to special boards, committees, and commissioners;
 - f. Acts as executive secretary to the planning board;
 - g. Performs other functions as may be necessary to effectively administer the county's overall planning program; and
 - h. Maintains cumulative records for each watershed area eligible for SNIA development and detailed files for those projects approved as an SNIA outlining the location, acres, site plan and type of land use.
 - i. Maintains inspection records for each stormwater control structure permitted under Section 21-33(2)(f) of this Chapter
 - (2) *Zoning administrator.* The zoning administrator shall be responsible for the following duties:

- a. Administers and makes necessary interpretations of the zoning requirements;
- b. Acts as executive secretary to the **zoning** board of adjustment;
- c. Coordinates permitting procedures;
- d. Determines compliance and investigates suspected violations; **and**
- e. **Inspects work undertaken pursuant to a development approval to assure the work is being done in accordance with applicable local laws and terms of the approval; and**
- f. Performs other necessary functions to effectively administer this article.

b. Conflicts of interest. No staff member shall make a final administrative decision concerning a request if they would have a conflict of interest, as identified in section 21-315 (2) for advisory board members, in making the decision. If a staff member has a conflict of interest under this section, the decision shall be assigned to another staff member as designated by this chapter.

c. Revocation of administrative development approvals. In addition to the initiation of enforcement actions referenced in section 21-13, development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation; for false statements or misrepresentations made in securing the approval; or mistakenly issued by staff in violation of applicable local law. Revocations shall be noted in writing and delivered to the holder of the development approval stating the reason thereof. Staff shall follow the same development review and approval process required for the issuance of the approval for any revocation.

(Ord. of 1-19-98, § XIII; Ord. of 4-20-98; Ord. of 5-21-01(2); Ord. of 10-18-04; Amend. of 11-2-09; Amend. of 4-21-14; Amend. of 8-19-19)

Sec. 21-315. Hearing procedures for zoning map and text amendments, high density and **conditional **special** use permits, variances, appeals, and interpretations.**

- (1) *Public notice.* The following notice requirements shall apply to **public** **legislative**, courtesy, and quasi-judicial hearings required by this chapter as indicated below except as provided in section 21-316 and otherwise indicated herein:
 - a. *Newspaper.* In accordance with G.S. **153A-323** **160D-601**, **legislative decisions regarding** zoning map and text amendments shall be advertised in a newspaper of general circulation in the county once a week for two (2) consecutive calendar weeks, with the first advertisement appearing at least ten (10) days but not more than twenty-five (25) days prior to the **public** hearing date. In computing this advertising period, the date of publication shall not be included, but the day of the hearing shall be included.
 - b. *Mailed notice.* In addition to the newspaper notice required above, the administrator shall provide mailed notice to the owner(s), applicant, of the subject property(s) and all property owners **according to the county tax listings** within one hundred (100) feet of the parcel(s) subject to the proposed action for the above referenced requests except only mailed notice to the applicant of a text amendment. **For the purposes of this section, the distance encompassed by a street, railroad, or other transportation corridor is not included within the one hundred (100) foot distance for adjacent properties.** The notice must be deposited in the mail at least ten (10) days but not more than twenty-five (25) days prior to the hearing date. If, in the discretion of the administrator, the potential impact of the proposed action or the configuration of land parcels in the area warrants notification of additional property owners beyond this distance, such notice shall be provided.
 - c. *Signs on property.* In addition to the newspaper and mailed notice requirements, signs notifying the public of a scheduled hearing shall be posted at least ten (10) days but not more than

twenty-five (25) days prior to the hearing for the above referenced requests, except for text amendments and large scale rezoning as provided in section 21-316. The signs shall be prominently placed on or immediately adjacent to the subject property. When multiple contiguous parcels are included within a request, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons.

- d. Miscellaneous provisions. The board may continue a hearing that has been convened without further advertisement. If the hearing is set for a given date and a quorum of the board is not present, the hearing shall be continued until the next regular board meeting without further advertisement.**

(2) *Conflict of interest.*

- a. ~~Zoning map and text amendments~~ **Legislative and Courtesy Hearings.** A member of the board of commissioners **or planning board** shall not vote on any ~~zoning map or text amendment~~ **legislative or advisory decision regarding a development regulation** where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member. **Additionally, members** ~~Members of appointed boards providing advice to the board of commissioners~~ shall not vote on ~~recommendations regarding~~ any zoning map or text amendment **if the applicable landowner or applicant of the petition is a person with whom the member has a close familial relationship defined as immediate family including spouse, or business or other associational relationship** where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.
- b. **Quasi-judicial Hearings.** A member of the board of adjustment or any other body exercising quasi-judicial functions shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial **relationship defined as immediate family including spouse, or** business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation **at or prior to the hearing or vote on the matter** and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

Vacant positions on the board of commissioners and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority. The same is required of the board of adjustment hearings but only if there are no qualified alternates available to take the place of such members.

- (3) **Delivery of administrative materials for quasi-judicial hearings. Planning staff shall transmit to the board all applications, reports, and written materials relevant to the matter being considered, which becomes part of the hearing record. The materials may be distributed to the members of the board prior to the hearing if the same material is provided to the applicant or appropriate party and the property owner. Objections to inclusion or exclusion of materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.**

~~(3)~~ (4) *Conduct of hearing.*

a. General. Quasi-judicial, ~~public~~ **legislative**, and courtesy hearings shall be conducted in the following manner unless modified by the chair ~~man~~ of the respective board:

- ~~a.~~ **1.** Staff report;
- ~~b.~~ **2.** Applicant or petitioner comments;

- c. **3. Public Open** hearing **opened**;
- d. **4.** Public comment;
- e. **5. Public Close** hearing **closed**; and
- f. **6.** Action.

b. *Presentation of evidence for quasi-judicial hearings.* The applicant, county or any person having standing to appeal the decision under G.S. 160D-1402 (c) shall have the right to participate as a party at the hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Objections regarding jurisdictional and evidential issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, which may be appealed to the full board. These rulings are subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

c. *Appearance of administrator in quasi-judicial hearings.* The official who made the decision, or the person currently occupying that position if the decision-maker is no longer employed with the county, shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the county would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

d. *Written citizen comments.* If a resident or property owner in the county submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation authorized by G.S. 160D, Article 7 to the clerk to the board of commissioners at least two (2) business days prior to the proposed vote on such change, the clerk shall deliver the statement to the board. If the proposed change is the subject of a quasi-judicial proceeding, the clerk to the respective board shall provide only the names and addresses of the individuals providing written comment, which shall not disqualify any board member from voting.

(4) (5) *Oath for quasi-judicial hearings.* The chairman, any member acting as chairman, or clerk to the board is authorized to administer oaths to witnesses in any matter before the board. Any person who, while under oath during a proceeding before the Board of Commissioners or ZBA BOA, willingly swears falsely is guilty of a Class I misdemeanor.

(5) (6) *Subpoenas for quasi-judicial hearings.* The Board of Commissioners and the ZBA BOA through the chairman or anyone acting as chairman, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, **the applicant, the county, or any person** with standing under G.S. 160A-393(d) **160D-1402 (c)** may make a written request to the chairman explaining why it is necessary for certain witnesses or evidence to be compelled. The chairman shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chairman shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chairman may be **immediately** appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or party seeking the subpoena may apply to **Superior General Court of Justice** for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(6) (7) *Action.* Once a **public / legislative or** courtesy hearing is closed, the appropriate decision-making body shall take some form of action during the same meeting. Such action may include continuing the hearing to a later meeting. In cases where the planning board is authorized to make a recommendation, the board shall follow action procedures of Article XIV.

In quasi-judicial decisions, the board shall determine contested facts and make its decision within

a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board and is effective upon filing with the **clerk to the Board of Commissioners Planning Department**.

- (7) (8) Vote.** A majority vote, excluding vacant seats and disqualified members as indicated in subsection (2), shall be sufficient for the purpose of taking any official action except that variance requests require a four-fifths (4/5) vote of its members, excluding vacant seats and disqualified members indicated in subsection 21-315(2). Quasi-judicial decisions shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

Each **quasi-judicial** decision is subject to review by the superior court by proceedings in the nature of certiorari consistent with G.S. **160A-393 160D-1402 and 1405 (d)**. Any petition for review by superior court shall be filed within the clerk of superior court by the latter of thirty (30) days after the decision of the Board of Commissioners or ZBA is effective or after a written copy thereof is given. When first class mail is used to deliver notice, three (3) **working** days shall be added to the time to file the petition.

- (8) (9) Omissions.** The unintentional failure to give written notice or the unintentional omission of the name of a property owner shall not invalidate the action of the planning board or board of commissioners.

(Ord. of 1-19-98, § XIII; Amend. of 2-20-06(1); Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 3-5-12; Amend. of 4-21-14; Amend. of 8-19-19)

Sec. 21-316. Exceptions for mailed notice requirements for large-scale rezoning.

The first class mailed notice required in section 21-315 ~~shall~~ **is** not be required if the zoning map amendment ~~directly affects~~ **proposes to change the zoning designation of** more than fifty (50) properties owned by ~~a total of~~ at least fifty (50) landowners, and the county elects to use the expanded published notice provided in this section. In this instance the county may, as an alternative to the mailed notice requirements, elect to publish ~~once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area,~~ an advertisement **consistent with section 21-315(1)(a) not less than one-half (1/2) of a newspaper page in size** of the public hearing that shows the boundaries of the area affected by the proposed zoning map amendment **including proposed districts**. ~~The advertisement shall also explain the nature of the proposed change. The advertisements shall meet the requirements of subsection 21-315(1)a. The advertisement shall be no less than one-half (1/2) a newspaper page in size.~~ In addition to this requirement, affected property owners living outside the area of general circulation of the newspaper used shall be mailed a notice as provided in subsection 21-315(1)b. of this article.

(Ord. of 1-19-98, § XIII; Amend. of 2-20-06(1))

Sec. 21-317. High Density development permit application.

- (1) A High Density Development Permit shall be required for new development exceeding the requirements of the low density standards of Section 21-33(2)(d) and subject to the review standards of this section.
- (2) An application for a High Density Development Permit shall be made on the proper form and submitted to the Planning Department with the following information:

- a. A completed High Density Development Permit Application signed by the owner of the property. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization;
 - b. Two (2) reproducible copies of the development plan within the drainage basin, detailed information concerning built-upon area and specifications of the stormwater control structure consistent with section 22-109b of the Rowan County Subdivision Ordinance;
 - c. When required by law, written verification that a soil erosion and sedimentation control plan has been approved by the appropriate state or local agency;
- (3) First consideration of a High Density permit application shall occur at the next regularly scheduled meeting of the Board of Commissioners following the Planning Department's review of the complete application submittal. The Board shall take action on the application at its first consideration or within thirty (30) days of its first consideration. At its discretion, the Board of Commissioners shall either approve or disapprove each application for a High Density Development Permit.
- a. If the Board approves the application, such approval shall be indicated on the permit and both copies of the site plan and both copies of the plans and specifications of the stormwater control structure.
 - 1. In addition to any other requirements provided by this Ordinance, the Board may designate additional permit conditions and requirements to assure the use will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance.
 - 2. All additional conditions shall be entered in the minutes of the meeting, at which the permit is granted, on all plans and on the permit certificate.
 - 3. All conditions so imposed shall run with the land and shall be binding upon the applicant and the applicant's heir, successors, or assigns during the continuation of the permitted use.
 - b. If approved by the Board, a High Density Development Permit shall be forwarded to the Subdivision Review Committee (SRC) for review pursuant to Section 22-56 of the Rowan County Subdivision Ordinance.
 - c. If the Board disapproves the application, the reasons for such action shall be stated in the minutes of the Board and presented to the applicant in writing either by personal service or registered mail, return receipt requested. The applicant may make changes and submit a revised plan which shall be submitted, reviewed, and acted upon by the Board pursuant to the procedures of this section.

(Ord. of 8-19-19)

Secs. 21-318--21-330. Reserved.

ARTICLE XIII. APPEALS, VARIANCES AND INTERPRETATIONS

Sec. 21-331. Appeals.

Appeals of orders or decisions of the zoning administrator shall be conducted as follows:

- (1) *Notice of appeal.* Any person who has standing under G.S. ~~160A-393 (d)~~ **160D-1402 (c)** or the county may appeal any order or decision of any administrator of this chapter to the ~~zoning~~ board of

adjustment (**ZBA BOA**). An appeal is initiated by filing a written notice of appeal with the clerk to the Board of **Commissioners Adjustment**, which specifies the grounds for the appeal. The clerk shall note the date and time of receipt of the appeal.

- (2) *Time to appeal.* The property owner or **his their** authorized agent shall have thirty (30) days from receipt of the written notice **of the determination** to file an appeal. Any other person with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the **decision determination** to file an appeal. It **shall be is** conclusively presumed that all persons with standing to appeal have constructive notice of the **decision determination** from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least ten (10) days. Posting of signs is not the only form of constructive notice. Any such posting **shall be is** the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.
- (3) *Stay of action.* An appeal **of a notice of violation or other enforcement order** stays **all enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the BOA and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom,** ~~actions by the administrator seeking enforcement of or compliance with the order or decision,~~ unless the administrator **who made the decision** certifies to the **ZBA BOA after notice of appeal has been filed** that, because of the facts **surrounding the situation stated in an affidavit,** a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the **ordinance development regulation**. In that case, **enforcement** proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the **ZBA BOA** shall meet to hear the appeal within fifteen (15) days after such a request is filed. The **ZBA BOA** shall hear and decide all other appeals with a reasonable time. Notwithstanding the foregoing, appeals of decisions granting a **permit development approval** or otherwise affirming that a proposed use of property is consistent with the **ordinance development regulation** shall not stay the further review of an application for ~~permits or permissions~~ **development approvals** to use such property; in these situations the appellant **or county** may request and the **ZBA BOA** may grant a stay of a final decision of **permit development approval** applications ~~or building permits~~ affected by the issue being appealed.
- (4) *Procedures.* The administrator who made the decision shall transmit to the **ZBA BOA** all documents and exhibits constituting the record upon which the **action decision** appealed from are taken. The administrator shall also 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. The administrator shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the county would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the **ZBA BOA** shall continue the hearing.

~~When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the standards of this ordinance and the scope of review shall be as provided in G.S. 160A-393(k).~~
- (5) **ZBA BOA action.** The BOA may reverse or affirm, wholly or partially, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that should be made. **ZBA BOA** decisions shall include a statement of the specific reasons or findings of fact that support the motion consistent with section 21-315 ~~(7)~~ (8).
- (6) *Judicial challenge.* Every decision shall be subject to review by superior court by proceedings identified in section 21-315 (8).

Sec. 21-332. Variances.

Requests for a variance from the requirements of this chapter shall be in accordance with the following criteria:

- (1) *Application for variance.* An application for a variance shall be submitted to the **ZBA BOA** by filing a copy of the application with the administrator in the planning department. **Public hearings Hearings** for such applications shall be in conformance with the applicable provisions of Article XII.
- (2) *Variance criteria.* A variance ~~may~~ **shall** be granted by the **ZBA BOA** if it concludes that strict enforcement of this chapter would result in unnecessary hardships for the applicant. ~~The ZBA, in granting a variance, shall ensure that the spirit of this chapter is maintained, public welfare and safety ensured, and substantial justice done.~~ The board may reach these conclusions if it makes the following findings:
 - a. Unnecessary hardship would result from the strict application of the ordinance. It ~~shall~~ **is** 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 and / or conditions common to the neighborhood or general public may not be the basis for granting a variance. **A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability;**
 - c. The hardship is not the result of the property owner or applicant's own actions. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance ~~shall~~ **is** not ~~be regarded as~~ a self-created hardship;
 - d. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved;
 - e. The variance will not result in a land use otherwise not permitted in the applicable zoning district nor authorize the extension of a nonconforming situation in violation of article VI, or other applicable provisions of this chapter; and
 - f. If applicable, the setback reduction is no more than fifty (50) percent of that required and the resulting setback is no less than five (5) feet from any property line or right-of-way.
- (3) *Approval.* Prior to granting a variance, the **ZBA BOA** must vote affirmatively on all of the required findings listed in subsection (2). Each motion to make an affirmative finding shall set forth the specific reasons or findings of fact supporting such motion.
- (4) *Denial.* A motion to deny a variance request may be made on the basis that one (1) or more of the criteria are not satisfied. Such a motion shall include a statement of the specific reasons or findings of fact that support it. A reapplication for a denied variance may not be made within one (1) year of the original decision, unless substantial changes have occurred in the facts, evidence or conditions of the application, or property in question.
- (5) *Conditions.* In granting variances, the **ZBA BOA** may impose appropriate conditions, including a limitation on the duration of the variance, provided they are reasonably related to the variance. All such conditions are enforceable as any other applicable requirement of this article.
- (6) **Revocation.** **The BOA may consider revocation of an approved variance through the same procedure as the original approval. Following the hearing, the BOA may elect to revoke the variance if it is factually determined that one or more instances listed below have occurred:**

- a. Substantial departure from the approved application, plans, or specifications;
- b. Refusal or failure to comply with the requirements of any applicable local development regulation;
- c. False statements or misrepresentations made in securing the approval; or
- d. Mistakenly issued in violation of an applicable State or local law.

(Ord. of 1-19-98, § XIV; Amend. of 4-21-14)

Sec. 21-333. Recordation of variances and conditions.

The administrator shall keep a record of all variances from this chapter. The nature of the variance and any supplemental conditions shall be entered on the face of any zoning permit, or the zoning permit may note the issuance of the variance and refer to the written record of the variance for further information. In the case of the Water Supply Watershed (WS) Overlay provisions, this record shall be submitted to the supervisor of the classification and standards group, water quality section, division of environmental management on an annual basis and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(Ord. of 1-19-98, § XIV; Amend. of 4-21-14)

Sec. 21-334. Interpretations Reserved.

~~Interpretations of the requirements of this chapter shall be in accordance with the following criteria:~~

- ~~(1) Map and line interpretations. The ZBA is authorized to interpret the official zoning map(s) and to determine disputed questions of district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the administrator, they shall be handled in accordance with section 21-331 of this article.~~
- ~~(2) Application. An application for an interpretation shall be submitted to the ZBA by filing a copy of the application with the zoning administrator in the planning department. The application shall contain sufficient information to allow the board to make the necessary interpretation.~~
- ~~(3) Guidelines for interpretations. Where uncertainty exists as to the boundaries of zoning districts as shown on official zoning maps, the following rules shall apply:~~
 - ~~a. Those boundaries indicated as generally following the centerlines of streets, highways, watercourses, or railroads shall be construed to follow such centerlines;~~
 - ~~b. Boundaries indicated as approximately following parcel or lot lines, municipal limits, or extraterritorial boundary lines shall be construed as following such lines, limits, or boundaries;~~
 - ~~c. Where a district boundary divides a lot or parcel, or where map distances are not indicated, the boundary shall be determined by measurement, using the zoning map scale; and~~
 - ~~d. When a street or road is officially vacated or abandoned, the zoning designation of each abutting parcel shall be extended to apply to that portion of such rights-of-way added to adjoining land.~~

(Ord. of 1-19-98, § XIV; Amend. of 4-21-14;)

Sec. 21-335. Variance from watershed overlay.

