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ARTICLE 1. PURPOSE, AUTHORITY, & APPLICABILITY

SECTION 1.1: TITLE

This Ordinance, and the associated official zoning maps, shall be known and may be cited as the Land Use Regulations of Chowan County, North Carolina, or Regulations of Chowan County. Land Use Regulations may be referred to as Regulations.

SECTION 1.2: AUTHORITY

These Regulations are adopted under the authority of the North Carolina General Statutes (NCGS) Chapter 160D, Local Planning and Development Regulations.

Zoning provisions enacted herein are under the authority of NCGS 160D, Article 7 Zoning, which extends to counties the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community. It authorizes counties to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district (Chowan County currently does not have any overlay districts).

Subdivision provisions enacted herein are under the authority of NCGS 160D, Article 8 Subdivision Regulations, which provide for the coordination of streets within proposed subdivisions with existing or planned street and with other public facilities, the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or alternatively, for the provision of funds to be used to acquire recreation areas serving residents of more than one neighborhood in the immediate area, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding.

Minimum housing code provisions enacted herein are under the authority of NCGS 160D, Article 12 Minimum Housing Codes, which provides counties with the authority to exercise its police powers to repair, close, or demolish dwellings or abandoned structures.

Abandoned and junked motor vehicles provisions enacted herein are under the authority of NCGS 160A 303.2.

Nuisance enforcement provisions enacted herein are under the authority of NCGS 153A-140, NCGS 153A-123, NCGS 14-4 and NCGS 153A-121.

SECTION 1.3: PURPOSE

It is the intent of these Regulations to set forth requirements and procedures for land within Chowan County outside corporate or municipal extraterritorial planning jurisdictions to serve the public health, safety, and general welfare, and to provide the economic, social, and aesthetic advantages

resulting from an orderly, planned use of land resources. These Regulations shall in no way regulate, restrict, prohibit, or otherwise deter any bona fide farm and its related uses.

1.3.1 Statement of General Zoning Objectives

Zoning is enacted by the Chowan County Board of Commissioners to create future conditions essential to public health, safety, and general welfare. These Regulations are designed to address the following objectives:

(A) Provide for the orderly growth and development of the area of Chowan County located outside of the Town of Edenton corporate or municipal extraterritorial planning jurisdiction;

(B) Minimize land use conflicts and encourage the most appropriate use of land throughout the county;

(C) Conserve the value of buildings and property;

(D) Preserve the desirable features of the county's appearance and character;

(E) Protect public investments and facilitate the adequate provision of schools, sewer, water, transportation, parks, and other public requirements;

(F) Protect the natural environment and other valuable resources;

(G) Promote the overall economic welfare of the county; and

(H) Minimize public and private losses due to flooding by permitting only that development within the floodplain which is appropriate in light of the probability of flood damage and which represents a reasonable social and economic use of land in relation to the hazards involved.

1.3.2 Specific Zoning Purposes

More specific purposes concerning signs, landscaping and buffering, and flood damage prevention are delineated in the individual articles of this Ordinance that include provisions relating to these particular subjects.

1.3.3 Statement of General Subdivision Objectives

Subdivision Regulations have been enacted by the Chowan County Commissioners to provide standards for responsible land division that consider the public safety, welfare, and overall benefits of the citizens of Chowan County. These regulations exist to provide for thorough development review, set minimum subdivision infrastructure construction standards and create neighborhoods that contribute to an enjoyable quality of life. In particular, these Regulations are designed to address the following objectives.

(A) Create an efficient and thorough subdivision review process, for multiple types of subdivision.

(B) Comply with NCGS requirements for Exempt Subdivisions, per NCGS 160D-802.

(C) Require interconnectivity and multiple points of access for the benefit of both emergency services and citizens.

(D) Require subdividers to provide recreation areas, open space, sidewalks, and other amenities that contribute to the health and well-being of Chowan County Citizens.

(E) Provide specific language regarding infrastructure and required improvements.

(F) Provisions to provide bonds in accordance with NCGS 160D-804.

(G) Encourage Planned Unit Development and Traditional Neighborhood Development.

(H) Encourage subdivision outside of wetlands and Special Flood Hazard Areas.

1.3.4 Statement of General Substandard Housing & Structures Objectives

Substandard Housing & Structures Regulations have been enacted by the Chowan County Commissioners to provide minimum structural and housing standards to promote a safe and healthy environment for the citizens of Chowan County.

(A) Eliminate deficient structures from Chowan County that pose a threat to citizens or adjacent properties.

(B) Require minimum standards for compliance.

SECTION 1.4: BONA FIDE FARMS

Zoning regulations enacted by the Chowan County Land Use Regulations shall not affect properties used for the purpose of a bona fide farm per NCGS 160D-903. This does not affect properties used for non-farm purposes. Bona fide farm purposes can be proven by providing the following as sufficient evidence:

(A) A farm sales tax exemption certificate issued by the Department of Revenue.

(B) A copy of the property tax listing showing that the property is eligible for participation in the present-use value program pursuant to G.S. 105-277.3.

(C) A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.

(D) A forest management plan.

Refer to NCGS 160D-903 for a complete description of bona fide farms, agricultural purposes, and agritourism.

SECTION 1.5: COMPREHENSIVE PLAN

The authority for Chowan County to enforce zoning is authorized by NCGS 160D-501. A condition that must be met in order to enforce zoning is that a Comprehensive Land Use Plan shall be reasonably maintained. The Comprehensive Land Use Plan sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the Chowan County. The Comprehensive Land Use Plan uses text and maps to designate the future use or reuse of land. The Comprehensive Land Use Plan is intended to guide coordinated, efficient, and orderly development within Chowan County based on an analysis of present and future needs. The Chowan County & Town of Edenton Joint Land Use Plan was adopted by the Chowan County Commissioners on August 6, 2018.