The administrator shall review all variance requests from the Water Supply Watershed (WS) Overlay provisions to determine whether the request constitutes a minor or major variance. If conditions warrant, the administrator or the board of commissioners may require that a minor variance be reviewed as a major

variance. In addition to the other provisions in this article, variance requests from the watershed overlay provisions shall be reviewed as follows:

- (1) *Notice to affected governments.* The administrator shall notify, in writing, and provide a description of the variance request to each local government having jurisdiction in the watershed and the entity using the watershed for consumption. Each local government receiving notification shall have ten (10) working days to respond, in writing, to the variance request. All responses shall become part of the record for the board of commissioners proceedings for the particular variance request. A record of all variances granted from the water supply watershed provisions shall also be submitted each calendar year to the division of water quality on or before January 1 of the following calendar year and shall provide a description of each project receiving a variance and the reasons for granting the variance.
- (2) *Transmittal of response.* The request, an accompanying staff recommendation, and responses from any other local government within the affected watershed will be forwarded to the board of commissioners for review & action, as stipulated in this article.
- (3) *Minor variance.* The board of commissioners' decision is final.
- (4) *Major variance.* Depending on the action by the board of adjustment, the following provisions shall apply:
 - a. *Denial.* The board of adjustment's decision is final.
 - b. *Approval.* If the board of commissioners recommends approval, a record of the variance request, meeting proceedings, and applicable conditions shall be forwarded to the state environmental management commission for final review and action. In cases where the environmental management commission denies the request, the decision is final and the administrator shall notify the applicant of the approval. In cases where the commission adds conditions which may affect the design of a development plan, the administrator shall forward the commission's decision to the board of commissioners for further review and action.

(Ord. of 1-19-98, § XIV; Amend. of 4-21-14)

Sec. 21-336. Judicial review of ZBA BOA decisions.

Each decision of the ZBA BOA is subject to review by the superior court by proceedings in the nature of certiorari identified in G.S. 160D-1402. Any petition for review by superior court shall be filed within thirty (30) days after the decision of the ZBA BOA is filed with the clerk to the Board of Commissioners Adjustment.

(Ord. of 2-1-99(1); Amend. of 3-5-12; Amend. of 4-21-14)

Secs. 21-337--21-360. Reserved.

ARTICLE XIV. TEXT AND MAP AMENDMENTS

Sec. 21-361. Text amendments.

- (a) *Generally.* The board of county commissioners may amend the terms of this chapter in accordance with this section. Proposals to amend, supplement, modify, or repeal the text of this chapter may be initiated by the board of commissioners, the planning board, or planning staff any person. Proposals from other applicants may also be submitted if consistent with G.S. 160D-601(d). If the review or approval of any state or federal agency is needed, appropriate measures shall be taken to ensure that such agency has an opportunity to provide comments on the proposed amendment prior to action by the board of county commissioners.

- (b) *Planning board action.* Any proposed text amendment shall be submitted to the planning department at least fifteen (15) working days prior to the next regular meeting of the planning board if to be considered at that time. The planning board may provide a **non-binding** recommendation to the board of commissioners on all such requests within thirty (30) days of first consideration unless the request is assigned to a planning board subcommittee for further review. Failure of the planning board to transmit its recommendation within thirty (30) days after first consideration of an amendment or a referral by the board of **county** commissioners may allow the board of commissioners to **proceed in its consideration of act on** the amendment without the planning board recommendation.

The planning board shall advise and comment on whether **the proposed amendment its recommended action** is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the board of commissioners that addresses plan consistency in accordance with **options indicated in** subsection (c) and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the board of commissioners.

- (c) *Board of commissioners action.* The board of commissioners shall hold a **public legislative** hearing to consider any ordinance amendment and the planning board recommendation in accordance with Article XII. **Prior to When** adopting or rejecting any zoning amendment, the board of commissioners shall adopt **a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. If the amendment is adopted and the action was deemed inconsistent with an adopted plan, the amendment shall result in the simultaneous amendment of the future land use map in an approved plan with no additional process involved. one of the following statements which The plan consistency statement is shall not be** subject to judicial review.:

- (1) A statement approving the zoning amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or**
- (2) A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or**
- (3) A statement approving the zoning amendment and containing at least all of the following:**
 - a. A declaration that the approval is also deemed an amendment to the comprehensive plan; and**
 - b. An explanation of the change in conditions the governing board took into account in amending the zoning ordinance to meet the development needs of the community; and**
 - c. Why the action was reasonable and in the public interest.**

After In addition to adopting the consistency statement, the board of commissioners shall take one (1) of the following actions:

- (1) Grant the amendment as requested or modified;
- (2) Continue the request;
- (3) Refer the application, with modifications, back to the planning board for further study and consideration; or
- (4) Deny the amendment request.

- (d) *Record of amendments.* All approved text amendments shall be recorded in the county zoning

ordinance. The administrator shall provide copies of all amendments to the Water Supply Watershed (WS) Overlay provisions upon adoption to the division of water quality.

- (e) Statute of limitation. An action challenging the validity of text adopted pursuant to this subsection shall be brought within one (1) year of adoption. A challenge based on an alleged defect in the adoption process shall be brought within three (3) years of adoption.**

(Ord. of 1-19-98, § XV; Amend. of 2-20-06(1); Amend. of 11-2-09; Amend. of 3-5-12; Amend. of 9-3-19)

Sec. 21-362. Map amendments (rezoning).

- (a) *Generally.* The board of **county** commissioners may amend the terms of this chapter in accordance with this section. If the review or approval of any state or federal agency is needed, appropriate measures shall be taken to ensure that such agency has an opportunity to provide comments on the proposed amendment prior to action by the board of **county** commissioners.
- (b) *Purpose and intent.* It is the purpose of this section to set forth the procedures whereby the board of commissioners may change the zoning district classification of land after consideration of such factors as changing conditions in the area where the property is located or changes in county plans or policies.
- (c) *Rezoning criteria.* When deciding whether to adopt a proposed rezoning, the primary issue before the planning board and board of commissioners is whether the proposed change advances the public health, safety, or welfare as well as the intent and spirit of the ordinance. Information related to other issues which do not directly affect the public health, safety, or welfare may be declared irrelevant by the chair **man** and excluded from presentation at the **public** hearing. In particular, when considering proposed map amendments:
 - (1) *Proposed uses.* The planning board and board of commissioners shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one (1) of the possible range of uses allowed in the requested zoning district classification. Rather, the boards shall consider whether the entire range of permitted uses in the requested zoning district is more appropriate than the range of uses allowed in the existing district.
 - (2) *Impact of zoning map change.* The boards shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed zoning change on the public at large.
- (d) *Initiation.* The rezoning of property may be initiated by the board of commissioners, the planning board, **planning staff**, or by petition of the legal property owner(s) or designated representative..
- (e) *Filing of petition.* Except when initiated by the ~~board of commissioners or the planning board~~ **county**, each petition to rezone a separate, noncontiguous property shall be submitted to the administrator on an approved application form and shall be accompanied by any nonrefundable, applicable fees as established by the board of commissioners.
- (f) *Deadline for submittal of application.* The completed application package shall be submitted to the planning department at least fifteen (15) working days prior to the next regular meeting of the planning board if to be scheduled for consideration at that time.
- (g) *Withdrawal of petition.* Any petitioner shall have the right to withdraw the rezoning petition, in writing, at any time prior to a final decision by the board of commissioners.
- (h) *Content of application package.* Each rezoning petition shall be accompanied by:
 - (1) Two (2) copies of a map, to scale, which clearly illustrates the subject property to be rezoned;
or

- (2) Written metes & bounds legal description for property(ies) proposed for rezoning;
 - (3) Any other pertinent information as may be required by this article;
 - (4) Requests for conditional zoning districts shall be accompanied by a site plan as specified in section 21-52.
- (i) *Staff review.* The administrator shall review the rezoning application package, ensure its completeness, and prepare a written staff recommendation concerning the proposed rezoning request. The administrator may consult with other appropriate agencies, including, but not limited to, the NCDOT, the county board of education, and the environmental health division of the county health department, when evaluating rezoning requests. The staff report shall, at a minimum address the following:
- (1) Relationship and conformity with any adopted plans and policies;
 - (2) Consistency with this article and requested zoning district's purpose and intent;
 - (3) Compatibility of all uses within the proposed zoning district classification with other property and conditions in the vicinity; and
 - (4) Potential impact on facilities such as roads, utilities, and schools.
- (j) *Planning board action.* The planning board shall provide a **non-binding** recommendation to the board of commissioners on each rezoning request. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the board of commissioners that addresses plan consistency in accordance with **options indicated in** subsection (k) and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the board of commissioners.

Rezoning requests **for conditional districts or other small-scale rezonings** shall also include a statement of reasonableness analyzing the request as a recommendation for adoption by the board of commissioners. Failure of the planning board to transmit its recommendation within thirty (30) days after first consideration of a rezoning or a referral by the board of **county** commissioners may allow the board of commissioners to **proceed in its consideration of** **act on** the rezoning **request** without the planning board recommendation. **In addition to adopting the required statements, the** **The** planning board shall make one (1) of the recommendations as provided in this subsection:

- (1) Grant the rezoning as requested;
 - (2) Grant the rezoning with modifications, including a recommendation to rezone to a more restrictive district than requested; or
 - (3) Deny the rezoning request.
- (k) *Board of commissioners action.* The board of commissioners shall consider any rezoning petition and the planning board recommendation at an advertised **public legislative** hearing. **Prior to** **When** adopting or rejecting any rezoning petition, the board of commissioners shall adopt **statements of consistency and reasonableness as part of their decision, which may be approved in a single statement.**

(1) Statement of consistency. **The board shall adopt a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. If the amendment is adopted and the action was deemed inconsistent with an adopted plan, the amendment shall result in the simultaneous amendment of the future land use map in an approved plan with no additional process involved.** **one of the following statements which** **The plan consistency statement is** **shall not be** subject to judicial review. **If a rezoning qualifies as**

a large-scale rezoning under G.S. 160D-602(b), the consistency statement may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

~~(1) A statement approving the rezoning petition and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or~~

~~(2) A statement rejecting the rezoning petition and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or~~

~~(3) A statement approving the rezoning petition and containing at least all of the following:~~

~~a. A declaration that the approval is also deemed an amendment to the comprehensive plan; and~~

~~b. An explanation of the change in conditions the governing board took into account in amending the zoning ordinance to meet the development needs of the community; and~~

~~c. Why the action was reasonable and in the public interest.~~

(2) Statement of reasonableness. Additionally, rezoning requests for conditional zoning districts or other small-scale rezonings **The board** shall also include adoption of **adopt** a statement of analyzing the reasonableness analyzing of the **proposed** request, **which may consider, among other factors:**

(a) The size, physical conditions, and other attributes of the area proposed to be rezoned;

(b) The benefits and detriments to the landowners, the neighbors, and the surrounding community;

(c) 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;

(d) Why the action taken is in the public interest; and

(e) Any changed conditions warranting the amendment.

If a rezoning qualifies as a large-scale under G.S. 160D-602(b), the statement may address the overall rezoning.

(3) Action. After **In addition to** adopting the **required** statement(s), the board of commissioners shall take one (1) of the following actions:

(1) Grant the rezoning as requested or modified;

(2) Continue the request;

(3) Refer the application, with modifications, back to the planning board for further study and consideration; or

(4) Deny the rezoning request.

(l) *Notification of decision.* Within five (5) working days of any action by the board of commissioners on a rezoning request, notice of such action shall be sent by first class mail to the rezoning petitioner and any other persons who have indicated to the zoning administrator, in writing, that they would like the decision mailed to them. Additionally, within fifteen (15) days after the effective date of a zoning change to commercial or industrial zones within six hundred sixty (660) feet of the rights-of-way of an interstate or primary highway, written notice by registered mail shall be sent to the Raleigh

offices of the NCDOT in accordance with G.S. 136-136 and 136-153.

(m) *Petition resubmitted.* If a rezoning request is denied by the board of commissioners, the zoning administrator may not accept a new rezoning petition within the one (1) year period unless the administrator determines that:

- (1) There has been a significant change in the zoning district classification of an adjacent property;
- (2) A new or updated land use plan which changes public policy regarding the property is adopted by the county;
- (3) Public facilities such as roads, water lines, sewer lines, or other infrastructure are constructed or expanded to serve the property and enable the proposed development to be accommodated; or
- (4) There has been some other significant change, other than a change in ownership of the property, which might justify waiving the one-year restriction on submitting a new petition.

(n) *Recording of zoning change.* All rezoning map amendments shall be recorded on official zoning maps which are a part of this chapter and are maintained for public inspection in the office of the county planning department.

(o) Statute of limitation. An action challenging the validity of a zoning map amendment adopted pursuant to this subsection shall be brought within one (1) year of adoption.

(Ord. of 1-19-98, § XV; Ord. of 4-20-98; Amend. of 2-20-06(1); Amend. of 11-2-09; Amend. of 9-6-16; Amend. of 9-3-19)

Sec. 21-363. Hierarchy of districts.

The districts established in this chapter are classified from "most restrictive" to "least restrictive": RS (most restrictive), RR, RA, MFR, MHP, INST, NB, CBI, 85-ED-1, 85-ED-2, 85-ED-3, 85-ED-4, IND (least restrictive).

(Ord. of 1-19-98, § XV; Ord. of 6-17-02; Ord. of 4-21-03; Amend. of 3-7-05)

Chapter 22: SUBDIVISION REGULATIONS

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ARTICLE I. IN GENERAL

Section 22-1. Title.

This ordinance shall be known and may be cited as the "Subdivision Ordinance of Rowan County, North Carolina", and may be referred to as the "Subdivision Regulations".

Section 22-2. Purpose.

The purpose of this ordinance is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the County of Rowan, North Carolina **noted in section 22-4**. It is further designed to provide for the orderly growth and development of the County; for the coordination of streets and highways within proposed subdivision with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. This ordinance is designed to further facilitate adequate provisions of water, sewerage, parks, open space, schools, and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

Section 22-3. Authority.

This ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter **153A 160D**, Article **18 8, Part 2 (Subdivision Regulation)**.

Section 22-4. Jurisdiction.

The regulations contained herein, as provided in G.S. **153A 160D**, Article **18 8** shall govern every subdivision within Rowan County outside of the jurisdiction of any incorporated municipality and any municipal extraterritorial planning jurisdiction established under G.S. **160A-360 160D-202**.

Section 22-5. Compliance With Ordinances, Plans and Maps.

All proposed subdivisions shall comply with the standards and requirements of any officially adopted

ordinances, plans or maps of the Rowan County Board of Commissioners. School sites may be reserved as provided in G.S. ~~153A-331~~ **160D-804(f)**.

Section 22-6. "Subdivision" Defined.

For the purpose of this ordinance, **"Subdivision" means subdivision regulations shall be applicable to all division divisions** of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one (1) or more of those divisions **are is** created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to any regulations enacted pursuant to this ordinance.

- (a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of Rowan County as shown in this ordinance.
- (b) The division of land into parcels greater than ten (10) acres where no street or private or public street right-of-way dedication is involved.
- (c) The public acquisition by purchase of strips of land for the widening or opening of streets.
- (d) The division of a tract in single ownership whose entire area is not 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 Rowan County as shown in this ordinance.
- (e) The division of a tract into plots or lots used as a cemetery.
- (f) Land divided by a will, intestate succession defined by Chapter 29 of the **NCCS G.S.**, or the courts for the purpose of dividing up a deceased person's property.

(Amend. of 2-20-06(2); Amend. of 9-3-19)

Section 22-7. "Minor Subdivision" Defined.

A minor subdivision is defined as a subdivision where:

- (a) No new roads are proposed, or road rights-of-way dedicated, and
- (b) Where eight (8) or fewer lots will result after the subdivision is completed.

Section 22-8. "Minor Subdivision, Special Exception" Defined.

A minor subdivision, special exception is defined as a subdivision that complies with subsection (a) and (b):

- (c) Subject parcel to be divided meets the following:**
 - a. In single ownership;**
 - b. Not exempted under section 22-6 (b);**
 - c. Has not been divided under this section in the past ten (10) years; and**
 - d. Greater than five (5) acres.**
- (d) After division, no more than three (3) lots are established meeting the following standards:**
 - a. Dimensional requirements from section 21-84 of the Zoning Ordinance;**
 - b. Use of the lots conform to section 21-113 of the Zoning Ordinance; and**
 - c. A permanent means of ingress / egress is recorded for each lot.**

Parcels created under this provision may not be further divided as a family subdivision.

Section 22-~~8~~ 9. "Major Subdivision" Defined.

A major subdivision is defined as a subdivision where:

- (a) New roads are proposed or rights-of-way are dedicated, or
- (b) More than eight (8) lots are created after the subdivision is completed.
- (c) For purposes of compliance with section 22-111, Water Point Sources, a major subdivision shall be considered as a proposal creating fourteen (14) or more lots.

(Amend. of 7-16-07(2))

Section 22-~~9~~ 10. "Family Subdivision" Defined.

(a) *Purpose.* Minimum access standards for new lots are one of several primary objectives of this ordinance. To achieve this, all lots subdivided after the effective date of this ordinance are required to have frontage on either an existing or proposed road meeting the right of way and construction standards established by NCDOT. However, Rowan County recognizes a residential lot created for conveyance to an immediate family member, where access is provided by a private road, is a reasonable alternative to requiring the construction of a new public road.

(b) *Intent.* Family subdivision lots are typically conveyed as gift deeds or for nominal consideration in circumstances where the existing parcel does not contain the required road frontage to qualify as a minor **or minor, special exception** subdivision and would otherwise be required to construct a new public road for access. The standards set forth in this ordinance for family subdivisions are designed to promote:

- a. The transfer of ownership of the newly subdivided lots to immediate family members;
- b. Compliance with all other applicable ordinance standards related to dimensional and design criteria; and
- c. Recognition that necessary maintenance associated with private roads is coordinated among family members.

(c) *Definition.* A family subdivision is defined as a subdivision of not more than three (3) lots plus the residual lot conveyed by the property owner to members of his / her immediate family as defined in this ordinance. A family member may only receive one (1) lot under this provision.

(Ord. of 2-1-99(2); Amend. of 11-2-09; Amend. of 9-6-16)

Section 22-~~10~~ 11. Other Definitions.

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

***Administrative decision.* A decision made in the implementation, administration, or enforcement of this ordinance that involve the determination of facts or the application of objective standards set forth in this chapter. These are sometimes referred to as "ministerial" decisions or "administrative determinations".**

Block. A piece of land bounded on one or more sides by streets or roads.

Board of Commissioners. County Board of Commissioners of Rowan County, North Carolina.

Building Setback Line--Front. A line establishing minimum allowable distance between the wall of the principal building and the street or road right-of-way line when measured perpendicularly from the right-of-way. Covered porches, decks, uncovered porches or landings, etc., but not including steps whether covered

or not, shall be considered as part of the principal building and shall not project into the required yard.

Building Setback Line--Side or Rear. A line establishing minimum allowable distance between the wall of the principal building and the side or rear property lines. Covered porches, decks, uncovered porches or landings, etc., but not including steps whether covered or not, shall be considered as part of the principal building and shall not project into the required yard.

Cluster Subdivision. A subdivision of land that the subdivider requests and is approved to subdivide an original tract into lots smaller than those specified in this ordinance, provided that the land saved is reserved for permanent common use, usually in the form of open space.

County Manager. County Manager of Rowan County, North Carolina.

***Courtesy hearing.* A hearing before the Planning Board that provides an opportunity for the public to express their views and opinions on an agenda item prior to the board making a recommendation concerning the matter. These hearings are required as a precursor to decisions required by this chapter by the Board of Commissioners.**

Crosswalk. A specially paved or marked path for pedestrians crossing a road.

Curb Outlet System. ~~means curb~~ **Curb** and gutter with breaks or other outlets used to convey stormwater runoff to vegetated conveyances or other vegetated areas.

Dedication. A gift, by the owner or a right to the use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be by written instrument.

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

Developer. ~~means any~~ **Any** person, firm, trust, partnership, association, ~~or~~ corporation, **governmental agency, or redevelopment authority who undertakes any** ~~engaged in~~ development **and who is the landowner of the property to be developed or authorized agent to undertake** ~~, or proposed~~ development activities. **Also may be referred to as applicant herein.**

Development. ~~Any land disturbing activity that adds to or changes the amount of impervious or partially impervious cover on a land area, or which otherwise decreases the infiltration of precipitation into the soil.~~ **Unless the context clearly indicates otherwise:**

- e. The construction, erection, alteration, enlargement, renovation, repair, movement, or demolition of any structure;**
- f. Excavation, grading, filling, clearing, or alteration of land;**
- g. Subdivision of land; or**
- h. Initiation or change in the use of land or the intensity of use of land.**

***Development approval.* An administrative or quasi-judicial approval as defined in Chapter 21 of the Code of Ordinances made pursuant to this chapter that is written and required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, plat approvals, special use permits, and variances. The term also includes all other regulatory approvals required by this chapter.**

Dry Hydrant. An arrangement of pipe permanently connected to a water point source other than a piped, pressurized water supply system, that provides a ready means of water supply for firefighting purposes and that utilizes the drafting (suction) capability of fire department pumps.

Easements. A grant by the property owner to the public, a corporation, or persons, of the right to use a specified portion of a tract or tracts of land for a specified purpose.

“Existing” impervious development. ~~consists~~ **Consists** of any structure(s) or operational area(s) that has either been:

4. In existence and continuous operation prior to the effective date of the Rowan County Water Supply Watershed Ordinance on January 1, 1994 (since codified in the RCZO); or,
5. Lawfully permitted prior to the effective date (February 16, 1998) of the Rowan County Zoning Ordinance; or,
6. Lawfully permitted in accordance with the standards of the Rowan County Zoning Ordinance prior to the effective date of the High Density amendments contained in Section 21-33(f) of the RCZO.

Family, Immediate. ~~means~~ **Means** an individual's grandparents, ~~step-grandparents~~, parents, ~~step-parents~~, sibling ~~(full, half, or step)~~, children, ~~step-children~~, **and** grandchildren, ~~and step-grandchildren~~, **This includes step, half, and in-law relationships and** whether natural or legal.

Flood Insurance Rate Map (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Fire Marshal. Fire Division Manager of the Rowan County Department of Emergency Services or his designee.

Improvements. Refers to all infrastructure or amenities required by this ordinance including, but not limited to, all aspects of road construction, sidewalks, water lines, sewer lines, drainage and stormwater facilities, utility lines, water point sources and other related matters associated with the development of undeveloped land into building sites.

Insurance Services Office (ISO). ISO is an independent organization that serves insurance companies, fire departments, insurance regulators and others by providing information about property and liability risk. ISO's statistical, actuarial, and underwriting information is a resource used by insurers, government regulators, other companies and organizations and the use of their standardized policy language is the foundation on which many insurers build their coverage programs.

***Legislative decision.* The adoption, amendment, or repeal of a development regulation.**

***Legislative hearing.* A hearing conducted by the Board of Commissioners to solicit public comment and consider appropriate criteria identified in this chapter prior to making a legislative decision.**

Lot. A portion of a tract of land to be subdivided for the purposes of transfer of ownership or development or both.

Lot of Record. A lot which is part of a subdivision, a plat of which has been recorded in office of the Register of Deeds of Rowan County, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Lot Types:

Corner Lot. A lot located at the intersection of two (2) or more roads. A lot abutting on a curved road or roads shall be considered a corner lot if straight lines drawn from the foremost point of the lot meet at an interior angle of less than one hundred thirty (130) degrees.

Double Frontage Lot. (i.e., through lot) Any lot having access by water and street right-of-way or by

having access on two (2) street right-of-ways. This does not include corner lots.

Interior Lot. A lot other than a corner lot with only one (1) frontage on a street.

Panhandle Lot. A lot other than one having access on a cul-de-sac, which contains a narrow strip providing street access.

Reverse Frontage Lot. A through lot which is not accessible from one (1) of the parallel or nonintersecting street upon which it fronts.

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

Through Lot. See Double Frontage Lot.

Utility lot. A lot that serves unmanned utility facilities such as pump / lift stations, wireless facilities and support structure and septic tank drain fields. A utility lot is not to be used as parking, vehicle storage or accommodation for residential or commercial structures.

Minimum Design Criteria or "MDC". means the **The** requirements set forth in this Chapter for siting, site preparation, design and construction, and post-construction monitoring and evaluation necessary for Rowan County or NC Department of Environmental Quality to issue stormwater permits that comply with State water quality standards adopted pursuant to G.S. 143-214.1.

Mobile Water Supply Apparatus. A vehicle designed primarily for transporting (pickup, transporting, and delivering) water to fire emergency scenes to be applied by other vehicles or pumping equipment.

Multi-connection. Any water supply furnishing potable water to two (2) to fourteen (14) connections of residences or businesses, or any combination thereof, from one (1) well that is not owned and operated by a public entity.

Municipal Type Water System. A system having water pumps serving hydrants and designed to furnish, over and above domestic consumption, a minimum flow of 250 gpm (946L/min) at 20psi (139 kPa) residual pressure for a 2-hour duration

National Fire Protection Association (NFPA). Established in 1896, the NFPA serves as the world's leading advocate of fire prevention and is an authoritative source on public safety. NFPA's mission is to reduce the worldwide burden of fire and other hazards on the quality of life by providing and advocating consensus codes and standards, research, training, and education. NFPA has developed three hundred (300) codes and standards that influence every building, process, service, design, and installation in the United States, as well as many of those used in other countries.

NCDOT. means the **The** North Carolina Department of Transportation.

NFPA 22 Standards for Water Tanks for Private Fire Protection. This standard provides the minimum requirements for the design, construction, installation, and maintenance of tanks and accessory equipment that supply water for private fire protection, including the following: (1) Gravity tanks, suction tanks, pressure tanks, and embankment-supported coated fabric suction tanks; (2) Towers; (3) Foundations; (4) Pipe connections and fittings; (5) Valve enclosures; (6) Tank filling; (7) Protection against freezing; version 2007 or latest amendment thereof.

NFPA 1142 Standard on Water Supplies for Suburban and Rural Fire Fighting. This standard identifies a method of determining the minimum requirements for alternative water supplies for structural firefighting purposes in areas where the authority having jurisdiction determines that adequate and reliable water supply systems for firefighting purposes do not otherwise exist; version 2007 or latest amendment thereof.

Observed right-of-way. **The Land** area **associated with a future cross section for a road segment(s)** recognized in the Cabarrus-Rowan Metropolitan Planning Organization's (CRMPO) **2002-2030 Long Range most recent Comprehensive** Transportation Plan (CTP) and referenced in Appendix A **of this chapter** that may be utilized for future transportation improvements.

Official Maps or Plans. Any maps or plans officially adopted by the Board of Commissioners of Rowan County.

Open Space. An area of land and/or water generally lacking in manmade structures and reserved for enjoyment in its unaltered state.

Operational area. means the **The** dedicated or utilized area necessary for a business function and is characterized by, but not limited to, buildings or warehouses, storage areas or stockpiles, parking and loading areas, sediment ponds and detention areas, etc.

Operation and Maintenance Agreement. An agreement between a developer or owning entity of a stormwater control measure (SCM) and either Rowan County or NC DEQ depending on permitting authority. The agreement requires the developer or owning entity to maintain, repair, or reconstruct the SCMs in accordance with the approved design plans and the Operation and Maintenance Plan. The agreement shall be recorded with the Rowan County Register of Deeds so as to appear in the chain of title for all subsequent purchasers.

Operation and Maintenance Plan. Document specifying all operation and maintenance work necessary for the function of all stormwater control measure (SCM) components, including the stormwater conveyance system, perimeter of the device, inlet(s), pretreatment measures, main treatment area, outlet, vegetation, and discharge point. The operation and maintenance plan shall specify methods to be used to maintain or restore the SCMs to design specifications in the event of failure.

Owning Entity. Any person, firm, trust, partnership, association or corporation, having ownership or controlling interest in development or improvements regulated by this Chapter or Chapter 21 of the Rowan County Code of Ordinances (Rowan County Zoning Ordinance).

Package Treatment Plant. A self-contained sewage treatment facility built to serve the subdivision.

~~*Plan, site specific development* means a plan meeting the requirements of G.S. 153A-344.1, as amended, for approval of a vesting right under that statute.~~

Planning Board. County Planning Board of Rowan County, North Carolina.

Planning Department. The Planning Division of the Rowan County Planning and Development Department.

Planned Unit Developments (PUD). An area planned as a single entity containing one (1) or more residential, commercial or mixed use clusters that is subdivided into lots that do not meet the requirements of this ordinance. In a PUD the subdivider request an increase in density of property development for additional project amenities and relaxed public improvement standards in return for better subdivision design or for more affordable housing opportunities.

Plat. A map or plan of a parcel of land which is to be or has been subdivided showing such subdivision.

Primary SCM. means a **A** wet pond, stormwater wetland, infiltration system, sand filter, bioretention cell, permeable pavement, green roof, rainwater harvesting, or an approved new stormwater technology that is designed, constructed and maintained in accordance with the MDC.

Private Road. A dedicated right-of-way or ingress and egress easement to the public, forty-five (45) feet or greater in width containing a roadway which provides or is used primarily for vehicular circulation and is available for use by the general public or by residents of the development but is not maintained by NCDOT or any municipality in Rowan County.

Private Individual Sewage Disposal System. A sewage disposal system serving one (1) connection which is usually owned and controlled by a private single entity.

Private Individual Water Supply System. A water supply system having one (1) service connection whose water supply comes from a single source, usually limited to a well or spring.

Public Road. A dedicated road right-of-way meeting all minimum construction standards of NCDOT or is

maintained by the NCDOT Road Maintenance Program and available for use by the general public.

Public or Private Sewer System. A means of collecting, transporting and treatment of sewage by a public entity (e.g., city, town, county, sewer district), or other public body created, pursuant to State, Federal and local laws, or any combination thereof acting cooperatively or jointly, or a privately owned state licensed sewer system, for profit or non-profit firm or corporation. A package treatment plant shall be considered part of a public sewer system if owned by a City, Town, County, Sewer District, etc., otherwise shall be considered as a private sewer system.

Public or Private Water System. The provision to the public of piped water by a system with fifteen (15) or more connections or twenty-five (25) or more year round residents owned and operated by a municipality, county or other public entity or a privately owned licensed water supply, for profit or non-profit firm or corporation. This includes the term "community water supply system."

Public Protection Classification (PPC) Program. Developed and implemented by ISO, this program helps insurance companies measure and evaluate the effectiveness of fire-mitigation services throughout the country. The program rates a fire department on a scale of 1--10, with one (1) being the best and ten (10) not meeting the minimum criteria for rating. To determine the fire department's class rating ISO evaluators utilize the manual called the Fire Suppression Rating Schedule.

Recreation Area or Park. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various manmade features that accommodates such activities.

Required storm depth. means the **The** minimum amount of rainfall that shall be used to calculate the required treatment volume or to evaluate whether a project has achieved runoff volume match.

Right-of-way. The base setback line that is the greater of either the line dividing the public right-of-way currently or a line thirty (30) feet measured in a perpendicular distance and parallel to the centerline of the street pavement, superseded by the observed right-of-way or the area recognized in the Cabarrus-Rowan Metropolitan (CRMPO) **2002-2030 Long Range most recent Comprehensive** Transportation Plan **(CTP)** and referenced in Appendix A **of this chapter** that may be utilized for future transportation improvements.

Road. A dedicated public right-of-way for vehicular traffic (or a private road when permitted by this ordinance). The word "road" includes, but is not limited to, "street, freeway, highway, expressway, drive, avenue, court, way, place, circle, lane, boulevard, and thoroughfare."

Classifications of Roads:

Local road. A local road serves primarily to provide access to adjacent land and for travel over relatively short distance.

Major collector. A road which serves major intracounty travel corridors and traffic generators and provides access to the arterial system.

Major thoroughfares. Major thoroughfares consist of interstate, other freeway, expressway, or parkway roads, and major streets that provide for the expeditious movement of high volumes of traffic within and through urban areas.

Minor arterial. A rural roadway joining cities and larger towns and providing intrastate and inner-county service at relatively high overall travel speeds with minimum interference to through movement.

Minor collector. A road which serves small local communities and links locally important traffic generators with their rural hinterland.

Minor thoroughfares. Minor thoroughfares perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating minor through-traffic movements and may also serve abutting property.

Principal arterial. A rural link in a highway system serving travel, and having characteristics indicative of, substantial statewide or interstate travel and existing solely to serve traffic. This highway system would consist of interstate routes and other routes designed as principal arterials.

Service road. A road that runs parallel to a principal arterial or interstate and provides indirect access to and from properties or facilities abutting the interstate principle arterial via an interchange.

Specific Type Roads:

Alley. A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Cul-de-sac. A permanent dead-end street which has one (1) end open to traffic and terminates in a circular turnaround.

Freeways, Expressway or Parkway. Divided multilane roadways designed to carry large volumes of traffic at relatively high speeds. A freeway is a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An expressway is a divided highway with full or partial control of access and with grade separations at major intersection. A parkway is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park development.

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

Local Residential Road. Cul-de-sacs, loop streets less than two thousand five hundred (2,500) feet in length, or streets less than one (1) mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic for more than one hundred (100) dwellings units.

Residential Collector Road. A local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from one hundred (100) to four hundred (400) dwelling units.

Road mile. Linear distance of vehicular travel as measured along a road from any given location to another location

Rowan County Zoning Ordinance or "RCZO". means the **The** ordinance and maps adopted by the Rowan County Board of Commissioners on January 19, 1998; effective February 16, 1998 and any amendments thereto that have established planning and zoning requirements and procedures for zoning in the unincorporated areas of Rowan County outside the zoning jurisdiction of municipalities.

Runoff treatment. means **Means** that the volume of stormwater runoff generated from all of the built-upon area of a project at build-out during a storm of the required storm depth is treated in one or more primary SCMs or a combination of Primary and Secondary SCMs that provides equal or better treatment.

Runoff volume match. means **Means** that the annual runoff volume after development shall not be more than ten percent higher than the annual runoff volume before development.

Sanitary Sewage System. A complete system of sewage collection, treatment and disposal including privies, septic tank systems, connection to public or community sewage system, sewage reuse or recycle systems, mechanical or biological treatment system, or other such systems.

Secondary SCM. means **Means** an SCM that does not achieve the annual reduction of Total Suspended Solids (TSS) of a "Primary SCM" but may be used in a treatment train with a primary SCM or other Secondary SCMs to provide pre-treatment, hydraulic benefits, or a portion of the required TSS removal.

Sewage. The waste water and its contents from kitchen, bathroom, toilet, lavatory and laundry of any residence, business establishment, industrial plant, institution, or any public building.

Stormwater Control Measure or "SCM," also **Also** known as "Best Management Practice" or "BMP," means a permanent structural device that is designed, constructed, and maintained to remove pollutants

from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

Special Flood Hazard Area (SFHA). The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 9-7 of the Flood Damage Prevention Ordinance.

Subdivider. Any person, firm or corporation who subdivides or develops any land judged to be a subdivision as herein defined. **Also may be referred to as applicant herein.**

Subdivision. See section 22-6 of this ordinance.

***Subdivision, Family.* See section 22-10 of this ordinance.**

Subdivision, Major. See section 22-~~8~~ **9** of this ordinance.

Subdivision, Minor. See section 22-7 of this ordinance.

***Subdivision, Minor, special exception.* See section 22-8 of this ordinance.**

***Subdivision Administrator.* The individual or their designee(s) who are primarily responsible for making administrative decisions regarding this chapter unless otherwise expressly provided. The term “staff”, “planning staff”, or “administrator” may sometimes be used interchangeably with the term “subdivision administrator”.**

Subdivision Review Committee. ~~An advisory~~ **A committee comprised of state and local officials from agencies responsible for reviewing specific aspects of the subdivision process, which is to the Rowan County Board of Commissioners designated to review and approve all major subdivision preliminary and final plats, make other decisions noted in this chapter, and to make recommendations to the Subdivision Administrator for the Board of Commissioners to approve, approve with conditions or disapprove requests identified in this chapter.** The committee shall consist of one (1) or more representatives from the following agencies or officials:

1. Rowan County Health Department, **Environmental Health Division.**
2. Rowan County ~~Environmental Management~~ **Planning Department**, Soil **Erosion and** Sedimentation Control ~~Staff.~~
3. Rowan County Planning Department, **Subdivision Administration.**
4. N.C. Department of Transportation, Division 9, District 1, office.
5. Rowan County Emergency Services, Fire Division.

Suction Points. Any given point or location on a water point source at which fire department pumping apparatus is able to acquire, through drafting operations, water from that source for use in suppressing a fire. This term may also include generic terms such as dry hydrant, float dock, etc.

Tract. A piece of property upon which a subdivision is proposed.

Vegetated conveyance. ~~means a~~ **A** permanent, designed waterway lined with vegetation that is used to convey stormwater runoff at a non-erosive velocity within or away from a developed area.

Vegetated setback. ~~means an~~ **An** area of natural or established vegetation adjacent to surface waters, through which stormwater runoff flows in a diffuse manner to protect surface waters from degradation due to development activities.

***Vested right.* The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in section 21-11 of the Zoning Ordinance or under common law.**

Water Point Source (WPS). An adequate and reliable water delivery system used for fire protection that is available three hundred sixty-five (365) days a year and has the ability to provide two hundred fifty (250) gallons per minute (gpm) for a two-hour duration. For purposes of this definition, a wps may include but not be limited to facilities such as a pond, cistern, underground or aboveground storage tanks, etc.

“Written” or “in writing”. Written communication, including by electronic mail, executed by a staff member to document a determination, order, interpretation, notification, or other purpose identified by this chapter. Unless specified otherwise, in the absence of evidence to the contrary, delivery by first class mail shall be deemed received on the third business day following deposit of the item with the United States Postal Service and delivery by electronic mail shall be deemed received on the date sent.

(Amend. of 7-16-07(2); Amend. of 6-16-08; Amend. of 11-2-09; Amend. of 4-21-14; Amend. of 9-6-16; Amend. of 2-6-17; Amend. of 8-19-19; Amend. of 2-17-20)

Section 22-~~11~~ 12. Word Interpretation.

For the purpose of this chapter, certain words shall be interpreted as follows:

The word "used for" shall include the meaning "designed for."

The word "structure" shall include the word "building."

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

All words not specifically defined in this ordinance shall be assigned their customary dictionary definitions.

Secs 22-~~12~~ 13 —22-25. Reserved.

ARTICLE II. ADMINISTRATION

Section 22-26. General Procedures For Plat Approval.

After the effective date of this ordinance, no subdivision plat of land within the County's jurisdiction **referenced in section 22-4** shall be filed or recorded unless it meets the requirements of sections 22-51 and 22-52.

Section 22-27. Statement of Owner.

The owner of land shown on a subdivision plat submitted for recording, or his authorized power of attorney, shall sign a statement on the plat stating whether or not any land shown thereon is within the **subdivision-regulation** jurisdiction of Rowan County **referenced in section 22-4** or any municipality's jurisdiction within Rowan County.

Section 22-28. Issuance of Building Permits on Subdivision Lots.

No building permit shall be issued for the erection of any building on any lot within a proposed subdivision until a final plat of said subdivision is recorded at the Rowan County Register of Deeds office.

Section 22-29. Administration and Enforcement.