SECTION 1.6: TERRITORIAL APPLICABILITY

This Ordinance shall govern the use and development of land within Chowan County outside the corporate or extraterritorial jurisdiction of any municipality. The Chowan County zoning jurisdictional area comprises the area described in the Land Use Regulations adopted by the Chowan County Board of Commissioners on ADOPTION DATE and which is delineated on the official zoning map described in Article 14: Zoning Districts and General Zoning Provisions. These Regulations in whole or in part, may also regulate development activity within the jurisdiction of any municipality whose governing body agrees, by resolution, to such applicability. Unless otherwise specified in the resolution, any municipal governing body may, however, withdraw its approval of these regulations provided that two years' written notice, as required by NCGS 160D-202, is given to Chowan County.

SECTION 1.7: OFFICIAL ZONING MAP MAINTENANCE

The Official Zoning Map of Chowan County shall be maintained for public inspection in the Chowan County Building Inspection and Planning Division Department. The map shall be maintained in a digital format and be available on the Chowan County GIS web page as well as it may be in paper format. Per NCGS 160D-105.

SECTION 1.8: SPLIT JURISDICTION

For parcels of land that lie split between Chowan County, an adjacent County, or adjacent municipality or its extraterritorial jurisdiction, Chowan County may by a mutual agreement pursuant to Article 20 of NCGS 160A and with the consent of the landowner, assign exclusive planning and development regulation jurisdiction for the entire parcel to the adjacent or bordering municipality or County. Agreements shall only be for planning and development regulations and not taxation or nonregulatory matters. Mutual agreements shall be evidenced by a resolution, formally adopted by each Governing Board and recorded with the Register of Deeds in the County of which the parcel is located within 14 days of the adoption of the resolution.

SECTION 1.9: PARCEL SPLIT

For parcels that are entirely located within the jurisdiction of Chowan County but may be located in more than one zoning district or future land use category designation. The parcel shall be considered to be a member of whichever district or category occupies the majority of the land area of the parcel as determined by the Land Use Regulations administrator.

SECTION 1.10: SEVERABILITY

Should any section, subsection, or provision of these regulations be held void or invalid by a court of law for any reason, all other sections, subsections, or provisions shall be considered valid and enforceable.

SECTION 1.11: RELATIONSHIP WITH OTHER LAWS

Wherever the provisions of these Regulations are either more restrictive or less restrictive than comparable provisions of any other law, ordinance, or regulation, the most restrictive provisions shall apply. It is not intended that these Regulations interfere with or annul any easements, covenants, deed restrictions, or other private agreements between parties.

SECTION 1.12: COMPLIANCE

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained or moved, and no land use shall be commenced, maintained, or modified, except as authorized by these Regulations. Development which was approved prior to the effective date of these Regulations, and which does not comply with the provisions of these Regulations shall be considered legally nonconforming. Modifications to and conversion of nonconforming uses shall be allowed pursuant to the requirements of Article 10, Nonconforming Situations.

SECTION 1.13: RELATIONSHIP TO THE LAND USE PLAN AND COUNTY POLICIES

It is the intention of the Board of Commissioners that this Ordinance implement the planning policies adopted by the Board of Commissioners for Chowan County, as reflected in land use plans, master plans, and other pertinent planning documents. In reviewing text or map amendments to this Ordinance, plan consistency statements are required for the Planning Board [Section 14.03] and the Board of County Commissioners [Section 14.04]. While the Board of Commissioners reaffirms its commitment that this Ordinance and any amendment to it be in conformity with adopted planning policies, the Board of Commissioners hereby expresses its intent that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

SECTION 1.14: FEES

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be set forth in the county's budget or as established by resolution of the Board of Commissioners and filed in the offices of the Building Inspection and Planning Division Department. Fees established in accordance with this subsection shall be paid upon submission of a signed application or notice of appeal. Per NCGS 160D-402(b) & (d).

SECTION 1.15: ELIMINATION OF CONDITIONAL USE ZONING DISTRICTS

Per NCGS 160D-702, existing Conditional Use Zoning Districts are now Conditional Zoning Districts.

SECTION 1.16: ELIMINATION AND CONVERSION OF CONDITIONAL USE PERMITS

Per NCGS 160D-705, existing Conditional Use Permits are now Special Use Permits, the term Conditional Use Permit shall no longer be used or valid.

SECTION 1.17: CONFLICTS OF INTEREST

These standards apply to the Chowan County Board of Commissioners, Chowan County Board of Adjustment, and Chowan County Government staff. Matters shall not be voted on where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Matters shall not be voted on if the landowner is a person with whom a member has a close familial, business, or other associational relationship. Staff members shall not make final decisions on administrative decisions if the outcome of the decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship.

If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as determined by the Chowan County Manager.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to these Regulations unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with Chowan County to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of Chowan County Government as defined by Chowan County Government.

SECTION 1.18: REENACTMENT AND REPEAL OF EXISTING SUBDIVISION REGULATIONS

These Regulations, in part, carries forward by reenactment some of the provisions of the existing Subdivision Regulations, Zoning Ordinance and Nuisance Ordinances of the County of Chowan. All provisions of Regulations or Ordinances enacted previously, which are not re-enacted herein, are repealed on and after the date of adoption of the Chowan County Land Use Regulations.

SECTION 1.19: EFFECTIVE DATE

These Regulations shall take full force and effect on DATE as adopted by the Chowan County Board of Commissioners.

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ARTICLE 2. BASIC DEFINITIONS & INTERPRETATIONS

SECTION 2.1: INTERPRETATION OF LAND USE REGULATIONS

2.1.1 Minimum Requirements

In the interpretation and application of these Regulations, all provisions shall be minimum requirements and deemed neither to limit nor repeal any other powers granted under state statutes.

2.1.2 Greater Restrictions Govern

These regulations shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances, and all other areas addressed by these Regulations. If any federal or state law or any other existing ordinance or regulation allows lesser regulation, these Regulations shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by these Regulations are less restrictive than regulations imposed by any governmental authority through regulation, rule or restriction, the regulations imposed by that authority shall govern. Regardless of any other provision of these Regulations, no land shall be developed or used, and no structure shall be erected or maintained in violation of any state or federal regulation.

2.1.3 Rounding of Numbers

All calculations that result in a part or fraction of a whole number shall be rounded up to the next highest whole number, except that in calculating density, all calculations that result in a part or fraction of a whole number shall be rounded down to the next lowest whole number.