(a) Administration. This ordinance shall be administered and enforced by the Subdivision Administrator **or their designee** who shall be assigned by the County Manager of Rowan County. ~~Duties may be assigned by the administrator to other county personnel to conduct inspections and other duties of administration.~~ **The subdivision administrator or any member of the Subdivision Review Committee shall not make a final administrative decision concerning a request if they would have a conflict of interest as identified in section 21-315 (2) of the Zoning Ordinance for advisory board members in making the decision. If a staff member**

has a conflict of interest under this section, the decision shall be assigned to another staff member as designated by this chapter.

(b) Enforcement.

(1) *Notice of Violation (NOV).* If the administrator discovers a violation of these regulations, the administrator shall provide a written notice of violation (NOV) informing the violator of the specific violation and give a specific time to correct the violation. The NOV shall be delivered to the holder of a development approval, if applicable, and the landowner by personal delivery, electronic delivery, or first-class mail and may be provided to the occupant of the property or person undertaking the work or activity. The NOV may be posted on the property. The administrator or staff member delivering the NOV shall certify that the order was delivered and maintain documentation provided with associated dates. If the violation continues or is not corrected, or a request for an appeal or variance, if applicable, as provided in section 22-53 is not filed, the administrator shall initiate proceedings for enforcement as described in this article.

(2) *Stop work orders.* Whenever any work or activity subject to the standards of this Chapter is undertaken in substantial violation or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefore, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval, if applicable, and the owner of the property involved by personal delivery, electronic delivery, or first-class mail. The administrator or staff member delivering the stop work order shall certify that the order was delivered and maintain documentation provided with specific dates. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

Section 22-30. Exceptions to the Subdivision Ordinance Certification.

When requested by the Rowan County Register of Deeds, the Subdivision Administrator may certify that a subdivision intended to be recorded is an exception to the Subdivision Ordinance as described in section 22-6, "Subdivision" Defined. Certification of a subdivision exception shall appear on all copies of the subdivision plat for recordation as follows:

I hereby certify that this subdivision plat for recordation is an exception to the Subdivision Ordinance of Rowan County, North Carolina as defined in section 22-6.

Date

Subdivision Administrator
Rowan County, North Carolina

Section 22-31. Permit Choice, Vested Rights and Site-Specific Vesting Plans.

Pursuant to G.S. ~~153A-344.1~~ **143-755, 160D-108, and 160D-108.1**, a **provisions to secure a permit choice, vested right, or site-specific vesting plan** ~~to undertake and complete the development and use of property under the documented terms, any associated conditions, and approved site plan(s)~~ may be established subject to chapter 21 section 11 of the Zoning Ordinance.

(Amend. 4-21-14)

Section 22-32. Retention of Consultant.

Rowan County may elect to retain a consultant or professional services to review and provide a determination(s) or recommendation(s) as to whether any proposed subdivision improvement(s) complies with the standards of this ordinance and applicable state and federal rules and regulations. The subdivider, developer or applicant shall pay any expense for consulting or professional services in excess of the application fee. Rowan County shall require any consultant(s) to disclose any potential conflicts of interest and to hold confidential any proprietary information supplied by the applicant.

(Amend. 8-19-19)

Sections 22-33—22-50. Reserved

ARTICLE III. PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

Section 22-51. Plat Shall Be Required On Any Subdivision of Land.

Pursuant to G.S. ~~153A-332~~ **160D-803**, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place, except as herein provided.

Section 22-52. Approval Prerequisite to Plat Recordation.

Pursuant to G.S. ~~153A-332~~ **160D-803**, no final plat of a subdivision within the jurisdiction of the County of Rowan as established in section 22-4 of this ordinance shall be recorded by the Register of Deeds of Rowan County until it has been approved by the Subdivision Administrator or Board of Commissioners as provided herein. This approval shall be certified by the Subdivision Administrator on the final plat before recordation. To secure such approval of a final plat, the subdivider shall follow the procedures established in this article.

Section 22-53. Appeals and Variances.

Any **administrative** decision of the Subdivision Administrator or Subdivision Review Committee made in regard to this ordinance may be appealed **by a person with standing under G.S. 160D-1402(c)** to the **Zoning** Board of Adjustment (**ZBA BOA**) **within thirty (30) days of receiving actual or constructive notice of the decision. Appeals shall follow the procedure outlined in accordance with the provisions of Article XIII.** Section **21-315 and** 21-331 of the Rowan County Zoning Ordinance. Requests for variances from the requirements of this ordinance shall be heard by the **Zoning** Board of Adjustment (**ZBA BOA**) in accordance with **the provisions of Article XIII.** Section 21-332 of the Rowan County Zoning Ordinance.

(Ord. of 2-1-99(2); Amend. of 2-20-06(2); Amend. of 7-16-07(2))

Section 22-54. Waivers; Family Subdivisions.

The Board of Commissioners may authorize a waiver from the family subdivision requirements to allow the creation of more than three (3) lots or conveyance to a family member that does not meet the definition of immediate family when, in its opinion, undue hardship may result from strict compliance. All other requests to deviate from the requirements herein are subject to a variance in accordance with section 21-332 of the Zoning Ordinance. In granting any waiver, the Board of Commissioners shall consider the nature of the proposed subdivision, the existing use of the land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. The waiver shall be granted only when it has been determined that such waiver shall not be detrimental to the county and the area surrounding the subdivision.

(Ord. of 2-1-99(2); Amend. of 9-6-16)

Section 22-55. Optional Sketch Plan.

Prior to the submission of a preliminary or final plat, the subdivider may submit to the Subdivision Administrator three (3) copies of the proposed subdivision. The sketch plan will be reviewed by appropriate county staff and NCDOT representatives to insure compliance with all applicable regulations. If the proposed subdivision is not in compliance the subdivider shall be notified of specific areas of noncompliance by the subdivision administrator. The sketch plan should contain the following information:

- (1) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivision, roads, and waterways;
- (2) North arrow, scale of plat, graphic scale bar and name of person who prepared the plat;
- (3) The boundaries of the tract and the portion of the tract to be subdivided;
- (4) The total acreage to be subdivided;
- (5) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
- (6) The proposed street layout with approximate pavement and right-of-way width, lot layout including dimensions and area of each lot;
- (7) The name, mailing address, and telephone number of the owner;
- (8) The name of the proposed subdivision;
- (9) Streets and lots of adjacent developed or platted properties;
- (10) The zoning classification of the tract and of adjacent properties;
- (11) Tax map and parcel number, recorded deed book and page number of subdivided tract.
- (12) As applicable, location of water point source or description of method used for providing a water point source.

(Amend. of 7-16-07(2); Amend. of 9-6-16)

Section 22-56. Preliminary plat and stormwater control measure (SCM) submission and review.

(a) Submission Procedure

The subdivider or developer shall submit a preliminary plat application for all major subdivisions or SCM plan application for all high density watershed projects which shall be reviewed by the Subdivision Review Committee (hereinafter referred to as the "Committee"). Upon receipt of a complete application the Subdivision Administrator shall schedule a Committee meeting within fourteen (14) days. The Committee shall have authority to approve the plat or plan before any construction or installation of improvements may begin. Failure to submit all items required by this subsection shall constitute an incomplete application and no review or approval by the Committee shall be issued. A preliminary plat application shall include:

1. Eight (8) copies of the preliminary plat containing all items outlined in section 22-61(a) submitted to the Subdivision Administrator.
2. Two (2) copies of a sedimentation and erosion control plan (or waiver).
3. Application for a driveway permit submitted to the Division 9 District 1 North Carolina Department of Transportation office.
4. Road plans and profiles submitted to the Division 9 District 1 North Carolina Department of Transportation office if applicable.

5. Subdivision review application and fee.
6. Two (2) copies of the proposed restrictive covenants for maintenance of any proposed open space in compliance with the provisions of section 22-58(f) of this article.
7. Certification from both the Fire Marshal and Chief of the fire department with responding jurisdiction that the major subdivision proposal is proximate to an adequate and reliable water point source. For projects lacking proximity to a sufficient water point source, a proposed method for complying with the requirements of section 22-111 of this ordinance must be provided.
8. For projects required to construct or provide a water point source, two (2) copies of the proposed restrictive covenants for maintenance of the water point source in compliance with the provisions of section 22-58 (g) (f) of this article and 2 copies of the water usage agreement contract contained in Appendix A.
9. If applicable, location of the all weather access road to a water point source in compliance with the standards of section 22-80(g).

A Stormwater Control Measure (SCM) plan application shall include:

1. Three (3) copies of the Operation and Maintenance Agreement or Manual for the SCM
2. Five (5) copies of an overall site plan where the SCM(s) will be utilized that depicts all applicable items outlined in Section 22-61(a) of this Chapter. The site plan shall be prepared and sealed by a North Carolina registered design professional working in their area of competence as prescribed by North Carolina General Statutes.
3. Compliance with Minimum Design Criteria established in Section 22-109(b) of this Chapter.

(b) *Review Procedure.*

The committee shall make one of the following decisions noted below on the preliminary plat or SCM plan application ("plan") within thirty (30) days of the committee meeting at which the plat or plan was discussed. If disapproved by the committee within this time, the subdivider or developer may refer the plat or plan to the Board of Commissioners. The Board of Commissioners shall have forty-five (45) days after referral of the plat or plan to make a decision.

Decisions made regarding plats and plans shall be to:

- (1) Approve as submitted; or
- (2) Approve with conditions; or
- (3) Disapprove with reasons for disapproval given.

If not approved, the subdivider or developer may resubmit a revised plat or plan within ninety (90) days with no additional filing fees required. The resubmitted plat or plan shall be reviewed in the same manner as a new application.

If the preliminary plat or plan is approved by the ~~Subdivision Review Committee~~ committee or Board of Commissioners, the approval shall be indicated on two (2) copies of the Plat / Plan. Any conditions shall be noted on or attached to the two (2) copies required. One (1) copy shall be retained by the Subdivision Administrator as part of the official record. One (1) copy with any conditions noted shall be returned to the subdivider. Unless otherwise specified, conditions shall be complied with by the subdivider or developer within twelve (12) months of the date of conditional approval or the approval shall be voided.

(Ord. of 2-1-99(2); Amend. of 7-16-07(2); Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 9-6-16; Amend. of 8-19-19)

Section 22-57. Final Subdivision Requirements.

- (a) *Requirements for Final Plat.* The final plat shall be prepared by a professional land surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plat, subdivisions, and mapping requirements set forth in G.S. 47-30 and the "Standard of Practice for Land Surveying in North Carolina," where applicable, and the requirement of the Rowan County Register of Deeds.

The final plat shall be submitted to the Subdivision Administrator on either reproducible material suitable for recordation at the Register of Deeds office or as an electronic document in accordance with G.S. 47-30. A final plat application shall be considered complete if it contains all of the information required by sections 22-57 and 22-59 and is accompanied by a nonrefundable filing fee according to the fee schedule approved by the Board of Commissioners.

The final plat shall be 18" x 24", 21" x 30", or 24" x 36" in size and shall be at a scale of not less than one (1) inch equals one hundred (100) feet, unless each lot in the proposed subdivision is more than three (3) acres. In such case, the scale shall not be less than one (1) inch equals two hundred (200) feet. The plat may be placed on more than one (1) sheet with appropriate match lines.

- (b) *Major Subdivisions; Installation and Improvements.* Upon approval of the preliminary plat, the Subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance. Before approval of a final plat, the subdivider shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time. Such portion shall conform to all requirements of this ordinance and shall depict the subdivision, or portion thereof, in substantially the same form and layout as that approved in the preliminary plat. Only that portion of the subdivision proposed for final plat approval and recordation in the Rowan County Register of Deeds office shall be shown on the final plat.

The subdivider shall submit the final plat to the Subdivision Administrator no later than twenty-four (24) months after the approval of the preliminary plat, unless a greater time period was stipulated originally in said approval. The subdivider may submit a request to the Subdivision Administrator for a time extension for up to twelve (12) additional months for said approved preliminary plat. Said request must be submitted to the Subdivision Administrator before the original plat expiration date. No more than one (1) such extension may be granted by the Subdivision Administrator. Otherwise, approval of said preliminary plat shall expire and become voided.

The subdivider may submit a final plat for only a portion of the subdivision given preliminary plat approval. Any such submission shall be accompanied by a nonrefundable fee according to the fee schedule approved by the Board of Commissioners. Said submission shall extend the expiration date for the remaining portion(s) or phases of the approved preliminary plat for an additional twenty-four (24) months past the date of said final plat approval.

- (c) *Major Subdivisions; Performance Guarantees.*

- (1) Agreement and Security Required.

Instead of requiring the completion, installation and dedication of all improvements before final plat approval, Rowan County may enter an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements within twelve (12) months **unless the developer determines the scope of work for the required improvements necessitates a longer duration**, with the exception of a water point source or stormwater control measure. The county may accept a performance guarantee for a water point source for the period prior to plat recordation and terminating with issuance of the first certificate of occupancy for a structure. Consideration of an extension(s) beyond the initial 12-month period for all improvements except the water point source, may be granted by the Board of Commissioners in accordance with subsection (2) below based upon a written request from the subdivider indicating the need for an extension and an anticipated

completion date for the improvements.

Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Subdivision Administrator or Board of Commissioners, if all other requirements of this ordinance are met. **To secure this agreement, the subdivider shall provide to the Rowan County Board of Commissioners either one (1), or a combination of the guarantees listed below.** All such guarantees shall be subject to the approval of the Board of Commissioners and shall be made payable to Rowan County.

The amount of such guarantee shall be equal to 1.25 times the cost of installing all required improvements. **In accordance with G.S. 160D-804.1, the reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for the completion of the required improvements based on unit pricing when applicable. The additional twenty-five percent (25%) allowed under this subsection includes inflation and all costs of administration regardless of how much fees or charges are denominated. Costs associated with erosion control and stormwater control measures are not subject to the performance guarantee limitations of G.S. 160D-804.1** The cost estimate shall be prepared by a North Carolina registered professional engineer and include his/her original seal and signature and accompany the subdivider's request for consideration under this subsection. The cost of preparing the cost estimate shall be borne by the developer. **The subdivider shall provide to the Rowan County Board of Commissioners either one (1), or a combination of the following guarantees:**

- (a). Surety Performance Bond(s). The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina.
- (b). Letter of credit issued by any financial institution licensed to do business in North Carolina.
- (c). Other form of guarantee that provides equivalent security to a surety bond or letter of credit. Cash and similar instruments must be deposited in escrow with the county.

(2) Extensions and Default.

~~If the required improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended or a new guarantee issued for an additional period until such required improvements are complete. A developer shall demonstrate good faith progress toward completion of the required improvements that are the subject of the performance guarantee or extension. The form of any extension shall remain at the election of the developer.~~ A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications in the agreement and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended or a new performance guarantee issued for an additional period. If a new performance guarantee is issued, the amount shall be determined in the same manner as the original based on the total cost of all incomplete improvements.

Should the subdivider fail to complete the required improvements in a timely manner as spelled out in the performance guarantee, then the surety, or the financial institution holding the guarantee, shall, if requested by the Board of Commissioners, pay all or any portion of the funds to Rowan County up to the amount needed to complete the improvements based on the engineer's estimate. Upon payment, the Board of Commissioners, in its discretion, may expend such portion of said funds as it considers necessary to complete all or any portion of the required improvements. The county shall return to the appropriate institution any funds not spent in completing the improvements. Should the amount of funds needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the subdivider shall nonetheless

be responsible for providing the funds to cover such cost. The subdivider shall always bear the financial burden for the installation of all required improvements.

(3) Release of Guarantee Security.

The performance guarantee shall be returned or released, as appropriate, in a timely manner upon acknowledgement by the Planning and Development Department that the subject improvements are complete. As an alternative, the County Manager may authorize the release of a portion of the security that coincides with improvements documented as complete. The developer must provide a revised performance guarantee and engineer's estimate of 1.25 times the cost of installing all remaining improvements required.

(d) *Major Subdivision; Final Plat Submission and Approval.*

Upon receipt of a final plat application, the Subdivision Administrator shall schedule a Committee meeting within fourteen (14) days. Failure to submit all items required by this subsection shall constitute an incomplete application and no review or approval by the Committee shall be issued. Review and approval for all major subdivision final plats shall be as described for preliminary plats in section 22-56(b).

Final plat applications shall be submitted to the Subdivision Administrator and contain:

1. A final plat meeting standards outlined in section 22-57(a) and the information contained in section 22-61(b) and either one (1) paper or electronic copy;
2. For private roads, certification from a North Carolina registered professional engineer that all applicable aspects of road construction or other improvements have been completed;
3. For public roads, certification from the Division 9 District 1 North Carolina Department of Transportation office that applicable road construction improvements have been completed to their minimum construction standards;
4. An approved driveway permit from the Division 9 District 1 North Carolina Department of Transportation office;
5. Any other documentation required by the Committee as a condition of preliminary plat approval;
6. Completed review application and fee;
7. Two (2) copies of the finalized restrictive covenants for maintenance of any proposed open space in compliance with the provisions of section 22-58(f) of this article;
8. As applicable, certification from both the Fire Marshal and the Chief of the fire department having responding jurisdiction that a water point source has been constructed in compliance with section 22-111 of this ordinance, including two (2) copies of the finalized restrictive covenants for maintenance of the water point source as contained in the provisions of section 22-58 ~~(g)~~ (f) of this article and a signed and notarized version of the water usage agreement contract contained in Appendix A;
9. As applicable, certification from the Chief of the fire department with responding jurisdiction that the all-weather access road has been constructed in compliance with the standards of section 22-80(g).

(e) *Minor, **Minor Special Exception**, and Family Subdivision Final Plat Submission and Approval.*

The subdivider shall submit the final plat application for the proposed minor, **minor special exception**, or family subdivision containing:

1. A final plat meeting standards outlined in section 22-57(a) and the information contained in section 22-61(b) and either one (1) paper or electronic copy;

2. Completed review application and review fee;
3. Approved driveway permit from the Division 9 District 1 North Carolina Department of Transportation office ~~when creation of a new easement for a family subdivision accesses a state or publicly maintained road~~ **unless otherwise exempted by NCDOT.**

Upon receipt of the final plat application, the subdivision administrator shall have ten (10) days to review the plat and to grant approval, approval with conditions or disapproval. Failure to submit all items required by this subsection shall constitute an incomplete application and no review or approval shall be issued by the Subdivision Administrator. If more than ten (10) days is required for approval, the Subdivision Administrator must notify the subdivider in writing advising him of the delay, the nature of the delay and an approximate date as to when a decision can be forwarded. If a decision is not made within thirty (30) days of submittal of the completed application, the subdivider may request referral to the Board of Commissioners for a decision.

If the Subdivision Administrator does not approve the final plat, he shall instruct the subdivider concerning resubmission of a revised plat. The subdivider may make such changes as will bring the plat into compliance with the provisions of this ordinance and resubmit same for reconsideration by the Subdivision Administrator, or ~~appeal~~ **request referral** to the Board of Commissioners if the subdivider is not satisfied with the decision of the Subdivision Administrator. The Subdivider shall have sixty (60) days to resubmit the final plat to the Subdivision Administrator without having to pay an additional filing fee.

(f) *Reserved.*

(Ord. of 2-1-99(2); Amend. of 7-16-07(2); Amend. of 6-16-08; Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 3-7-16; Amend. of 9-6-16; Amend. of 1-16-18; Amend. of 8-19-19)

Section 22-58. Planned Development Subdivision (PDS).

A Planned Development Subdivision may be composed of residential, commercial, industrial public and semi-public uses. A PDS may be a Planned Unit Development (PUD) or a Cluster Subdivision. To encourage innovative development, the normal subdivision regulations pertaining to dimensional criteria from Article IV of the Zoning Ordinance and road standards from section 22-80 may be modified or exempted entirely, subject to approval of the total development plan by the Board of Commissioners. Sound design of the plan for development, in keeping with good planning and engineering practices and with the general safety and welfare of the public, shall be considered in the approval of any PDS.

(a) *PDS Concept Site Plan Submittal and Approval.*

- (1) A site plan shall be submitted to the Subdivision Administrator for Board of Commissioners approval of the general concept to be achieved by the proposed PDS. The information and data to be submitted on the site plan shall be as required for a preliminary plat in addition to the following information:
 - a. General development plan for the property showing the boundaries of areas to be developed for each proposed land use type and design standards for the type of land use in the PDS. Each land use type shall be identified distinctively from other land use types by color, patterns, numbers or letter, or a combination of means for easy identifications.
 - b. Proposed right-of-ways drawn on the plan to show location of public and private streets and roads within the PDS.
 - c. Location of land to be made available for community facilities such as schools, parks, churches, fire stations and similar uses.
 - d. General location of land to be dedicated as buffering, recreation and open space.
 - e. General location of major utilities such as water lines, or sewer lines, stormwater control

measures, water point source and natural gas if provided, electrical, telephone and cable television.

f. Data shall be supplied for the following:

1. Total site acreage.
2. Acreage set aside for each land use type.
3. Proposed densities for each residential land use type. Where a residential land use type will be planned in separate locations with different densities, the proposed density of each shall be given.
4. Total number of dwelling units proposed.
5. The ratio of open space proposed for each residential land use type.
6. Proposed method of water supply and sewerage treatment and disposal.

(b) *Submission Procedure For PDS Concept Site Plan.*

The subdivider shall submit a PDS concept site plan, which shall be reviewed by the Subdivision Review Committee. The committee shall send their recommendations to the Subdivision Administrator to forward to the Planning Board for review and a recommendation to the Board of Commissioners.

At least nine (9) copies of the PDS concept site plan shall be submitted to the Subdivision Administrator.

The fee for submitting a PDS site plan shall be paid at the time of submittal according to the fee schedule approved by the Board of Commissioners.

(c) *Review and Approval Procedures.*

The Subdivision Administrator shall schedule a meeting of the Subdivision Review Committee within fourteen (14) days of submittal of a complete application. The committee shall recommend to the Subdivision Administrator, on a majority vote of the members present, to approve the plan, conditionally approve the plan with the recommended change with reason for the change(s) or disapprove the plan with reason within fifteen (15) days of the committee meeting at which the plan was discussed. If no recommendation is made by the committee within this time, the plan shall then be placed on the next Planning Board agenda subject to the courtesy hearing notification requirements from chapter 21 section 315 (1) of the Zoning Ordinance.

After receiving a recommendation from the Planning Board or after failure of the Planning Board to transmit a recommendation within thirty (30) days of first consideration, the Board of Commissioners shall hold a public legislative hearing on the proposed PDS application, subject to notification requirements from chapter 21 section 315 (1), to render one of the following decisions:

- (1) Approve the concept of the plan as submitted;
- (2) Approve the concept of the plan with modifications; or
- (3) Disapprove the concept of the plan with the reasons for disapproval given.

If not approved the applicant may resubmit a revised site plan within ninety (90) days with no additional filing fees required. The resubmitted site plan shall be reviewed in the same manner as a new application. At least one (1) copy of any disapproved plan along with the reason for disapproval shall be retained by the Subdivision Administrator as part of the County's official records. A copy of such reasons and any remaining copies of the plan shall also be transmitted to the subdivider.

If the PDS concept site plan is approved, it shall be indicated on the plan and two (2) copies shall

be retained by the Subdivision Administrator as part of the County's official records. Any remaining copies of the approval plan shall be transmitted to the subdivider. If the plan is approved with modification, these modifications shall be noted in the minutes of the Board of Commissioners and a written copy of the modifications shall be provided to the subdivider. An approved PDS concept site plan shall be valid for twenty-four (24) months after the approval date.

(d) *Supplementary Requirements for Cluster Subdivisions.*

Any PDS that is proposed as a cluster subdivision as defined in section 22-~~10~~ 11 shall be subject to the following regulations and standards:

- (1) The subdivision is two (2) or more acres in total area including public and private right-of-ways, platted lots and permanent open space as provided in section 22-58(d)(3) and contain at least four (4) dwelling units as indicated in chapter 21 section 60 (15) of the Zoning Ordinance.
- (2) The total number of lots does not exceed the number that would result if the total area of the subdivision were divided by the minimum lot size for lots in subdivisions not subject to this section.
- (3) Land set aside within the subdivision and its maintenance as permanent open space is assured by restrictive covenants shall be placed on open space tracts to satisfaction of the Board of Commissioners. The area of such open space shall not be less than the difference between the total area platted in the subdivision and the total area that would have been so platted if all lots were of the minimum lot size for lots in normal subdivisions not subject to this section.
- (4) The land so set aside is shown on the approved subdivision plan and provides in such a manner that it may be used for recreational or other purposes or remain in a vegetated or natural state for those areas not suitable for recreational purposes. The open space tract shall be accessible to all residents of the subdivision or where the land is proposed to be deeded to a municipality or county, accessible to the public.

(e) *Supplementary Requirements of Planned Unit Development (PUD).*

Any proposed PDS that is proposed as a Planned Unit Development (PUD) as defined in section 22-~~10~~ 11 shall be subject to the following regulations and standards:

- (1) The allowable number of dwelling units per acre shall conform to the density standards prescribed in chapter 21 section 84 of the Zoning Ordinance.
- (2) When Land Application Treatment Systems are used for sewage treatment and disposal system, the land area required for the treatment and disposal shall not be included in determining the maximum gross density.
- (3) The maximum land area associated with any nonresidential structures, excluding surface parking, shall not exceed thirty (30) percent of the total land area associated with the nonresidential uses unless otherwise approved by the Board of Commissioners.
- (4) Land area associated or required with one type of land use may not be used to compute acreage available for another type of land use. Land area shall not be counted twice in computing acreage available to each land use.
- (5) Any proposed common open space in a PUD shall provide for the upkeep and maintenance under provisions of section 22-58(f).

(f) *Maintenance Requirements For Common Open Space.*

If the open space tract is not intended to be deeded and accepted by a county or municipality, then a homeowners association or similar legal entity shall be established and shall be responsible for the maintenance, payment of taxes, and control of open space areas subject to the restrictive covenants.

An association or similar legal entity shall be established by recorded covenants before any lots of the development have obtained a zoning or building permit, although their maintenance authority for purposes of this article shall not be in effect until at least twenty-five (25) percent of the lots are built-upon and occupied by tenants other than the subdivider. The association or similar legal entity shall have clear legal authority to maintain and exercise control over such open space areas.

Further, the association or similar legal entity has the power to compel contributions by levying assessments against each lot in the subdivision development whether improved or not, for the purpose of paying their proportionate share of the cost associated with the maintenance, upkeep, and taxes of such common open space areas.

Other methods may be acceptable if the same positively provide for the proper and continuous payment of taxes and maintenance of the common open space. The instruments incorporating such provisions shall be submitted at the time of final plat submittal and shall be approved by the county attorney as to form and legal sufficiency, before submission to the Board of Commissioners and shall be recorded at the office of Register of Deeds of Rowan County at the time of recordation of the final plat.

(Amend. of 7-16-07(2); Amend. of 11-2-09; Amend. of 4-21-14; Amend. of 9-6-16; Amend. of 8-19-19)

Section 22-59. Certifications and Notations Required on Plats.

- (1) The following certificate shall be required on all approved preliminary plats:

Certificate of Approval of Preliminary Plat

This preliminary plat has been approved in accordance with the provisions of the Rowan County Subdivision Ordinance on (date).

Subdivision Administrator

- (2) The following notation shall appear and be signed, as appropriate, on all final plats.

Certificate of Approval of Final Plat

This final plat has been approved in accordance with the provisions of the Rowan County Subdivision Ordinance on (date).

Subdivision Administrator

Certificate of Survey and Accuracy

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgements and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement as provided in G.S. Chapter 89C and Section 47-30. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information.

The certificate shall take the general form as provided by law.

Certificate of Ownership and Dedication

I (We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon, which is located in the subdivision jurisdiction of Rowan County and that I hereby adopt this plan of

improvements or enforcement of the responsibilities noted within this statement. (Note: This statement shall not serve as a substitute for any other statutory disclosure requirement.)

The following notation shall appear on all final plats of major subdivisions with new public streets:

ROAD MAINTENANCE DISCLOSURE STATEMENT

The street and storm drainage system in this subdivision were designed and (constructed or financially guaranteed in accordance with section 22-57 (c) of the Subdivision Ordinance to be constructed) to NCDOT standards. Property owners should be aware NCDOT is not responsible for any maintenance associated with these improvements until the streets have been petitioned for inclusion into the secondary road maintenance system and accepted therein. Maintenance of these improvements shall be the responsibility of (the developer(s) or the property owners) until NCDOT has accepted maintenance responsibilities. Rowan County is not responsible for any maintenance associated with these improvements or enforcement of the responsibilities noted within this statement. (Note: This statement shall not serve as a substitute for any other statutory disclosure requirement.)

(Ord. of 2-1-99(2); Amend. of 6-16-08; Amend. of 11-2-09; Amend. of 9-6-16)

Section 22-60. Phased Development for Major Subdivisions.

If the subdivider proposes that a major subdivision will be constructed in phases, the following procedure shall apply:

- (1) A master plan showing the general layout of the proposed subdivision and phases of development, proposed density, proposed type and location of utilities, type of road construction, and proposed development timetable shall be submitted to the Subdivision Administrator;
- (2) Each phase of development shall be preceded by submission and approval of a preliminary plat as outlined in section 22-55. The master plan may be submitted prior to, or simultaneously, to the submission of the preliminary plat for the first phase of development;
- (3) A final plat must be submitted and approved for each phase or portion thereof phase as outlined in section 22-56;
- (4) Approval of the master plan need not be renewed unless density increases are proposed.

Section 22-61. Required Information for Preliminary and Final Plats.

(a) Required Information for Preliminary Plats.

The required preliminary plats shall depict, contain or be accompanied by the information indicated below:

- Title Block Containing Subdivision Name.
- Location (including township, county and state).
- A bar graph scale and North arrow.
- Name, address, registration number and seal as applicable of the Professional Land Surveyor, land planners, architects, landscape architects, and professional engineers responsible for the subdivision.
- The name of the subdivider or developer.
- The sketch vicinity map with north arrow showing the relationship between the proposed subdivision and surrounding area.

- Estimated corporate limits, township boundaries, and county lines if on the subdivision tract.
- Date of plat preparation.
- The boundaries of the tract to be subdivided, distinctly and accurately represented with all bearings and distances shown and the location of existing boundary lines of adjoining lands, property lines and fifty (50) feet away from the property line into adjoining property land.
- The names of owners of adjoining properties and deed book and page number.
- The names of any adjoining subdivision of record or proposed and under review.
- Front building setback line.
- The zoning classification of the tract to be subdivided and adjoining properties.
- Existing buildings or other structures, water courses, utility and street rights-of-way or easements, railroads, bridges, both on the land to be subdivided and land immediately adjoining.
- All certifications required by this ordinance.
- The lots numbered throughout the subdivision in a manner using only numeric symbols. A continuous numbering system shall be used throughout the subdivision. Multiple phases shall maintain continuous numbering system for all phases.
- Ponds or lakes, streams or stream beds and any other natural features affecting the site.
- The location of the special flood hazard area, base flood elevations, and floodway / non-encroachment areas from the county's FIRM maps and or FIS, if applicable.
- Proposed roads and existing and platted roads on adjoining properties within twenty (20) feet of the subdivision boundary and in within the proposed subdivision.
- Road names.
- Type of road dedication, either public or private; for public roads not dedicated to a municipality engineering drawings and specifications shall be provided to the NCDOT District Engineer.
- The locations and dimensions of all utility and other easements, riding trails, if proposed, pedestrian or bicycle paths if proposed, park and open space corridors, school sites (both existing and proposed), areas to be dedicated to or reserved for public use, areas to be used for purposes other than residential with the purpose of each stated.
- Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, and easements line, including dimensions, bearings, or deflection angles. All linear and angular dimensions shall comply with the standards established by the Board of Registration for Professional Engineers and Land Surveyors.
- The accurate locations and descriptions of all monuments and markers.
- Right-of-way location and dimensions, pavement widths drawn to scale, approximate grade, design engineering data for all corners and curves, typical road cross sections.
- The plans for utility layouts, if applicable, including sanitary system, stormwater drainage system control measures and drainage facilities, water distribution lines, natural gas lines, telephone lines, electric lines and other proposed utilities.
- Plans for community water supply and community sewage disposal systems (e.g. package treatment plants), if any.
- Site data including acreage in total tract to be subdivided, acreage in parks, open space, and recreation acres and other nonresidential uses excluding any street right-of-ways, total number of

parcels created, total combined acreage of all lots, acreage shown for each lot in the subdivision, linear feet in streets, the name and location of any property or building within the proposed subdivision that is located on the U.S. Department of Interior's National Register of Historic Places.

- A topographic map with contour interval of no greater than ten (10) feet at a scale of no less than one (1) inch equals two hundred (200). Available USGS Quadrangle maps may be enlarged or otherwise used to produce this information.
- Location of water point source and all-weather access road, as applicable.
- A statement indicating Rowan County does not guarantee the suitability of any lot for the placement of a sewage disposal and/or water supply system.

(b) *Required Information for Final Plats.*

The final plats shall depict, contain or be accompanied by the information indicated in the following table:

- Title Block containing Subdivision Name.
- Location (including township, county and state)
- A bar graph scale and North arrow.
- Name, address, registration number and seal as applicable of the Professional Land Surveyor, land planners, architects, landscape architects, and professional engineers responsible for the subdivision.
- The name of the subdivider or developer.
- The sketch vicinity map with north arrow showing the relationship between the proposed subdivision and surrounding area.
- Estimated corporate limits, township boundaries, and county lines if on the subdivision tract.
- Date of plat preparation.
- The boundaries of the tract to be subdivided, distinctly and accurately represented with all bearings and distances shown and the location of existing boundary lines of adjoining lands, property lines of adjoining properties.
- The names of owners of adjoining properties and deed book and page number.
- The names of any adjoining subdivision of record or proposed and under review.
- Front building setback line.
- The zoning classification of the tract to be subdivided and adjoining properties.
- Existing buildings or other structures, water courses, utility and street rights-of-way or easements railroads, bridges, both on the land to be subdivided and land immediately adjoining.
- All certifications required by this ordinance.
- The lots numbered throughout the subdivision in a manner using only numeric symbols. A continuous numbering system shall be used throughout the subdivision. Multiple phases shall maintain continuous numbering system for all phases.
- Ponds or lakes, streams or stream beds and any other natural features affecting the site.
- The location of the special flood hazard area, base flood elevations, and floodway / non-encroachment areas from the county's FIRM maps and or FIS, if applicable.
- Proposed roads and existing and platted roads on adjoining properties within twenty (20) feet of the

subdivision boundary and in within the proposed subdivision.

- Road names.
- Type of road dedication, either public or private; for public roads not dedicated to a municipality engineering drawings and specifications shall be provided to the NCDOT District Engineer.
- The locations and dimensions of all utility and other easements, stormwater drainage system and control measures, riding trails, if proposed, pedestrian or bicycle paths if proposed, park and open space corridors, school sites (both existing and proposed), areas to be dedicated to or reserved for public use, areas to be used for purposes other than residential with the purpose of each stated.
- Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, and easements line, including dimensions, bearings, or deflection angles. All linear and angular dimensions shall comply with the standards established by the Board of Registration for Professional Engineers and Land Surveyors.
- The accurate locations and descriptions of all monuments and markers.
- Deed book and page number of any deed restrictions, road maintenance or similar covenants.
- Location of water point source and all-weather access road, as applicable.
- A statement indicating Rowan County does not guarantee the suitability of any lot for the placement of a sewage disposal and/or water supply system.

(Amend. of 2-20-06(2); Ord. No. 7-16-07(2); Amend. of 11-2-09; Amend. of 8-19-19)

Section 22-62. Recombination of Land.

Recombination of Plated Subdivision may be done as follows:

- (a) Any plat or any part of any plat may be vacated by owner at any time before the sale of any lot in the subdivision by filing an approved plat inconsistent with the originally approved plat or by filing a plat showing the tract without the lots as if no lots have been sold.
- (b) The replatting of any previously platted property shall not abridge or destroy any public rights.
- (c) The filing and recording of an amended plat as described in section 22-62(a) of this ordinance shall serve to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described in such plat.
- (d) When lots have been sold, the plat may be vacated or amended by all owners of the lots in such plat joining in the execution of such writing, provided such vacated or amended plat comply with requirements of this ordinance.
- (e) Streets which have not been used within fifteen (15) years of dedication may be deemed abandoned. The withdrawal of dedication shall be consistent with G.S. 136-96.

(Amend. of 11-2-09)

Section 22-63. Resubdivision Procedure.

For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

Secs 22-64—22-75. Reserved.

ARTICLE IV. REQUIRED IMPROVEMENTS, DEDICATIONS, RESERVATIONS, MINIMUM STANDARDS OF DESIGN

Section 22-76. General.

Before final plat approval, each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this ordinance and paid for by the subdivider, unless other means of financing is specifically stated in this ordinance. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

Section 22-77. Suitability of Land.

- (a) Land which has been determined by the Subdivision Administrator on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.
- (b) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Rowan County Health Department, a structural engineer, and a soils expert determine that the land is suitable for the purpose proposed. Areas that have been used for storage or disposal of industrial waste, low-level radioactive waste or hazardous waste shall not be subdivided unless tests have been conducted and determine by the appropriate State or Federal agencies that the area is safe for use and development as a subdivision.
- (c) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (d) All subdivision proposals shall have public utilities, sites and facilities such as sewer, gas, electrical, water system, and roads located and constructed to minimize flood damage.
- (e) **When applicable, the Rowan County Health Department, Environmental Health Division, may be provided the opportunity to make recommendations concerning a proposed subdivision prior to plat approval.**

(Amend. of 6-16-08; Amend. of 11-2-09)

Section 22-78. Name and Street Duplication.

The name of the subdivision and the name of the streets within the subdivision shall not duplicate nor closely approximate the name of an existing subdivision, nor any existing street within Rowan County.

Section 22-79. Subdivision Design.

- (a) *Lot Dimensions.*

All new lots in a subdivision shall conform to the following requirements:

- (1) Lot Area.

- (a) All lots in a new subdivision shall conform to the zoning requirements of the zoning district in which the subdivision is located. Conformance to zoning requirements means, among other things that the smallest lot in the subdivision must meet all dimensional requirements of chapter 21 article IV of the Rowan County Zoning Ordinance.
- (b)
 - 1. Lot sizes may be increased on the **recommendation** **requirements** of the Rowan County Health Department based on the assessment of soil application rates and subsoil conditions.
 - 2. Lots regulated by this chapter that are neither intended nor considered to be utilized

for building sites or development may serve the purpose of a utility lot for nonresidential purposes only. Said lots may have access as provided in Section 22-79(d).

3. Any lot served by a septic tank system shall be large enough to accommodate both a septic tank, its drainage field, plus a reserve drainage area.

- (c) In determining the lot area requirements, the following shall not be included:
 - a. Any deeded road or easement right-of-way
 - b. Any dedicated **or observed** road right-of-way
 - c. Any road right-of-way to be dedicated
 - d. Any road right-of-way claimed by the N.C. Department of Transportation
 - e. Any railroad right-of-way
 - f. Any area within a floodway or non-encroachment zone according to the Rowan County FIRM and / or FIS.