2.1.4 Figures and Tables

The figures and tables provided in these Regulations are designed to provide a visual explanation to selected sections of the Regulations. If any illustration appears to be in conflict with the text of the Regulations, the text shall govern.

2.1.5 Monetary Transaction

The definitions set forth herein and their association with any use listed in the Table of Uses may be associated with, but not limited to uses, operations, enterprises, or businesses. Regardless of whether or not currency is accepted for the use, it has no effect on the definition's application to the use and interpretation of how the definition and regulations within the Chowan County Land Use Regulations apply. The failure of a definition to specify whether or not a monetary transaction takes place does not exempt the use from being identified as the object that is defined in this Article.

2.1.6 Article Precedence

If any definition within this Article is further described in greater detail or clarity within a separate Article of these Regulations, the definition in the separate Article shall prevail. Definitions found within Article 17 shall take precedence over any definition when this Article, related to management of Special Flood Hazard Areas within Chowan County.

SECTION 2.2: RULES OF CONSTRUCTION

2.2.1 Word Interpretations

Words not defined in these Regulations shall be given their ordinary and common meaning.

2.2.2 Tense

Words used in the present tense include the future tense.

2.2.3 Singular and Plural

Words used in the singular number include the plural number, and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

2.2.4 Mandatory Meaning

The words 'shall', 'will', and 'must' are mandatory in nature implying an obligation or duty to comply with the particular provision.

2.2.5 Gender

Words used in the male gender include the female gender.

2.2.6 References

Any reference to a Section or Article shall mean a Section of these Regulations or Section of an Article of these Regulations, unless otherwise specified. Whenever any provision or definition of the Regulations refers to or cites a section of the North Carolina General Statutes (NCGS) or any other state or local law and that section is later amended or superseded, these Regulations shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

2.2.7 Inconsistences Between Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of these Regulations and any heading, caption, figure, illustration, table, or map, the text shall control.

2.2.8 Examples

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

2.2.9 Computation of Time

References to days are calendar days unless otherwise specifically stated. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by Chowan County, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or county-observed holiday.

2.2.10 Delegation of Authority

Any act authorized by these Regulations to be performed by a specific official of Chowan County may be carried out by a designee of such official.

SECTION 2.3: INTERPRETATION OF DISTRICT BOUNDARIES

2.3.1 Boundary Interpretation

Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply:

(A) *Centerline*. Where a boundary line lies within and follows a road or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such road or alley right-of-way, railroad right-of-way, or utility easement. If such a road or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated roadbed or utility easement.

(B) *Edge Line*. Where a boundary line follows the edge of a road or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the edge of such road or alley right-of-way, railroad right-of-way, or utility easement. If such a road or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated roadbed or utility easement.

(C) *Lot Line*. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by these Regulations for the district in which said part is located.

(D) *Municipal Limits*. Boundaries indicated as approximately following municipal limits or extraterritorial boundary lines shall be construed as following the municipal limits or extraterritorial boundary lines.

(E) *County Line*. Boundaries indicated as approximately following county lines shall be construed as following the county line.

(F) *Watercourses*. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

(G) *Extensions*. Boundaries indicated as parallel to, or as extensions of road or alley rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, municipal limits, county lines, or extraterritorial boundaries, shall be so construed.

(H) *Scaling*. Where a district boundary does not coincide with any boundary line as delineated above and no distances are described by specific ordinance or regulation, the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Zones, Flood Hazard Boundary Maps, if available, shall be used for scaling.

2.3.2 Interpretation by Board of Adjustment

Where existing natural or man-made features on the ground are inconsistent or have discrepancy with those shown on the Official Zoning Map or are not covered by Section 2.3.1 (Boundary Interpretation), the Board of Adjustment shall interpret the district boundary.

2.3.3 Annexation

If any portion of the territory subject to county jurisdiction under these Regulations shall be annexed by a municipality, or taken into a municipality's jurisdiction by act of the General Assembly, or in accordance with NCGS 160A, Article 4A or NCGS 160D, county regulations and powers or enforcement shall remain in effect until:

(A) The municipality has adopted regulations for said annexed or extraterritorial area; or

(B) A period of sixty days has elapsed following the effective date of annexation or extension of extraterritorial jurisdiction. Prior to the transfer of jurisdiction, the city may hold hearings and take any other measures consistent with NCGS 160D-204 that may be required in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction.

No municipality has the ability to annex property independently, all petitions for annexations must be from the property owner.

2.3.4 Extraterritorial Jurisdiction

No City may extend its extraterritorial powers into any area for which the County has adopted and is enforcing county zoning and subdivision regulations. The City may extend its extraterritorial powers into any areas where the County is not exercising zoning or subdivision regulations, or when the City and County agree upon the area within which each will exercise powers granted by NCGS 160D. No City may extend its extraterritorial powers beyond one mile from its corporate limits without the approval of the Chowan County Board of Commissioners.

When a City relinquishes jurisdiction over an area that it is enforcing regulations authorized by NCGS 160D back to Chowan County, the City regulations for such area shall remain in effect until:

(A) Chowan County has adopted regulations for the relinquished jurisdiction; or

(B) A period of 60 days has elapsed following the action by which the municipality relinquished jurisdiction, whichever is sooner. During this period, the county may hold hearings consistent with NCGS 160D-204 and take other measures that may be required in order to adopt regulations for the relinquished area.

When a municipality is granted extraterritorial powers by Chowan County in accordance with NCGS 160D-202, Article 2, such approval shall be evidenced by a formally adopted resolution of the Board of County Commissioners. Any such approval can be rescinded upon two year's written notice to the municipality by repealing the resolution. The adopted resolution may be modified at any time by mutual agreement of the Board of County Commissioners and the municipality.

SECTION 2.4: DEFINITIONS

Abandoned Motor Vehicle. A motor vehicle that:

(1) Is left on public grounds or county-owned property in violation of a law or ordinance prohibiting parking; or
(2) Is left for longer than 24 hours on property owned or operated by the county; or
(3) Is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property; or
(4) Is left for longer than seven days on public grounds.

Abutting. Having property lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street or alley.