(2) Lot Specifications: Minimum specifications for all uses shall comply with the applicable zoning requirements of chapter 21 article IV of the Rowan County Zoning Ordinance.

(3) Orientation of Lot Lines: Side lot lines shall be substantially at right angles or radial to street lines. Substantially shall be known as a tolerance of plus or minus fifteen (15) degrees of a right angle or a radial line. Double-frontage lots shall be avoided wherever possible. Where side lot lines intersect at the rear of the lot the angle of intersection shall not be less than thirty (30) degrees.

(4) Lot Depth: Minimum lot depth shall comply with the applicable zoning requirements of chapter 21 article IV of the Rowan County Zoning Ordinance.

(5) Panhandle Lots: Panhandle lots shall not be allowed in subdivisions except when such lots would serve to provide lot access to a body of water, golf course or similar recreation facility. Never shall an entire subdivision or the majority of lots within a subdivision consist of panhandle lots. All panhandle lots shall have a minimum road frontage of thirty-five (35) feet. The length of the panhandle strip in the lot shall not exceed two hundred (200) feet. Said strip shall not be used to determine lot area, lot width or required building setback line.

(6) Minimum Lot Depth: All minimum lot dimensions may be increased to meet any applicable requirements of the Rowan County Health Department.

(7) Waterfront Access Lot: As recommended policy, where any portion of a subdivision adjoins the Yadkin River or the South Yadkin River and its impounded waters, a waterfront access lot is encouraged to be reserved for use of the residents of the subdivision for all interior lots located within said subdivision which do not front on the water.

(8) Right-of-Way Observation: All new lots having frontage on a state or publicly maintained road where no right-of-way is recorded by deed or plat, shall be required to observe a sixty-foot right-of-way, i.e. thirty (30) feet from roadway centerline, unless otherwise suggested in Appendix A.

(b) *Utility Easements.*

A utility easement of not less than ten (10) feet in width shall be provided along each side of all side and rear lot lines on either side. These easements may be noted by a statement on the final plat.

(c) *Drainage Easements.*

Where a subdivision is traversed by a stream or a drainage way, an easement shall be provided conforming with the line of such stream and of sufficient width as will be adequate for the purpose.

(d) *Access Easements for Utilities.*

An access easement of at least twenty (20) feet in width may be provided to service nonresidential

lots whenever no other reasonable alternative exists. Said easement may only be used to serve unmanned utility facilities such as pump/lift stations, telecommunications towers, septic tank drain fields, common areas, etc.

(Ord. of 2-1-99(2); Ord. of 10-18-99(3); Amend. of 2-20-06(2); Amend. of 6-16-08; Amend. of 11-2-09; Amend. of 9-6-16; Amend. of 2-6-17)

Section 22-80. Road Standards.

Every lot shall have access to it that is sufficient to provide a means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use. In situations where an original lot is provided access via a non-state standard right-of-way or easement (public or private) and is proposed to be subdivided, the subdivider shall be responsible for obtaining the necessary right-of-way and for all aspects of road construction for upgrading said access to the proposed subdivision. Road construction and right-of-way standards shall meet the requirements of Section 22-80(a) or (b) of this ordinance.

(a) *Public Roads.*

All subdivision lots shall abut on a public road except as provided in section 22-80(b) and (d) of this ordinance. All public roads shall be paved and built to all applicable standards of this ordinance and all other applicable standards of the North Carolina Department of Transportation (NCDOT). Roads which are not eligible to be put on the NCDOT system because there are too few residences shall nevertheless be dedicated for public use and shall be built in accordance with the standard necessary to be put on the NCDOT System. A final plat shall contain the road maintenance disclosure statement from section 22-59 (2) notifying prospective buyers that either the subdivider or property owners shall be responsible for the maintenance of all proposed public streets until the responsibility has been transferred to either a homeowner's association established for the owners of properties in the subdivision or has been accepted for public road maintenance by NCDOT.

(b) *Private Roads.*

Private roads shall be permitted only when the roads proposed within a subdivision will not be eligible for inclusion into the NCDOT state maintained system or by a municipality in Rowan County because of their standards for acceptance. Such roads shall meet all right-of-ways and construction standards of NCDOT unless specifically provided otherwise. The subdivider shall provide certification from a registered professional engineer that the subject roads were built to these standards. All private roads shall be marked as such on the preliminary and final plat, include the road maintenance disclosure statement from section 22-59 (2) on the final plat, and record a maintenance agreement at the Rowan County Register of Deeds office once the final plat has been approved.

Said maintenance agreement shall include, but not be limited to, the following items:

- (1) That a homeowner's association shall be established as a legal entity for the property owners within the entire subdivision.
- (2) That all property owners within the subdivision shall be members of the homeowner's association.
- (3) That the subdivider shall convey all private streets in fee simple ownerships within the subdivision to the homeowner's association.
- (4) That the responsibility for maintenance of private streets from the developer to the homeowners association shall be noted in the deed of each purchaser of property within the subdivision.

At the time of the preparation of the sales agreement the developer shall include a disclosure statement to the prospective buyer as herein outlined. The developer and seller shall include in the disclosure statement an explanation of the consequences and responsibility about the maintenance of a private street, and shall fully and accurately disclose to the party or parties upon

whom responsibility for construction and maintenance of such street or streets shall rest.

Private roads for a family subdivision, as defined in section 22-9 10, shall not be required to meet construction standards of NCDOT, instead the lot(s) created shall be provided ingress and egress via a twenty-foot easement or right-of-way (new or existing) in continuity to a ~~publically~~ **publicly** maintained road, which shall be shown on the final plat. Furthermore, family subdivisions may also occur in situations where prior minor subdivision approval was granted but not within a **minor, special exception or** major subdivision. In addition, the street frontage requirements of section 22-79(a) "Lot Dimensions" shall not apply to these lots. For the purposes of determining other required setbacks, "street" and "street right-of-way" shall be interpreted to mean the twenty-foot exclusive easement. The establishment or extension of a new easement or right-of-way shall not be prevented by the required setback of an existing structure if the Subdivision Administrator determines no other feasible options are available.

Any family subdivision that cannot comply with the provisions of this subsection shall not be approved as a family subdivision and shall be approved and comply with the provisions of a **minor, minor, special exception,** or major subdivision.

(c) *Access to Adjacent Properties.*

For the purposes of providing improved traffic flow, limiting the number of subdivision street intersections on collector and arterial streets and providing access between adjoining subdivisions, the Subdivision Administrator or Board of Commissioners may require that a proposed street be extended by dedication and road improvements to the boundary of such property and a temporary cul-de-sac be provided.

(d) *Nonresidential Streets.*

The subdivider of a nonresidential subdivision shall provide streets in accordance with current NCDOT standards and the standards in this ordinance, whichever are stricter in regard to each particular item.

(e) *Street Design Standards.*

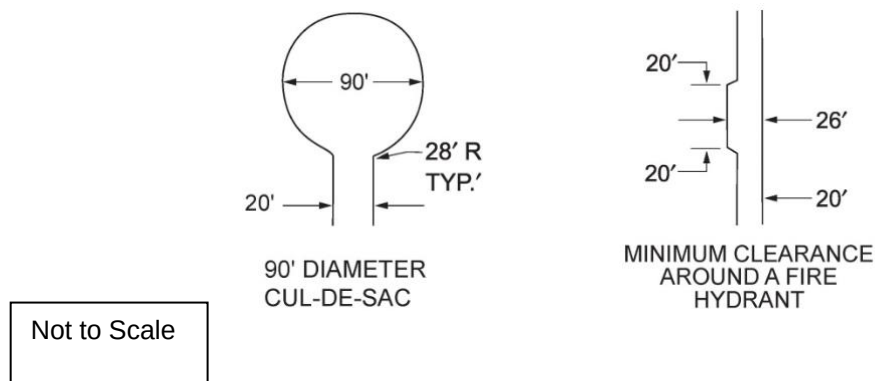
The design of all streets and roads within the jurisdiction of this ordinance shall be in accordance with the accepted policies and standards of the North Carolina Department of Transportation, Division of Highways. The most recent edition of the North Carolina Department of Transportation, Division of Highway's Subdivision Roads Minimum Construction Standards, shall apply for any items not included in this ordinance or where stricter than this ordinance.

The following design standards shall apply to all streets proposed in subdivisions:

- (1) Street jogs with centerline offsets of less than one hundred fifty (150) feet are not permitted.
- (2) Street intersections shall not include more than four (4) street approaches.
- (3) Streets shall be laid out to intersect as nearly as possible at right angles. No street shall intersect another at less than sixty (60) degrees, other arrangements for smooth merging of traffic shall be permitted where the total effect on the intersection is to reduce traffic hazards and provide for smooth traffic flow at the intersection as a whole. As an example, where a one-way street leaves or enters a street divided by a median strip or otherwise controlled to prevent left turns, the angle of departure or entry might be less than sixty (60) degrees. All angles of street intersections shall meet current NCDOT standards.
- (4) To ensure streets are appropriately designed to support the efficient and safe movement of emergency service vehicles and the general public, minimum pavement dimensions shall be as follows unless an alternative design is accepted by the Rowan County Fire Marshal:
 1. Twenty (20) feet in width;
 2. Twenty-six (26) feet in width when adjacent to a dry or municipal hydrant in accordance

with the below figure; and

3. When proposed, cul-de-sacs shall be ninety (90) feet in diameter in accordance with the below figure.



Additional right-of-way may be necessary to accommodate width and turnarounds which exceed NCDOT minimum standards.

(f) *Other Requirements.*

(1) Sidewalks.

Sidewalks may be required by the Board of Commissioners on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of four (4) feet, and shall consist of a minimum thickness of four (4) inches of concrete. All sidewalks shall be placed in the right-of-way. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings. Sidewalks shall be constructed of concrete with a minimum compressive strength of two thousand five hundred (2,500) pounds per square inch or greater.

(2) Street Names.

Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and never shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Planning Department and shall be in accordance with section 22-78.

(3) Street Name Signs.

The subdivider shall be required to reimburse Rowan County for providing and placing street name signs to county standards at all intersections within the subdivision. This fee shall be paid before final plat approval.

(4) Permits for Connection to State Roads.

An approved permit is required for connection with any existing state system road. This permit is required before any construction on the street or road. The application is available at the office of the nearest district engineer of the Division of Highways.

(5) Wheelchair Ramps.

In accordance with G.S. 136-44.14, all street curbs in North Carolina being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities, or altered for any reason after September 1, 1973, shall provide wheelchair ramp for the physically handicapped at all intersections where both curb and gutter and sidewalk are provided and at other major points of pedestrian flow.

(6) Secondary Access.

In addition to the primary access required in section 22-80 (a), a residential subdivision creating more than thirty (30) lots shall also construct a separate and approved access road twenty (20) feet in width for emergency service vehicles, which meet or exceed the construction standards of section 22-80 (g). The Board of Commissioners may waive the secondary access road requirement for developments with limited public road frontage, environmental constraints, including topography, or similar circumstances, which prevent or significantly inhibit construction.

(g) *All-Weather Access Road for Water Point Sources*

In situations where the water point source cannot be directly accessed by a mobile water supply apparatus via the proposed subdivision street; or, an existing state maintained road; or a linkage of hoses not to exceed twenty (20) feet, then the subdivider shall be responsible for construction of an access road in fire districts with a PPC rating of 8 or lower. In districts with a PPC rating of 9 or 9S, the fire department having jurisdiction shall participate equally with the subdivider in sharing the costs for access road construction.

This access road shall be maintained in accordance with the following NFPA 1142 Chapter 7 guidelines to which it was built. These standards are intended to serve as the maximum requirements that may be imposed, subject to (11) below.

- (1) Roadways shall have a minimum clear width of twelve (12) feet (3.7 m) for each lane of travel.
- (2) Turns shall be constructed with a minimum radius of one hundred (100) feet (30.5 m) to the centerline.
- (3) The maximum sustained grade shall not exceed eight (8) percent.
- (4) All cut-and-fill slopes shall be stable for the soil involved.
- (5) Bridges, culverts, or grade dips shall be provided at all drainageway crossings; roadside ditches shall be deep enough to provide drainage with special drainage facilities (tile, etc.) at all seep areas and high water table areas.
- (6) The surface shall be treated as required for year-round travel.
- (7) Erosion control measures shall be used as needed to protect road ditches, cross drains, and cut-and-fill slopes.
- (8) Where turnarounds are utilized during firefighting operations, they shall be designed with a diameter of one hundred twenty (120) feet (36.5 m) or larger, as required, to accommodate the equipment of the responding fire department.
- (9) Load-carrying capacity shall be adequate to support the imposed load of fire apparatus weighing at least 75,000 pounds.
- (10) The road shall be suitable for all-weather use.
- (11) Upon determination from the SRC that lesser standards are adequate and comply with the intent of this article, deviations may be permitted on an individual basis.

(Ord. of 2-1-99(2); Ord. of 10-18-99(3); Amend. of 7-16-07(2); Amend. of 6-16-08; Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 4-21-14; Amend. of 9-6-16; Amend. of 2-17-20)

Secs. 22-81—22-100. Reserved.

ARTICLE V. UTILITIES

Section 22-101. Utility Ownership and Easement Rights.

In any case in which a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

Section 22-102. Subdivisions Serviced By or Having The Potential To Be Serviced By Public Water or Sewer Systems.

- (a) Any original lot which is proposed to be subdivided, including any potential future subdivisions, shall be connected to public water and sewer systems according to the following schedule, if it is legally possible and practical in terms of topography or cost. If the subdivider proposes subdividing only a portion of the original lot, then using the design standards of this chapter, a determination of the potential number of lots that could be developed on the residual portion of the original tract shall be made by the Subdivision Administrator. The sum of the number of lots contained in the area proposed for subdivision, plus the determined number of lots for the unsubdivided area of an original lot, shall be used for the purposes of this section. The decision of the Subdivision Administrator may be appealed to the Zoning Board of Adjustment as provided for in section 22-53.

The number of potential lots or a nonresidential use that places a comparable demand on the water and sewer system shall determine the minimum distance whereby a subdivision must be connected. The distance is to be taken from the nearest point on the original lot line to the water and sewer line.

Number of Lots	Distance
9-20	400'
21-50	800'
51-100	1,500'
More than 100	2,000'

- (b) Connection to such water or sewer line is not legally possible if, to make connection with such line by a connecting line that does not exceed the distance prescribed above, it is necessary to run the connecting line over property not owned by the owner of the proposed subdivision to be served by the connection, and, after diligent effort, the easement necessary to run the connecting line cannot reasonably be obtained.
- (c) For this article, a lot is "served" by a publicly owned water or sewer line if connection is required by this section.

(Amend. of 11-2-09)

Section 22-103. Sewage Disposal Facilities Required.

- (a) Every principal use and every lot within a subdivision shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.
- (b) Notwithstanding any other provisions of this ordinance, no privately owned or operated sewage

treatment system that discharges into surface waters shall be allowed within a public water supply watershed according to watershed classification by the North Carolina Department of Environmental Quality.

(Amend. of 09-6-16)

Section 22-104. Determining Compliance With section 22-103.

(a) Primary responsibility for determining whether a proposed development will comply with the standard set forth in subsection 22-103(a) often lies with an agency other than the county, and the developer must comply with the detailed standards and specifications of such other agency. The relevant agencies are listed in subsection 22-104(b). Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed sewage disposal system, the authority issuing an approval under this ordinance may rely upon a preliminary review by such agency of the basic design elements of the proposed sewage disposal system to determine compliance with section 22-103. However, construction of such system may not commence until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.

(b) In the following table, the column on the left describes the type of development and the column on the right indicates the agency that must certify to the county whether the proposed sewage disposal system complies with the standard set forth in section 22-103(a).

IF	THEN
1) Lots within the subdivision are to be served by simple connection to existing municipal or county lines or lines of a previously approved private treatment system:	No further certification is necessary.
2) Lots within the subdivision are to be served by a county or municipal system but the developer will be responsible for installing the necessary additions to the public system:	The appropriate utilities director (municipal or county) must certify that the proposed extension meets the local government's specifications and will (if connection to the local governments system is proposed) be accepted by the local government. (A "Permit to Construct" must be obtained from the appropriate governmental agency).
3) Lots within the subdivision that are not served by a county or municipal system and are to be served by a sewage treatment system, that has not previously been approved, that does discharge into surface waters or on ground surfaces:	A permit must be obtained from the Division of Environmental Management prior to final plat submittal.
4) Lots within the subdivision that are not served by a county or municipal system and are to be served by a privately operated sewage treatment system, that has not previously been approved, that does discharge below the ground surface:	A permit must be obtained by the Rowan County Health department prior the final plat submittal.

- 5) Lots served by individual septic tank systems:

No further certification is necessary.

(Amend. of 9-6-16)

Section 22-105. Water Supply System Required.

Every principal use and every lot within a subdivision shall be served by a water supply system that is adequate to accommodate the reasonable needs of the use on a subdivided lot and complies with all applicable health regulations.

Section 22-106. Determining Compliance with section 22-105.

- (a) Primary responsibility for determining whether a proposed development will comply with the standard set forth in section 22-105 often lies with an agency other than the county, and the developer must comply with the detailed standards and specifications of such other agency. The relevant agencies are listed in subsection (b). Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed water supply system, the authority issuing approval under this ordinance may rely upon a preliminary review by such agency of the basic design elements of the proposed water supply system to determine compliance with section 22-105. However, construction of such system may not commence until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.
- (b) In the following table, the column on the left describes the type of development and the column on the right indicates the agency that must certify to the county whether the proposed water supply system complies with the standard set forth in section 22-105.

IF

- 1) Lots within the subdivision are to be served by a simple connection to existing municipal or county lines or lines of a previously approved public water supply system:

- 2) Lots within the subdivision are to be served by a municipal or county system but the developer will be responsible for installing the necessary additions to such system:

- 3) Lots within the subdivisions are not to be served by a municipal or county system and are to be served by a privately owned public water supply system that has not previously been approved:

- 4) Lots within the subdivision are to be served by individual wells:

THEN

No further certification is necessary

The appropriate utility director (municipal or county) must certify to the county that the proposed system meets the local government's specifications and will be accepted by the local government. (A "Permit to Construct" must be obtained from appropriate governmental agency).

The Division of Health Services must certify that the proposed system complies with all applicable state and federal regulations. (A "Permit to Construct" must be obtained from Division of Health Services). The Division of Environmental Management must also approve the plans if the water source is a well and the system has a design capacity of one hundred thousand (100,000) gallons per day or is located within certain areas designated by Division of Environmental Management.

No further certification is necessary.

(Amend. of 9-6-16).

Section 22-107. Electrical, Telephone, Cable Television And Other Utilities.

Electrical distribution systems (defined for these regulations as facilities for delivering electrical energy from a substation to a customer's meter and generally associated with voltage in the 14.4 to 24.9 kv range and below), telephone lines, cable television lines and any other wire installation shall be underground unless the unfeasibility of such installation has been documented and is submitted to the Subdivision Administrator or Board of Commissioners **or provisions of G.S. 160D-804.1(h) apply.**

Section 22-108. Utilities to Be Consistent With Internal and External Development.

Whenever it can reasonably be anticipated that utility facilities construction in one development will be extended to serve other adjacent or nearby developments, such utility facilities (e.g., water or sewer lines) shall be located and constructed so extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

Section 22-109. Stormwater: Drainage System, Control Measures and Maintenance Plans.

(a) Stormwater Drainage System.

The subdivider shall provide a surface water drainage system constructed to the standards of the North Carolina Department of Transportation, as reflected in "Handbook for the Design of Highway Surface Drainage Structures," 1975, as amended or revised, subject to review by the County and NCDOT where applicable.

- (1) No surface water shall be channeled or directed into a sanitary sewer.
- (2) Where feasible, the subdivider shall connect to an existing storm drainage system.
- (3) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
- (4) Surface drainage courses shall have side slopes of at least three (3) feet of horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act of 1973, G.S. Chapter 113A, Article 4, and the Rowan County Sedimentation Control Ordinance. Other side slope standards can be accepted by the Subdivision Administrator, if approved by North Carolina Department of Transportation or Rowan County Planning and Development.
- (5) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.
- (6) 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 land disturbing activity in accordance with the Rowan County Sedimentation Pollution Control Ordinance and North Carolina Sedimentation Pollution Control Act of 1973, G.S. Chapter 113A, Article 4.
- (7) Anyone constructing a dam or impoundment within the subdivision shall comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2 K, if applicable.
- (8) In areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage and shall comply with all requirements of the Rowan County Flood Damage Prevention Ordinance, if applicable for the subdivision.

(b) *Stormwater Control Measures (SCM).*

All SCMs and plans shall be prepared by a qualified registered North Carolina professional engineer, land surveyor, soil scientist or landscape architect performing design services only in their area of competence as prescribed by North Carolina General Statutes.

The developer shall submit all proposed stormwater control measure(s) plans, including the operation and maintenance plan(s) or manual(s), to the Planning Department for scheduling a Subdivision Review Committee (SRC) meeting subject to the submission and review procedures in Section 22-56 of this Chapter.

Minimum design requirements for all stormwater control measures shall include the following:

- (1) Designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Environmental Quality found in the Stormwater Design Manual at <https://deq.nc.gov/sw-bmp-manual> and relevant minimum design criteria set forth in 15A NCAC 02H .1050 through .1062.
- (2) Consist of one treatment option or a combination of treatment options, with design criteria achieving an 85 percent average annual removal of Total Suspended Solids. The discharge rate shall meet one of the following criteria;
 - (a) The discharge rate following the 1-inch design storm shall be such that the runoff draws down to the pre-storm design stage within five days, but not less than two days; or
 - (b) The post development peak discharge rate shall equal the predevelopment rate for the 1-year, 24-hour storm.
- (3) Designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match";
 - (a) For projects designed to achieve runoff treatment, the required storm depth shall be one inch.
 - (b) Applicants shall have the option to design projects to achieve runoff volume match in lieu of runoff treatment.
- (4) Stormwater runoff from off-site areas and "existing" impervious development shall not be required to be treated in the stormwater control measure. Runoff from off-site areas or "existing" impervious development that is not bypassed shall be included in sizing of on-site stormwater control structures
- (5) Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the 10-year storm event as shown by engineering calculations.

(c) *Stormwater Maintenance Plans.*

Operation and maintenance agreements and plans are required for stormwater control measures in accordance with 15A NCAC 02H .1050. As such, the developer shall submit an operation and maintenance plan or manual for each stormwater control measure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the Operation and Maintenance Agreement specifications outlined in Section 22-112 of this Chapter, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control measure to

design specifications if a failure occurs. The plan shall also include a plat of the area containing the stormwater control measure and any easements necessary for general access to the stormwater control measure along with vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs, and reconstruction.

Plan Amendments. At the request of the owning entity, amendments to the plans and specifications of the stormwater control measure and/or the operation and maintenance plan or manual may be considered by the Subdivision Review Committee (SRC). Proposed amendment(s) shall be prepared by a North Carolina registered design professional (engineer, land surveyor, soil scientist or landscape architect) working in their area of competence as prescribed by North Carolina General Statutes and submitted for review by the Planning Department prior to the Subdivision Review Committee.

(Amend. of 11-2-09; Amend. of 8-19-19)

Section 22-110. Other Requirements.

(a) *Placement of Monuments.*

Unless otherwise specified by this ordinance, the "Manual of Practice for Land Surveying" as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corners ties; to determine the location, design and material of monuments, markers, control corners, and property corners ties; and to determine other standards and procedures governing the practice of land surveying for subdivision.

(b) *Construction Procedures.*

No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities.

No building, zoning or other permits shall be issued for erection of a structure on any lot not of record as of the time of adoption of this ordinance until all requirements of this ordinance have been met. The subdivider, before commencing any work within the subdivision, shall make arrangements with the administrator of this ordinance to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work before release of the sureties.

(c) *Oversized Improvements.*

The County may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the County requires the installation of improvements more than of the standards required in this ordinance, including all standards adopted by reference, the County shall pay the cost differential between the improvements required and the standards in this ordinance. The County may recoup this cost through acreage fees as set forth in the adopted policy of acreage fee charges for connections to the County utility system or be reimbursed by a municipality or by a municipality's utility system.

Section 22-111. Water Point Sources.

(a) *Generally.*

As a basis for evaluating the quality of public fire protection services throughout the United States,

Insurance Services Office (ISO) analyzes the relevant data in a community and assigns a Public Protection Classification (PPC) number ranging from 1 to 10. Class 1 represents exemplary fire protection and Class 10 indicates that the area's fire protection program does not meet ISO's minimum standards. In turn, this PPC number is used by insurance providers to assist in developing premiums that reflect the risk of loss in a particular location.

(b) *Purpose and Intent.*

Rowan County recognizes the importance of adequate fire protection for its citizens and further acknowledges there is a correlation between the development of major subdivisions and their potential impact on a fire department's ability to maintain and provide adequate fire protection for the existing and proposed structures in their respective jurisdiction. Rowan County has fire districts with PPC ratings ranging from 6 to 9S. The objectives contained in this article are designed to accomplish a goal established by the Board of Commissioners for the fire districts to achieve and maintain a PPC rating of 6.

Based on ISO standards, a district's PPC rating is based upon the department's fire alarm and communication system; its equipment, staffing and training; and water supply system. Furthermore, without a water supply system that is able to deliver two hundred fifty (250) gallons per minute for a two-hour period, a district may not attain a rating of Class 8 or better.

(c) *Provision for Requirement and Standards.*

Major subdivision proposals equal to or greater than fourteen (14) lots are subject to the requirements of this ordinance, in which all lots must be located within one (1) road mile of a water point source as certified by the Rowan County Fire Marshal and the chief of the fire department having jurisdiction, otherwise the subdivider shall be responsible for providing or participating with the fire department with responding jurisdiction in installation of a water point source. Provision of a water point source shall be by one of the following methods:

1. Municipal water supply system. Connections to a municipal water supply system shall be in accordance with sections 22-102 and 22-106 of this ordinance. Hydrant type(s) and placement(s) shall be as specified by Appendix C of the N.C. State Building Code: Fire Code.
2. In-ground cistern or aboveground water tank. Installation of a cistern or aboveground tank must be provided at a location in, adjacent to or within one (1) road mile of all lots in a proposed major subdivision. The cistern or tank should hold a minimum of thirty thousand (30,000) usable gallons and be designed, constructed, installed and maintained in accordance with NFPA 22.
3. Pond. Construction of a pond must be provided at a location in, adjacent to or within one (1) road mile of all lots in the proposed subdivision. Construction of the pond and installation/use of a float dock or dry hydrant for drafting of water shall be in accordance with standards and practices of NFPA 1142. The pond must have the capacity to maintain in excess of thirty thousand (30,000) gallons as certified by a certified hydrologist, professional engineer, or a staff member of the Rowan County Soil and Water Conservation District to account for seasonal variations and water availability/sediment below the strainer and/or be able to withstand a 50-year drought as certified by a certified hydrologist, professional engineer or a staff member of the Rowan County Soil and Water Conservation District. Ponds created through use of existing streams or by continuous fill from a ground water well, must also obtain the drought tolerance certification from any of the aforementioned sources.

(d) *Responsibility for Installation.*

Responsibility for installation of a water point source for projects subject to the provisions of section 22-111(c) of this article are based on the following principles:

1. Without provision of a water point source, major subdivision proposals located in fire districts with a PPC rating of 8 or less will adversely affect the PPC rating of said district. As such, a water point source shall be provided at the expense of the subdivider. Installation, inspections

and certifications required to comply with NFPA 22 and 1142 (as applicable) will be the responsibility of the subdivider.

2. Without provision of a water point source, major subdivision proposals located in fire districts with a PPC rating of 9 or 9S will not necessarily affect the PPC rating of said district. However, the County recognizes the importance of adequate fire protection for its citizens and providing water point sources is an accepted method for limiting property damage and saving lives in the event of fires. To this end, the subdivider and fire department having jurisdiction shall equally share in the costs for installation, inspections and certifications for the minimum standards as may be required to comply with NFPA 22 and 1142 (as applicable) of providing the water point source, unless the subdivider waives the fire department's participation requirement. For purposes of this section, cost participation of the fire department shall not include land or easement purchase costs nor shall equal participation of the subdivider be diminished by a value (assumed or established) of the lot or easement containing the water point source.

(e) Maintenance Requirements For Water Point Source

In the event a water point source will not be deeded to or accepted by the county or the fire department having responding jurisdiction, maintenance of the grounds (lot or easement area) surrounding the water point source shall be the responsibility of the property owner or the subdivider until such time a homeowners association or similar legal entity has assumed authority for enforcing the recorded covenants. All powers and duties for enforcing the maintenance of the grounds as allowed by this subsection shall be the same as those specified in section 22-58(f) of this ordinance. Maintenance of the mechanical and nonmechanical components of the water point source shall be the responsibility of the fire department having jurisdiction.

(Amend. of 7-16-07(2); Amend. of 6-16-08; Amend. of 8-19-19)

Section 22-112. Stormwater Control Measures: Operation, Maintenance and Inspections

(a) Operation.

Prior to receiving any related final subdivision plat or zoning approvals authorizing the sale or conveyance of lots and, or occupancy of buildings, the stormwater control measure(s) shall be inspected by the Planning Department after it is notified by the developer that all work has been completed. Prior to this inspection, the developer shall provide:

1. A copy of the operation and maintenance agreement or manual, the deed, related easements and survey plat (as applicable) for the stormwater control measure ready for Planning Department review prior to filing with the Rowan County Register of Deeds; and,
2. A certification sealed by an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A, allow) stating that the stormwater control measure is complete and consistent with the approved plans and specifications for said structure.

If inspection by the Planning Department finds the measure completed in accordance with the plans approved pursuant to Section 22-109(b) of this Chapter and the items in (a)(1) and (2) of this Section are in compliance, the owning entity shall file the items in (a)(1) of this Section with the Rowan County Register of Deeds.

(b) Maintenance.

Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control measure is diminished or threatened, or to the extent of interfering with any easement or access to the stormwater control measure.

(c) *Repair or Reconstruction.*

Except for general landscaping and grounds management, the developer or owning entity shall notify Rowan County Planning Department prior to any repair or reconstruction of the stormwater control measure. All improvements shall be made consistent with the approved plans and specifications of the stormwater control measure and the operation and maintenance plan or manual. After notification and documentation provided by the developer or owning entity that repairs or reconstruction have been certified as completed by an NC Registered Professional Engineer, Rowan County Planning Department shall have the opportunity to inspect the completed improvements and inform the developer or owning entity of any required additions, changes, or modifications and of the time period to complete said improvements.

(d) *Inspections.*

1. Annual Inspections. All stormwater control measures shall be inspected by a North Carolina registered professional engineer at least once on an annual basis to determine whether the measures are performing as designed and intended. Records of inspection shall be maintained on forms available from the Rowan County Planning Department. Annual inspections shall begin within one year following the date for recordation of the operation and maintenance agreement or plan with the Rowan County Register of Deeds office for the stormwater control measure.
2. Corrective Actions. In the event the Planning Department discovers the need for corrective action or improvements, the owning entity shall be notified of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control measure and the operation maintenance plan or manual. After notification by the owning entity, the Planning Department or its designee shall inspect and approve the completed improvements.
3. Responsibility for Inspections. Rowan County shall exercise ultimate authority for operation and maintenance of stormwater control measures approved pursuant to the high density development standards for water supply watersheds contained in Section 21-33 (2)(f) of the Rowan County Zoning Ordinance. In doing so, the County shall require the owners of stormwater control measures to be inspected by a North Carolina registered professional engineer at least once during successive twelve (12) month periods following the date of recordation for the operation and maintenance agreement or plan with the Rowan County Register of Deeds office. These required annual inspections shall insure the stormwater control measures are performing as designed and intended. Completed inspection reports shall be submitted to the Rowan County Planning Department on forms available from the same.
4. Enforcement. If at any time, an inspection reveals that a stormwater control measure is not performing as designed and intended, Rowan County shall inform the owning entity of the need for corrective action. Failure to take corrective action(s) on the part of the owning entity may subject them to enforcement provisions of Section 22-152 of this Chapter or any other equitable remedy in accordance with applicable North Carolina law.

(Amend. of 8-19-19)

Secs 22-113—22-125. Reserved.

ARTICLE VI. SCHEDULE OF FEES

Section 22-126. Fee Schedule.

The Rowan County Board of Commissioners shall approve a fee schedule for the administration of this ordinance. These fees shall be nonrefundable except in cases of administrative error. The fee schedule approved by the Board of Commissioners shall be kept on file with the Clerk to the Board of Commissioners.

Secs 22-127—22-150. Reserved.

ARTICLE VII. LEGAL PROVISIONS

Section 22-151. Penalties for Violation Transferring Lots in Unapproved Subdivisions.

After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction referenced in section 22-4 of this ordinance, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of land before the plat has been properly approved under the terms of this ordinance and recorded in the office of the Rowan County Register of Deeds, shall be guilty of a misdemeanor.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The County through its attorney or other official designated by the Board of Commissioners may enjoin an illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4. **Building permits required pursuant to G.S. 160D-1110 may be denied for lots that have been illegally subdivided.**

In addition to the penalty as established above, and the remedies provided by other provisions of this ordinance, this ordinance may be enforced by an appropriate equitable remedy provided in G.S. 153A-123, including, but not limited to, all appropriate equitable remedies issued from a court of competent jurisdiction as provided in G.S. 153A-123(d) and the remedy of injunction and order of abatement as allowed by G.S. 153A-123(e).

Section 22-152. Civil Penalties.

In addition to other remedies cited in this ordinance for the enforcement of these provisions, this ordinance may be enforced through the issuance of citations by Rowan County. These citations shall be in the form of a civil penalty. The county may recover this penalty within seventy-two (72) hours after issuing a citation for a violation. In addition, failure to pay the civil penalty may subject the owner to civil action in the nature of debt if the penalty is not paid in the prescribed period of time.

The following civil penalties are established for violations under this ordinance. Upon issuance of a warning citation, first citation or second citation the owner or developer shall have seven (7) days to correct the violation or make satisfactory progress to correct the violation before additional penalties are assessed. Upon issuance of the third citation each additional day's violation is a separate and distinct offense and shall incur an additional one-hundred-dollar fine.

Warning Citation

First Citation	\$25.00
Second Citation for the same offense	\$50.00
Third and Subsequent violations for the same offense	\$100.00

No Penalties

Section 22-153. Separability.

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be

unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 22-154. Amendments.

The standards of this ordinance may be amended in accordance with ~~Article XIV, Section~~ **sections 21-315 and 21-361** of the Zoning Ordinance **with the exception of the statement of consistency requirement.**

(Amend. of 2-20-06(2); Amend. of 4-21-14)

Section 22-155. Abrogation.

It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants deed restriction, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

5. CONSIDER PE 03-21: DRAGON BOAT FESTIVAL

Planner Aaron Poplin presented the staff report for PE 03-21. Mr. Poplin said the Rowan County Chamber of Commerce was requesting a Permit to Exceed (PE) for the seventh annual Rowan Chamber Dragon Boat Festival on July 24, 2021 at the Shrine Club located at 6480 Long Ferry Road on High Rock Lake. The boat races are part of a day-long lakeside festival that raise money for small business programs in Rowan County. The applicant anticipated around 3,000 people for the event.

Section 14-12 of the County's Noise Ordinance provided an opportunity to exceed the amplified sound standards in the form of a PE when the event was open to the public.

Mr. Poplin highlighted the criteria to be considered when issuing or denying an application for a PE.

Chairman Edds opened the floor to receive public input regarding the request and Elaine Spalding, Executive Director of the Rowan County Chamber of Commerce came forward. Ms. Spalding encouraged all citizens to come out and/or participate in the races.

No one else came forward to speak on the matter.

Commissioner Klusman moved, Commissioner Caskey seconded and the vote to approve PE 03-21 passed unanimously.

6. FINANCIAL REPORTS

Finance Director James Howden presented several financial graphs depicting the following information:

- Annual Cumulative Expenditure Comparisons as of May 2021 - \$132,686,359
- Annual Cumulative Revenue Comparisons as of May 2021 - \$146,138,738

- Annual Cumulative Current Year Property Tax Comparisons as of April 2021 - \$87,713,351
- Annual Cumulative Sales Tax Comparisons as of February in FY '21 - \$20,210,700
- Monthly Sales Tax Comparisons as of February in FY '21 - \$2,174,725

7. BUDGET AMENDMENTS

Finance Director James Howden presented the following budget amendments for the Board's consideration:

- Finance – To remove the remaining 2018 Homeland grant funds due to the inability to utilize while focusing on COVID-related issues. \$53,091
- Finance – To budget interest revenue earned on the FNB Escrow account for Kannapolis City Schools facilities. \$37

Commissioner Pierce moved approval of the budget amendments as presented. The motion was seconded by Commissioner Greene and passed unanimously.

8. ADJOURNMENT

There being no further business to come before the Board, Commissioner Pierce moved to adjourn at 6:52 p.m. The motion was seconded by Commissioner Greene and passed unanimously.

Respectfully Submitted,



Carolyn Barger, MMC, NCMCC
Clerk to the Board



TO: Board of Commissioners
FROM: Aaron Church, Rowan County Manager
DATE: June 21, 2021
SUBJECT: Items to add to consent agenda

- T. Request to Award Bid to Mid-State Modular Construction (Pages 001 – 010)**
- U. Approve a 2% increase in water fees for the Northeast Water System (Pages 011 – 012)**
- V. Surplus EMS Metal Building (Garage) (Pages 013 – 015)**
- W. American Rescue Plan Payment (Pages 016)**



Rowan County Human Resources

130 West Innes Street, Salisbury, NC 28144

Phone (704) 216-8100 FAX (704) 216-8110

To: Board of Commissioner
From: Kelly Natoli
Date: June 20, 2021
Subject: Request to award Bid to Mid-state Modular Construction, Inc.

The procurement policy under 4.3 Informal Bids reads in part, "Three informal written quotes shall be forwarded to the Purchasing Agent. In the event that the director cannot obtain three quotes, written justification shall be provided to the Purchasing Agent to be prepared as an agenda item for the Board of Commissioners to consider. Justification shall consist of a list of vendors contacted and their response."

The following companies were contacted by staff and several RFP's were issued to move the Modular EMS Station located in Cleveland, NC to Airport Road at the Facilities Building.

Eckard's Grading and Hauling, Inc.
Pinnacle Transportation
Ace Mobile Home Movers
A1 Mobile Home Transport
J.R. & Son Mobile Home Transporting
Lynn Brothers Mobile Home Movers
Christian Mobile Home Movers
Quality Plus Mobile Home
Mike's Mobile Home Movers
Alan's Mobile Home Movers
Miller Mobile Home Movers
Mid-State Modular Construction
Seats Mobile Home Transport
Elite Mobile Homes
Mobile Master Movers Inc

As of June 18, 2021 the County has only received 2 written quotes. The quotes are attached. Below are the name of the Company and Quotes received.

Eckard's Grading and Hauling, Inc.	\$12,000
Mid-state Modular Construction, Inc.	\$9,130

MOTION: Authorize the County Manager to enter into a contract not to exceed \$9,130 with Mid-State Modular Construction, Inc.