Access Easement. An easement which grants the right to cross property.

Accessory Building. A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot therewith.

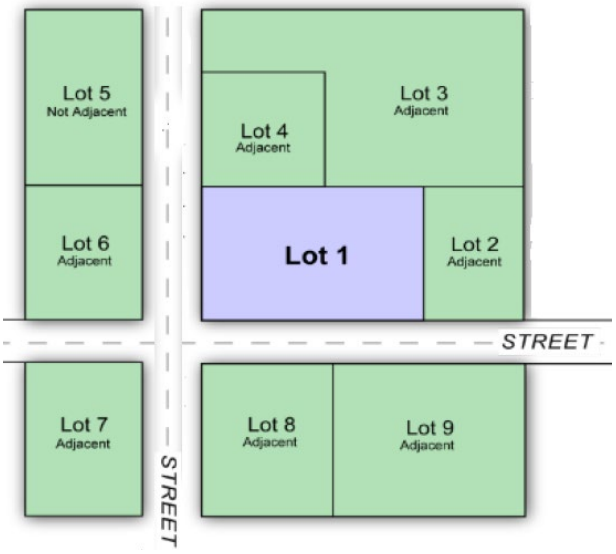
Accessory Dwelling Unit. A dwelling unit that exists either as part of a principal dwelling or as an accessory building and is secondary and incidental to the use of the property as single-family residential. An ADU may be utilized as a short-term rental.

Accessory Structure. A detached subordinate structure(s), the use of which is incidental to that of the principal structure and located on the same lot therewith. Structures accessory to agricultural use may be located on noncontiguous tracts, provided that they comply with the requirements to be considered a bona fide farm use.

Accessory Use. A use that: (1) is clearly incidental to and customarily found in connection with a principal use; (2) is subordinate to and serves a principal use; (3) is subordinate in area, extent, or purpose to the principal use served; (4) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use served; and (5) is located on the same lot as the principal use served except as may be specifically provided for elsewhere in these Regulations.

Administrator. The Administrator of the Chowan County Land Use Regulations, including all components of zoning, subdivision, and land use regulations, responsible for making interpretations of these Regulations and administrative decisions and allowances as further described and provided for in the Chowan County Land Use Regulations.

Adjacent. Having a common border such as a lot line or street right-of-way. Adjacent properties or uses sharing a street right-of-way are either directly adjacent or adjacent within the general vicinity.



Address. The official house, building, or structure number assigned by the County for a specific lot, building or portion thereof.

Adult Arcade. See 'Sexually Oriented Business' definition.

Adult Bookstore. See 'Sexually Oriented Business' definition.

Adult Business. Any business activity, club, or other establishment, which permits its employees, members, patrons, or guests on its premises to exhibit any specified anatomical areas before any other person or persons.

Adult Establishment. An adult bookstore, adult motion picture theatre, adult mini motion picture theatre, adult live entertainment business, or any business, activity, club, or establishment where for any form of consideration, employees, members, patrons, or guests on its premises exhibit and display any anatomical area before another person or persons.

Adult Nightclub. See 'Sexually Oriented Business' definition.

Adult Theater. See 'Sexually Oriented Business' definition.

Administrative Decision. Decisions made in the implementation, administration, or enforcement of the Chowan County Land Use Regulations that involve the determination of facts and the application of objective standards set forth in the Chowan County Land Use Regulations. Administrative Decisions shall primarily be made by Chowan County staff, and may be made by the Chowan County Planning Board or the Chowan County Board of Commissioners.

Administrative Hearing. A proceeding to gather facts needed to make an administrative decision.

Advertising, Outdoor Services. Establishments primarily engaged in the preparation of poster displays and painted and electric spectacular displays on billboards, panels, bulletins, and frames, principally located outdoors. Such establishments may construct, repair, and maintain display boards and may post advertisements.

Agriculture. (1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers, and ornamental plants. (2) The planting and production of trees and timber. (3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing. (4) Aquaculture as defined in G.S. 106-758. (5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation. (6) When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm. (7) A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.

Agricultural Use. The use of land or water for bona fide farm purposes (see 'Farm, Bona Fide') as set forth in NCGS 160D-903.

Aircraft. Any machine supported for flight in the air by buoyancy or by the dynamic action of air on its surfaces, including, but not limited to, powered airplanes, gliders, helicopters, drones, and dirigibles.

Airport. The Edenton Municipal Airport (Northeastern Regional Airport).

Airport Elevation. The highest point of the airport's useable landing area measured in feet above mean sea level (19.0').

Alley. A roadway that affords only a secondary means of access to abutting property.

Animal Feeds (including dogs & cats). A business engaged in the production and wholesale of food to be consumed by all animals found in an agricultural setting and animals regularly associated with the definition of agriculture including dogs and cats.

Animals and Animal Products, Other. Establishments primarily engaged in buying and/or marketing farm products and the sale of animals other than livestock and the products associated with such animals.

Animal Slaughtering or Rendering. A building or structure where livestock is slaughtered, processed, and prepared for distribution to retail stores that engage in the sale of such byproducts of slaughtered animals for consumption such as meat markets or grocery stores.

Alternative Antenna Support Structures (AASS). Structures which are functionally and legally capable of supporting wireless communication antennae, including, but not limited to buildings, water towers, and utility poles as an ancillary use of the primary structure.

American Mobile Telecommunications Association (AMTA). A Washington, D.C.-based industry trade group which serves to support its specialized mobile radio (SMR) operator members through lobbying and networking efforts.

American National Standards Institute (ANSI). A private sector federation for voluntary standardization of measurements.

Amusement Park (Water Park, Fairground). A commercial recreation establishment where permanent buildings may be constructed or temporary tents or similar structures may be utilized for the purpose of setting up games, rides, and exhibits for the enjoyment of its patrons. Including but not limited to roller coasters, mazes, game booths, water slides, water recreation activities, and other types of amusement. Certain animals may be on exhibit for observance or interaction in fairground or amusement park settings. Does not include any type of Sexually Oriented Business.

Apartment. See 'Multifamily Dwelling' definition.

Appeal. A request for a review by the Board of Adjustment of the Administrator's interpretation of any provision of these Regulations.