ROWAN COUNTY

AGREEMENT FOR SERVICES

NORTH CAROLINA

This Agreement is made and entered into between Rowan County, North Carolina ("County") and Mid-State Modular Construction, Inc. ("Provider").

WHEREAS, the County and the Provider wish to enter into a contract under which the Provider will provide certain specified services and/or materials to the County in exchange for payment. NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, conditions, and agreements herein, the County and the Provider agree as follows:

1. Services To Be Performed. The Provider agrees to perform the services and to provide the materials (all collectively called the "Services") for the County as described in Section A of the attached Exhibit A (the "Contract Specifications"), which is incorporated into this Agreement by reference as if it were fully set forth herein. The Provider warrants that all materials it provides shall be of good quality and shall meet industry standards and the County's expectations and approval, and the Provider warrants that it shall perform all Services in a good and workmanlike manner, in accordance with industry standards and the County's expectations, and to the County's full satisfaction.

2. Term. The term of this Agreement shall be as provided in Section B of the attached Exhibit A, the Contract Specifications.

3. Payment. In accordance with Section C of the attached Exhibit A, the Contract Specifications, the County agrees to pay the Provider for Services satisfactorily performed in accordance with this Agreement. The County shall pay each properly submitted invoice within thirty (30) days of its submission. Each invoice shall document, to the County's satisfaction, the work performed and the basis for the amount of payment sought. If the Provider fails to perform in accordance with this Agreement, the County may, without penalty, withhold any payment(s) associated with Services not properly performed until and unless the Provider completes or corrects its performance, as applicable. The County's remedies under this Agreement are not exclusive and are in addition to all other rights and remedies provided by law.

4. Non-waiver. If the County at any time does not require the Provider to satisfy any of the Provider's obligations under this Agreement, or if the County fails at any time to exercise any right or privilege granted to it by this Agreement, that shall not waive or limit the County's ability to require the Provider to satisfy those obligations in the future or the County's ability to enforce its rights or privileges in the future. If the County waives any breach of this Agreement by the Provider, which shall not be deemed a waiver of any later breach by the Provider, nor shall it be deemed a waiver of this section of the Agreement.

5. Independent Contractor. For purposes of this Agreement, the Provider at all times shall be considered an independent contractor, and the County shall not be deemed the employer of the Provider or of any of the Provider's agents or employees, nor shall the County be responsible for the actions or omissions of the Provider or its agents and employees. For purposes of this

Agreement, the Provider and its agents and employees shall not be deemed an employee of the County for any purpose, including (by example only and not for purposes of limitation) federal or state income taxation, unemployment benefits, or worker's compensation benefits.

6. Insurance. For the term of this Agreement, the Provider shall maintain at its sole expense the insurance specified in Section E of the attached Exhibit A, the Contract Specifications. All insurance policies shall be issued by a company authorized to issue insurance in the State of North Carolina. Before beginning to perform under this Agreement, the Provider shall provide the County with a certificate of insurance showing that all insurance required by this Agreement is in effect, and the Provider shall keep that certificate current by submitting to the County updated certificates as the Provider's insurance policies are renewed or otherwise modified. The County shall be named as an additional insured. The Provider shall notify the County immediately if any insurance required by this Agreement will be or has been cancelled or not renewed or if the amount of coverage of any such insurance will be or has been reduced.

7. Indemnity. The Provider agrees that it shall defend, indemnify, and hold harmless the County and its officials, employees, and agents from and against any and all losses, liabilities, claims, demands, suits, costs, damages, or expenses (including reasonable attorneys' fees) arising from or related to this Agreement and/or the Services, including (by example only and not for purposes of limitation) those for bodily injury, death, or property damage. The Provider's obligations under this section shall survive termination of this Agreement.

8. Termination. Notwithstanding any other provision of this Agreement (including any provision in the attached Exhibit A), this Agreement may be terminated at any time by mutual written agreement of the County and the Provider, or it may be terminated by the County upon ten (10) days' written notice to the Provider. Ten days' written notice for termination by the County is not required if the County is terminating because the Provider has breached the Agreement. Further this agreement includes the following Non-appropriation Clause: Provider acknowledges that Rowan County is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of Rowan County's obligations under this contract, then this contract shall automatically expire without penalty to Rowan County thirty (30) days after written notice to Provider of the unavailability and non-appropriation of public funds. It is expressly agreed that Rowan County shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations. In the event of a change in Rowan County's statutory authority, mandate and mandated functions, by state and federal legislative or regulatory action, which adversely affects Rowan County's authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to Rowan County upon written notice to Provider of such limitation or change in Rowan County's legal authority.

9. Entire Agreement. This Agreement (including the attached Exhibit A, the Contract Specifications) constitutes the complete and entire Agreement between the County and the Provider concerning the subject matter of the Agreement and supersedes any and all prior agreements, discussions, understandings, promises, or representations concerning that subject

matter. This Agreement may be modified only by a writing signed by both the County and the Provider.

10. Governing Law and Forum for Disputes. This Agreement shall be governed by the laws of the State of North Carolina without regard to North Carolina's choice of law provisions. Any lawsuit or other legal proceeding concerning this Agreement and/or the Services must be filed in Rowan County, North Carolina, unless it is properly filed in federal court, in which case it must be filed in the federal District Court for the Middle District of North Carolina.

11. Severance Clause. If any part of this Agreement is deemed unenforceable by a court of competent jurisdiction, then that part shall be enforced to the greatest extent legally possible, and the rest of this Agreement will remain in full force and effect.

12. Compliance With Laws. The Provider acknowledges and agrees that it will perform all Services and will satisfy all of its obligations under this Agreement in full compliance with all applicable federal, state, and local laws and regulations.

13. Records. All materials, reports, etc. generated pursuant to this Agreement shall at all times remain the property of Rowan County, with copies of all such materials, reports, etc. being provided to Rowan County in a timely manner. It is further understood that some materials may be subject to NC Public Records laws, and any request for documents pursuant to such shall be processed through Rowan County prior to their release.

14. Repair of Damages. The Provider shall promptly and fully repair any damages that it or its employees or agents cause to the County's property. Alternatively, the County may choose in its discretion to require the Provider to fully compensate the County for any such damages rather than have the Provider repair them.

15. Titles and Headings. Titles and headings used in this Agreement are for convenience only and do not limit or modify the language within each section of this Agreement.

16. Non-Assignment. The Provider may not assign its rights or obligations under this Agreement, nor may it sub-contract any part of this Agreement, without written approval from the County.

17. Notices. Any notice or communication to the County or the Provider for purposes of this Agreement shall be delivered or shall be deposited in the United States Mail, first class, addressed to the addressee in Section E of the attached Exhibit A, the Contract Specifications.

18. Number and gender. This Agreement's use of singular, plural, masculine, feminine, and neuter pronouns shall include the others as the context may require.

19. Exhibit A. To the extent of a conflict between the above language of this Agreement and the attached Exhibit A (the Contract Specifications), the above language of this Agreement will control.

IN WITNESS WHEREOF, the County and the Provider have caused this Agreement to be executed as of the Effective Date.

THE COUNTY

BY: _____

Name: Aaron Church

Title: County Manager

THE PROVIDER

BY: _____

Name: David Cranfield

Title: President

EXHIBIT A

CONTRACT SPECIFICATIONS

A. Services To Be Performed By The Provider.

To disassemble the EMS Modular Building located at 11130 Statesville Blvd, Cleveland, NC and move to 425 Airport Road, Salisbury, NC. Once relocated the provider will reassemble and ensure that the modular unit is protected from inclement weather.

B. Term of the Agreement.

The agreement will end when the Modular Building has been relocated, assembled and protected from inclement weather.

C. Payment to the Provider. (Check the provision that applies.)

Payment will be made to provider in the amount of \$9,130 once the terms of the agreement have been met.

D. E-Verify. North Carolina General Statutes prohibit counties from entering into contract with contractors and subcontractors who have not complied with the requirement of Article 2 of Chapter 64 of the NC General Statutes. The Contractor must submit the E-Verify Affidavit with bid proposals and/or contracts.

E. Insurance. During this Agreement's term, the Provider shall maintain worker's compensation insurance as required by North Carolina law to cover all of the Provider's employees engaged in any work under the Agreement. The Provider shall also maintain the following insurance to cover its performance under this Agreement during the Agreement's term:

- General commercial liability in the amount of \$500,000 per occurrence / \$1,000,000 aggregate.
- Workers' Compensation in the amount of \$500,000 employer's liability
- Automobile liability covering all owned, hired, and non-owned vehicles used in connection with this Agreement. The minimum combined single limit shall be \$200,000 for bodily injury and property damage; and, \$200,000 uninsured/underinsured motorist coverage.

E. Contact Information.

THE COUNTY

AARON CHURCH,
COUNTY MANAGER
130 West Innes Street
Salisbury, NC 28144
Telephone: 704-216-8180

THE PROVIDER

Mid-State Modular Construction, Inc.
1010 Godbey Road
Salisbury, NC 28147
704-278-1967

These Contract Specifications are effective on the date signed and hereby acknowledged and agreed to by:

THE COUNTY

BY: _____

Name: Aaron Church

Title: County Manager

Date: _____

This instrument has been pre-audited in the manner
required by the Local Government Budget and Fiscal
Control Act.

(Signature of County Finance Officer)

THE PROVIDER

BY: _____

Name: _____

Title: _____

MID-STATE MODULAR CONSTRUCTION, INC.
1010 Godbey Road Salisbury, NC 28147
Phone: 704-278-1967 Fax: 704-278-1969

SET-UP SERVICES ESTIMATE

Date: 6/17/2021	Owner: Rowan County
Name: Rowan County	Location: Cleveland NC
Address:	Manufacturer:
City: Cleveland	Serial Number:
State/Zip: NC	Size of Home: 28/44
Phone: 794-216-8180	Sections: 2
Cell: 794-216-8369	Roof Pitch: 3/12
Contact: Aaron Church	Off/On Frame ON

Sets:	Options:
Takedown EMS Bld: \$2,800.00	Temp-Setback \$1,600.00
Set-Up Two Story:	Carpet:
Wrap Unit: \$900.00	Interior Trim:
Boom Truck:	Stair/Archway:
Remove Skirting: \$200.00	Repair gable end :
Unhook Plumbing: \$250.00	Over Basement:
12 Tires & Rims: \$1,080.00	Still Plate Labor:
Attach Hitches: \$150.00	Material:
Spot House:	Build Endwalls:
Remove Interior : \$150.00	Build Cricket:
Miles/Meals/Motel:	Fasteners:
Garage:	3- 15" Drive Pipe:
Fuel Surcharge \$200.00	Miles /Meals/Motel:
Transport Units: \$1,800.00	ON Trim:
Double Gable:	Vaper Barrier:
shingles on gable:	

Set will be	Total: \$9,130.00
-------------	-------------------

Please sign below and fax to Mid-State.

I _____ of _____ authorize
Mid-State Modular Construction to complete the above detailed work.

After work has been completed charges will be invoiced on a 10 day net system.

ESTIMATES ARE VALID FOR 90 DAYS .

ALL DEALERS TO HAVE PORTA JOHN ON SITE

THERE WILL BE A 1 ½ % FINANCE CHARGE PER MONTH ON PAST DUE INVOICES

MID-STATE MODULAR CONSTRUCTION, INC.
1010 Godbey Road Salisbury, NC 28147
Phone: 704-278-1967 Fax: 704-278-1969

TEAR DOWN SERVICE ESTIMATE

Date:	Owner:
Name:	Location:
Address:	Manufacturer:
City:	Serial Number:
State/Zip:	Size of Home:
Phone:	Sections:
Fax:	Roof Patch:
Contact:	Off/On Frame

Tear Down Options

Unblock: _____
Remove Underskirting: _____
Attach Tongue: _____
Install Tires/Axles _____
Cost of Plastic: _____
Plastic Wrap: _____
Extra Section: _____
Remove Trim: _____
Remove Ends: _____
Lower Roof: _____
Truck: _____
Fuel Surcharge: _____
Other: _____
Other: _____

Please sign below and fax to Mid-State.

I _____ of _____ authorize
Mid-State Modular Construction to complete the above detailed work.

After work has been completed charges will be invoiced on a 10 day net system.

ESTIMATES ARE VALID FOR 90 DAYS .

ALL DEALERS TO HAVE PORTA JOHN ON SITE

THERE WILL BE A 1 ½ % FINANCE CHARGE PER MONTH ON PAST DUE INVOICES

ECKARD'S GRADING AND HAULING INC.

1130 DIAL STREET

KANNAPOLIS, NC 28083

DATE	INVOICE
11/12/2020	ESTIMATE

BILL TO:

[Don Bringle](#)

740 TIMBERLANE TRAIL

SALISBURY, NC 28147

don.bringle@rowancountync.gov

PO NO:	TERMS	PROJECT

QTY	DESCRIPTION	RATE	AMOUNT
	ESTIMATED COST FOR MOVING OFFICE UNIT FROM CLEVELAND, HWY 70 TO AIRPORT RD, SALISBURY MOVE STEPS AWAY FROM UNIT TAKE DOWN METAL UNDERPINNING TAKE SMALL AWNINGS OVER ENTRY DOORS PUT ON HITCHES AND TIRES CUT BACK ROOF TO SEPARATE UNFASTEN END WALLS AND FLOOR TAKE DOWN INSIDE TRIM TO SEPARATE UNIT UNBLOCK AND SEPARATE UNITS WRAP UNITS WITH PLASTIC TRANSPORT UNITS PARK UNITS CLOSE TOGETHER FOR STORAGE COVER ROOF (MAY HAVE TO TEMPORARY BLOCK UNIT) TIRES \$60 EACH		
		TOTAL	\$ 12,000.00

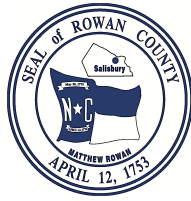


TO: Board of Commissioners
FROM: Aaron Church, Rowan County Manager
DATE: June 20, 2021
SUBJECT: Approve a 2% Increase in Water Fees for the Northeast Water System

The purpose of this agenda item is to approve a 2% increase in water fees for the Northeast Water System. The 2% increase is based on the increase approved by the Salisbury City Council on June 15, 2021.

MOTION: Approve:

1. A 2% increase in water fees for the Northeast Water System effective July 1, 2021. The new rate shall be \$72.51 a month. This provides each customer up to 5,000 gallons a in potable water. Every gallon after 5,000 gallons shall be \$6.72 per 1,000 gallons.
2. Authorize the County Manager to mail the attached letter and conduct a community meeting on Thursday, August 12, 2021 at 5:30pm.



Rowan County Office of the Manager

130 West Innes Street • Salisbury, NC 28144
Telephone 704-216-8180 • Fax 704-216-8195

July 1, 2021

Dear Rowan County Water Customers,

The purpose of this letter is to notify you of a 2% water rate increase for Rowan County Customers. The 2% increase is based on the increase approved by the Salisbury City Council on June 15, 2021. The new rates become effective July 1, 2021 and will be reflected in the August 2021 invoices.

The new rate will be \$72.51 which provides each customer up to 5,000 gallons a month in potable water. Every gallon after 5,000 gallons will be \$6.72 per 1,000 gallons.

This year's community meeting will be held:

DATE: Thursday, August 12, 2021
TIME: 5:30pm
LOCATION: The meeting will take place virtually on Zoom.

Join via Zoom at: <http://bit.ly/news2021annual> OR

Phone call option, please dial: 1-213-338-8477

Meeting ID: 975 4113 5976 Password: 512694

If you have any questions please 704-216-8180.

Sincerely,

Aaron Church

Aaron Church
Rowan County Manager



Rowan County Human Resources

130 West Innes Street, Salisbury, NC 28144

Phone (704) 216-8100 FAX (704) 216-8110

TO: Board of Commissioners
FROM: Kelly Natoli
DATE: June 20, 2021
SUBJECT: Sale of Surplus Property

In accordance with NC G.S. 160-2709(b)(c) we are requesting that the Board of Commissioner declare the EMS Metal Building located at 11130 Statesville Blvd, Cleveland, NC to be surplus property and to allow staff to sell the property on govdeals.com by adopting the attached resolution. If declared as surplus property a notice will be published in the Salisbury Post and on the County's website. The notice will include the electronic address where information about the property can be found and the electronic address where the bids may be posted.

(b) Personal Property. - When it is proposed to sell personal property at public auction, the council shall at a regular council meeting adopt a resolution or order authorizing an appropriate city official to dispose of the property at public auction. The resolution or order shall identify the property to be sold and set out the date, time, place, and terms of the sale. The resolution or order (or a notice summarizing its contents) shall be published at least once and not less than 10 days before the date of the auction.

(c) The council may conduct auctions of real or personal property electronically by authorizing the establishment of an electronic auction procedure or by authorizing the use of existing private or public electronic auction services. Notice of an electronic auction of property shall identify, in addition to the information required in subsections (a) and (b) of this section, the electronic address where information about the property to be sold can be found and the electronic address where electronic bids may be posted. Notice may be published in a newspaper having general circulation in the political subdivision or by electronic means, or both. A decision to publish notice solely by electronic means for a particular auction or for all auctions under this subsection shall be approved by the governing board of the political subdivision. Except as provided in this subsection, all requirements of subsections (a) and (b) of this section apply to electronic auctions. (1971, c. 698, s. 1; 1973, c. 426, s. 43; 2001-328, s. 5; 2005-227, s. 4; 2006-264, s. 74.)

MOTION: Approve the attached resolution "A RESOLUTION BY THE COUNTY OF ROWAN, NORTH CAROLINA ORDERING THE SURPLUS OF THE EMS METAL BUILDING (GARAGE)"

The metal building (garage) with the red square is what is being sold. The Modular Unit IS NOT FOR SALE.





**A RESOLUTION BY THE COUNTY OF ROWAN, NORTH CAROLINA
ORDERING THE SURPLUS OF THE EMS METAL BUILDING (GARAGE)**

WHEREAS, the EMS Metal Building located at 11130 Statesville Blvd, Cleveland, NC no longer serves any beneficial purpose for Rowan County and needs to be removed;

WHEREAS, the building may have some value to the general public and therefore should be declared surplus allowing the County to advertise and sell the building; and

WHEREAS, surplus of said building will require the highest bidder to disassemble and move the building; and

WHEREAS, the building is approximately 8 years old; and

WHEREAS, the building is 18 x 31 x 11 with two 3 foot doors and two 10 foot electric garage door.

WHEREAS, the building shall be advertised in the Salisbury Post and on the Rowan County website to be sold to the highest bidder on July 4, 2021 on govdeals.com.

WHEREAS, the building auction shall begin on or after August 6, 2021 for the purpose of selling to the to the highest bidder on govdeals.com.

NOW, THEREFORE BE IT RESOLVED, Rowan County hereby orders the surplus and sale of the EMS metal building (garage) located 11130 Statesville Blvd, Cleveland

Adopted this the _____ day of _____, 2021.

Greg Edds, Chair
Rowan County Board of Commissioners

ATTEST:

Carolyn Barger
Clerk to the Board

(SEAL)



ROWAN COUNTY FINANCE DEPARTMENT

130 W. Innes Street, Salisbury, NC 28144

704.216.8170

www.rowancountync.gov

James M. Howden, CPA | Finance Director

Board of Commissioners

Rowan County has received the first tranche of the American Rescue Plan payment from the Department of Treasury in the amount of \$13,799,464.00

Recommendation:

The Finance Department is recommending the Board of Commissioners approve the acceptance of these funds, allow the Finance Director to establish an account in the North Carolina Capital Management Trust to record these funds, and for the Finance Director to establish a separate Fund, recommended by the North Carolina Department of State Treasury, to track the revenue, expenditures and budget of these funds.