Applicant. Any person or entity that requests any administrative action or approval as allowed under these Regulations. Also referred to as 'petitioner'.

Approach Zone. The inner edge approach zone coincides with the width of the primary surface and begins 200 feet from the runway end and is 500 feet wide for all runways. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface for runway 19. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface for runway 1. For runway 5, the approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface; and, the approach zone for runway 23 expands outward uniformly to a width of

1,250 feet at a horizontal distance of 5,000 feet. Its centerlines are the continuation of the centerlines of the respective runway.

Areas of Environmental Concern (AECs). Areas specifically defined in subchapter 7H of Chapter 15 of the North Carolina Administrative Code. These defined areas which are located within the jurisdiction of Chowan County include: Coastal Wetlands; Estuarine Waters; Estuarine Shorelines, and Public Trust Areas. If an AEC is involved in any permitted activity covered by these Regulations, then additional permits may be required by the State of North Carolina; the four major AECs are further briefly defined as follows (see Article 3 and Appendix A as applicable.

(1) *Coastal Wetlands*. Any salt marsh or other marsh subject to regular or occasional flooding by tides.
(2) *Estuarine Waters*. All waters of the Atlantic Ocean, and associated bays, sounds, rivers and tributaries, within the boundaries of North Carolina.
(3) *Estuarine Shorelines*. Non-ocean shorelines especially vulnerable to erosion, flooding, or other adverse effects of wind or water, and which are connected to the estuary.
(4) *Public Trust Areas*. All public navigable waters, and lands thereunder subject to measurable lunar tides.

Assembly. A joining together of completely fabricated parts to create a finished product.

Athletic Field. Outdoor sites, often requiring equipment, designed for formal athletic competition in field sports (e.g., softball, soccer, football). Athletic fields may include such common accessory structures as press boxes, concession stands, field houses/locker rooms, bleachers, batting cages, bullpens, and dugouts.

Auditorium, Coliseum or Stadium. A structure or arena that may be enclosed, opened, or a combination of both that is designed for events, concerts, exhibits, athletic competitions, or other such similar activity.

Automated Teller Machine (ATM). A banking outlet used for the withdrawal of cash and observance of personal financial activity, an unmanned structure that uses electronic securities to house and dispense cash to the owners of such cash. May be used in accessory with an existing structure as a standalone structure or attachment to the structure. Freestanding ATM's are only permitted within the HCO zoned areas of Chowan County.

Auto Wrecking. A person or establishment that provides open storage, disassembling, buying or selling, or salvaging for junked motor vehicles, or machinery, appliances, structures or parts thereof.

Automobile Parking (Commercial). Public or private parking lots where parking spaces are rented for public use by a unit of time. Cost or membership is not a factor when defining such uses as this use.

Automobile Repair Services. An establishment primarily engaged in one or more of the following activities:

(1) general automotive repair or service,
(2) automotive engine repair,
(3) installation or repair of automotive transmissions,
(4) installation or repair of automotive glass,
(5) installation or repair of automotive exhaust systems,
(6) repair of automotive tops, bodies and interiors, and
(7) automotive painting and refinishing.

Bars, Night Clubs, Taverns. Establishments primarily engaged in the retail sale of alcohol drinks, such as beer, ale, wine, and liquor, for consumption on the premises.

Base Flood. The flood having a one-percent chance of being equaled or exceeded in any given year.

Basement. A story of a building or structure having one-half or more of its clear height below grade.

Batteries. A business engaged in the manufacture and wholesale of batteries. Types of batteries include but are not limited to auto, marine, and common household batteries.

Bed and Breakfast Inn. A lodging facility in which the operator permanently 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. A facility of at least nine but not more than 12 guest rooms that offer bed and breakfast accommodation for a period of less than one week. The price of breakfast is included in the room rate.

Bed and Breakfast Home. A business in a private home of not more than 8 guest rooms that offers bed and breakfast accommodations for a period of less than 1 week that meets all of the following criteria;

(1) Does not serve food or drink to the general public for pay.
(2) Serves the breakfast meal, lunch meal, or dinner meal or a combination of such only to overnight guest of the bed and breakfast.
(3) Includes the price of breakfast in the room rate.
(4) Is the permanent residence of the owner or manager of the business.

Bedroom. A fully enclosed interior room as shown on the building plan for the structure having, as a minimum, a doorway, window, and closet.

Berm. A man-made mound of dirt or other natural materials or products such as boulders or stones with gently sloping sides and crown.

Best Management Practices (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Beverage Products (Alcohol Production). A business engaged in the manufacture of beverages that include alcohol as a component. Includes beer, distilleries, and wine manufacture, production, warehousing and distribution. Does not include taprooms, tasting areas, bar consumption or food consumption areas.

Beverage Products (non-alcohol). A business engaged in the manufacture of beverages for consumption that do not have alcohol as a component.

Billiard Parlor. A business engaged in providing an area for its patrons to participate in billiards or pool recreationally or competitively with no alcohol sale occurring at the business. Billiard parlors that desire to sale alcohol fall under the classification of Bars, Nightclubs, Taverns.

Bingo Games. A business engaged in bingo games, or other common board games played by patrons in a group setting. This does not include electronic sweepstakes or any other type of game or gambling business.

Billboard or Outdoor Advertising Sign. See sign definitions in Article 21.

Block. The land lying within an area bounded on all sides by roads.

Board of Adjustment. A quasi-judicial body, appointed by the Board of County Commissioners, that is given certain powers under these Regulations.

Board of County Commissioners. Refers to the Chowan County Board of County Commissioners.

Boarding House. A dwelling or part thereof, in which lodging is provided by the owner or operator to more than three boarders.

Boat Building & Repair Services. An establishment primarily engaged in one or more of the following activities:

(1) general marine repair or service,
(2) marine engine repair,
(3) installation or repair of marine transmissions,
(4) installation or repair of marine glass,
(5) installation or repair of marine exhaust systems,
(6) repair of marine tops, bodies, and interiors, and
(7) marine painting and refinishing.

Boathouse. A structure constructed on a pier for the purpose of storing a boat. Boathouses shall be constructed in accordance with the provisions of 15A NCAC 07H.0208(b)(6).

Boat Sales/Marine Supply Dealers. A business engaged in the retail trade and sale of new or used marine craft including boats and jet skis. Marine supply includes engines, marine parts, common marine accessories for water recreation or parts needed for minor repair of marine products. May

have marine repair as an accessory use if operation is located within an enclosed structure and no marine craft under repair is visible from public rights-of-way.

Brewery. A business engaged in the production of beer in limited quantities which may also provide tasting rooms, bar areas, and tap rooms. Does not include commercial kitchens and food production.

Buffer. An area of natural or planted vegetation through which stormwater runoff flows in a diffused manner so that the runoff does not become channelized, and which 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 and rivers.

Buffer, Stream. An area of natural or planted vegetation through which stormwater runoff flows in a diffused manner so that the runoff does not become channelized, and which 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 and rivers.

Buffer Yard. A strip of land which is established to separate one type of land use from another type of land use deemed incompatible, and which contains natural or planted vegetation, berms, walks, or fences in accordance with the provisions of these Regulations.

Buildable Lot. One lot of record in one undivided or single ownership with sufficient total area, exclusive of easements, flood hazards, water bodies, well and septic tank fields; sufficient total dimensions; and sufficient access to permit construction thereon of a principal building together with its required parking and buffer yards, when sufficient total area is in question a survey from a licensed NC surveyor shall determine if the lot is buildable.

Building. Any structure used for the intended purpose of supporting or sheltering any use or occupancy.

Building Height. The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. The height of a building in stories does not include basements, except as specifically provided for in these Regulations.

Building Line. The line, established by these Regulations, beyond which the building shall not extend, except as specifically provided by these Regulations. Also, may be referred to as the setback line, the area in which no structure excluding fences and driveways, shall be built.

Building Maintenance Services, No Outside Storage. Establishments primarily engaged in furnishing building cleaning and maintenance services, not elsewhere classified, such as window cleaning, janitorial service, floor waxing, and office cleaning. General operations involved in building and facilities maintenance through contracting and control operation.

Building Separation. The minimum required horizontal distance between buildings.

Building Supply Sales. A business engaged in the sale of common tools and implements needed in contract or construction work. Does not include lumber sales.

Caliper Inches. Quantity in inches of the diameter of trees measured at six inches above the ground for trees four inches or less in trunk diameter and twelve inches above the ground for trees over four inches in trunk diameter.

CAMA. The Coastal Area Management Act of 1974, as amended.

Car Wash. A business solely operated by machines, humans, or a combination thereof for the purpose of cleaning, washing and detailing automobiles and marine craft. May include auto detail businesses with no vehicle storage.

Caretaker Dwelling. See NCGS 160D-915.

Carnivals and Fairs. Temporary events for festivals, entertainment, and seasonal celebration or seasonal events that are encouraged to occur at existing fairgrounds.

Camouflaged Tower. A tower which is designed to blend into the surrounding environment, such as a tower designed to resemble a tree or, if erected on an existing structure, an integral part of the building.

Canopy Tree. A species of tree which normally grows to a mature height of forty feet or more with a minimum mature crown width of thirty feet.

Cellular Telecommunications Industry Association (CTIA). A family of representative companies that support the cellular, PCS, and enhanced SMR carriers' industry through lobbying, research and policy efforts.

Certificate of Zoning Compliance. A statement, signed by the Administrator, setting forth either that a building or structure complies with the provisions of these Regulations, or that building, structure, or parcel of land may lawfully be employed for specified uses, or both.

Clubs and Lodges (Civic, Social, Fraternal). An incorporated or unincorporated association for civic, social, cultural, fraternal, literary, political, recreational or like activities, operated on a non-profit basis for the benefit of its members.

Cluster Development. The grouping of buildings to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of these Regulations, planned unit developments and mixed-use development are considered as cluster development.

Collector Road. A road whose principal function is to carry traffic between cul-de-sac, local, and sub-collector roads, and roads of higher classification, but which may also provide direct access to abutting properties.

Collocation. The siting of two or more wireless telecommunication antennae on the same wireless telecommunication support structure.

Combination Use. A use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permitted Uses. (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.)

Common Area(s). All areas, including private roads, conveyed to an owners' association within a development, or owned on a proportional undivided basis in a condominium development.

Community Water Supply System. See 'Public Water Supply System'.

Comprehensive Plan. A comprehensive plan that has been officially adopted by the Chowan County Board of Commissioners pursuant to NCGS 160D-501. Also called a Land Use Plan.

Contractors (No Outside Storage). A business engaged in any of the trades or general contractor. No outside storage of equipment or materials permitted.

Contractors, General Building. General contractors or builder engaged in the construction of buildings, including but not limited to residences or commercial structures.

Contractors, Heavy Construction. Construction contractors engaged in activities such as, but not limited to, paving, highway construction, and utility construction.

Contractors, Special Trade. A business engaged in any of the construction trades.

Conditional Zoning District. A zoning district that permits a particular use or uses established only in accordance with specified standards and conditions tailored to each individual development project. Conditional zoning districts are established in accordance with the requirements of Article 6.

Condominium. Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Condominium developments are subject to the North Carolina Unit Ownership Act (NCGS Chapter 47A) or the North Carolina Condominium Act (NCGS Chapter 47C).

Congregate Care Facility. A facility providing shelter and services for ambulatory individuals who by reason of age, functional impairment, or infirmity may require meals, housekeeping, and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.

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

Conical Zone. The conical zone is established on the area that commences at the periphery of the horizontal zone and extends outward therefrom for a distance of 4,000 feet, and upward at a slope of 20:1.

Convenience Store. A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a supermarket). It is designed to attract and depends upon a large volume of stop and go traffic. Illustrative examples of convenience stores are those operated by the 'Fast Fare', '7-11', and 'Pantry' chains. Does not include gasoline, kerosene, or diesel sale.

Corner Lot. A lot abutting two or more roads at their intersection.

County. Refers to Chowan County, North Carolina.

County Board (or Board of County Commissioners). Refers to the Chowan County Board of County Commissioners.

Country Club with Golf Course. A business with or without a residential component that includes a minimum of 9 holes for the sport of golf. May or may not include areas for other sport or recreation including but not limited to racquet sports and swimming. May include clubhouses, event halls and offices associated with the country club business.

Courier Service. Establishments primarily engaged in the delivery of individually addressed letters, parcels, and packages, except by the United States Postal Service.

Critical Root Zone. The rooting area of a tree established to limit root disturbance, generally defined as a circle with a radius extending from a tree's trunk to the furthest point of the crown dripline.

Cul-de-sac Road. A short local road having one end open to traffic and the other end permanently terminated by a vehicular turnaround.

dbA. The sound pressure level, in decibels, as measured using the impulse mode and "A" weighting network on a precision sound level meter.

Day. Any reference to days shall mean calendar days unless otherwise specified. A duration of days shall include the first and last days on which an activity is conducted, and all days in between, unless otherwise specified by state law. See also Section 15.02, B. 8.

Day Care Center (Adult and Child). A child day care facility as defined in NCGS 110-86(3) as well as a center providing day care on a regular basis for more than two hours per day for more than five adults.

Dance School, Music Instruction. A place of education engaged in instruction of performance arts including dance, music, theater, and other similar types of professional and amateur recognized performing arts. Does not include any component of a Sexually Oriented Business.

Decision Making Board. The Chowan County Board of Adjustment, charged with making quasi-judicial decisions of these Regulations.

Declaration of Unit Ownership. A duly recorded instrument by which property is submitted to the provisions of NCGS 47A or NCGS 47C for the purpose of creating a condominium.

Dedication. 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.

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

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development of that property.

Development. Includes any of the following:

(1) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
(2) The excavation, grading, filling, clearing, or alteration of land.
(3) The subdivision of land as defined in NCGS 160D-802.
(4) The initiation or substantial change in the use of land or the intensity of use of land.

Development Approval. An administrative or quasi-judicial approval made pursuant to NCGS 160D-102 that is written and that is required prior to the commencement of development or undertaking of a specific activity, project, or development proposal. Development approvals include but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to the North Carolina General Statutes, including plan approvals, permits issued, development agreements entered into, and building permits issued.

Development Regulation. The Chowan County Land Use Regulations, or any other regulation adopted by the Chowan County Board of Commissioners in accordance with the provisions set forth in NCGS 160D that regulate land use or development.

Development, Density Of. The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new roads, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks, shall be used for density calculations.

District. See Zoning District or Overlay District.

Domestic Wastewater Discharge. The discharge of sewage, non-processed industrial wastewater, other domestic wastewater, or any combination of these items. Unless specifically excepted by the NCDEM, domestic wastewater includes liquid waste generated by domestic water-using fixtures and appliances, from any residence, place of business, or place of public assembly even if it contains no sewage. Examples of domestic wastewater include once-through non-contact cooling water; seafood packing facility discharges; and wastewater from restaurants.

Double or Reverse Frontage Lot. A continuous (through) lot of the same depth as the width of a block and which is accessible from both streets upon which it fronts.

Drainage Easement. An easement that grants the right of water drainage to pass in open channels or enclosed structures.

Drainageway. Any natural or man-made channel that carries surface runoff from precipitation.

Dripline. A vertical line extending the outermost portion of a tree's canopy to the ground.

Driveway. A private travel way which provides access from a public or private road, road, or easement. Driveways may be required to have recorded easements if shared.

Duplex. See 'Two-Family Dwelling'.

Dwelling. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article12 of NCGS 160D, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

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

Dwelling Unit, Attached. Any dwelling unit that shares one or more common walls with other similar units.

Dwelling Unit, Detached. Any dwelling unit that is freestanding and shares no common walls with any other dwelling unit.

Dwelling, Multi-Family. See 'Multi-Family Dwelling'.

Easement. A grant of one or more of the property rights, by the property owner, to, or for use by, the public, a corporation, or other entities.

Electrical Goods. A business involved in the wholesale of wires, casing units, electrical components, electrical equipment, and operable electrical goods.

Electrical Components. A general term for all components of the electric circuit which includes but is not limited to wires, switches, resistors, capacitors, light bulbs, inductors, diodes, and transistors.

Electrical Equipment. A general term, including fittings, devices, appliances, luminaires, apparatus, machinery, and the like used as a part of, or in connection with, an electrical installation.

Electrical Industrial Apparatus, Assembly. A business engaged in the testing, design, and general assembly of electrical apparatus.

Electrical Industrial Apparatus, Manufacturing. A business engaged in the manufacture of electrical apparatus and components for use.

Emergency Shelter. A facility providing, without charge, temporary sleeping accommodations, with or without meals, for individuals and/or families displaced from their residences as a result of sudden natural or man-made catastrophe including, but not limited to, earthquake, fire, flood, tornado, hurricane, or the release of hazardous or toxic substance(s) into the environment. Such a natural or man-made catastrophe must be designated by the responsible local, state, or federal official, or an emergency agency such as the American Red Cross or the Emergency Management Assistance Agency. Emergency shelters may include temporary recreational vehicles.

Energy Generating Facility. A facility that uses a variety of sources and/or products to produce power for sale as a primary use. Types of energy facilities may include but are not limited to: petroleum; methane; ethanol; thermal; wind; solar; hydro-electric; and other energy generation facilities.

Engineer. Any engineer licensed and registered by the State of North Carolina.

Environmental Assessment (EA). An assessment of a project's environmental impact as defined in the National Environmental Policy Act of 1969.

Equipment Repair, Heavy. A business engaged in the repair of heavy equipment repair. Equipment includes, but is not limited to forestry machinery, land development machinery, agricultural equipment or large engines.

Equipment Repair, Light. A business engaged in light engine repair or equipment repair including small engine repair and vehicles or implements not used in major manufacturing production or industry.

Evidentiary Hearing. A legally required meeting at which the Board of Adjustment, or any other board acting in a quasi-judicial capacity, accepts testimony from sworn witnesses in accordance with specific rules of evidence and makes a quasi-judicial decision. Evidentiary hearings are used to make decisions concerning variances, special use permits, and appeals of the Administrator's decisions. The purpose of an evidentiary hearing is to gather facts, not to solicit citizen opinion. A hearing in which competent, material, and substantial evidence is gathered to make a quasi-judicial decision required by these Regulations.

Existing Development. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of these Regulations based on at least one 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, 160D-108.1 or
(3) Having an approved site specific or phased development plan as authorized by NCGS 160D-108.1

Existing Lot (Lot of Record). See Lot of Record.

Explosives. Any chemical compound mixture or device, the primary and common purpose of which is to function by explosion with substantially simultaneous release of gas and heat, the resulting pressure being capable of producing destructive effects.

Extraterritorial Jurisdiction (ETJ). That portion of a municipal planning jurisdiction that lies outside of the corporate limits of the municipality within which municipal land use regulations apply.

Fall Radius. A physical radius prescribed by the total effective height of any tower, including an area which theoretically could be penetrated by the collapse of that tower.

Family. One or more people occupy a dwelling unit and living as a single household.

Family Care Home. A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for six or less resident handicapped persons, pursuant to NCGS 168-21.

Federal Aviation Administration (FAA). The Federal Agency responsible for regulating aviation in the United States.

Federal Communications Commission (FCC). The Federal Agency responsible for regulating telecommunications in the United States.

Fence or Wall. A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material, used as a boundary or means or protection or confinement, but not including a hedge or other vegetation.

Financial Guarantee (Performance Guarantee). Any form of security, including a cash deposit, collateral, property, or instrument of credit, in an amount and form approved by Chowan County for use in place of actual construction of required improvements. Also referred to as 'surety.' See Article 9.

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

Flood Hazard Area. See Article 17 for flood hazard-related definitions.

Floor. The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Floor Area Ratio. The numerical value obtained by dividing the gross floor area of the building(s) by the net lot area on which the building(s) is/are located.

Forestry Operations. Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, and related activities. Not included in this definition are logging establishments, sawmills, and planning mills. Does not include forestry operations that are considered to be Bona Fide Farms under the NCGS.

Forest Products. Establishments primarily engaged in the distribution of durable goods such as forestry products, except lumber.

Frontage. The side(s) of a lot abutting a legally accessible public or private road right-of-way.

Front Yard Setback. A setback from a road or lane right-of-way. In cases where no right-of-way exists, setbacks are determined in accordance with the requirements of Article 14.

Furniture Refinishing. A business engaged in the upholstery refinishing or replacement of faulty parts of furniture, or color modification of furniture.

Furniture Repair Shop. A business engaged in the repair of structurally damaged furniture or furniture that has faulty components required for operation that needs replacement.

General Use Zoning District. A zoning district that permits all the general uses allowed in that district as well as special uses allowed in that district, provided that all of the specified conditions are met.

Grade, Finished. The final elevation of the ground surface after development.

Grade, Natural. The elevation of the ground surface in its natural state before man-made alterations.

Grid-Tied Solar System. A photovoltaic solar system that is connected to an electric circuit served by an electric utility company.

Gross Floor Area. The sum of the gross horizontal areas of one or several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

Group Care Facility. A facility licensed by the State of North Carolina as defined by these Regulations, with no more than 3 support and supervisory personnel that provides room and board, personal care or habilitation services in a family environment for not more than twelve people.

Governing Board. The Chowan County Board of Commissioners.

Golf Course, Miniature. A business that provides golf holes on a miniature scale where the primary golf club used for the recreation activity is a putter, commonly referred to as putt-putt or mini golf.

Group Development. A development in which, in lieu of division of a tract of land into separate lots of record for separate principal buildings, a tract of land is divided into two or more principal building sites for the purpose of building development (whether immediate or future), and occupancy by separate families, firms, businesses, or other enterprises.

Habitable Floor. Any floor useable for living purposes which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a habitable floor. NC Building Code and the Chowan County Building Inspector may also define what a habitable floor may be.

Halfway House. A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in NCGS 35-17(30)), or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

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

Hazardous Material. Any substance listed as such in SARA section 302, Extremely Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Hazard to Navigation. An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.

Hazardous Waste Treatment Facility. A facility which is established and operated for the recovery, recycling, treatment, storage during collection and prior to treatment, short-term storage after treatment, collection, processing, volume reduction, source separation, or transportation used exclusively in connection with the facility, of hazardous waste; and which facility includes several of the following equipment and processes: incinerators, rotary kilns, drum handling, washing and crushing facilities, raw waste tank storage, reduction, neutralization, detoxification, wastewater treatment facilities, including settling systems, aerobic digesters, anaerobic digesters, clarifiers, neutralization facilities, solidifying facilities, evaporators, reactions to facilities reuse or recycling, analytical capabilities, and other similar appropriate technologies, activities and processes as may now exist or be developed in the future.

High-Definition Television (HDTV). Digital television signals transmitted in the very high frequency band by national and local television stations.

Home Occupation. A commercial activity that is conducted by a person within a residence or accessory structure on the same zone lot where such person resides and is not so insubstantial or incidental or is not so commonly associated with the residential use as to be considered an accessory use, but that can be conducted without any significant adverse impact on the surrounding neighborhood. A permissible home occupation activity is defined as an activity that does not generate more than a 5% or very minor increase in traffic, noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district or the surrounding area in which it is located. No home occupation shall involve the use of electrical or mechanical equipment that would change the fire rating of the structure in which the home occupation is located. A home occupation use must be a use that is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character of the residence. The area set aside for a home occupation shall occupy no more than 49 percent of the floor area of the residential dwelling unit whether within the residential structure or in an accessory building.

Homeless Shelter. A facility operating year-round which provides lodging and supportive services including, but not limited to, a community kitchen; assistance in obtaining permanent housing; medical counseling, treatment, and/or supervision; psychological counseling, treatment, and/or supervision; assistance in recuperating from the effects of or refraining from the use of drugs and/or alcohol; nutritional counseling; employment counseling; job training and placement; and child care for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements: (1) the facility shall be contained within the building and operated by a government agency or nonprofit organization; (2) a minimum floor space of fifty square feet shall be provided for each individual sheltered; and (3) the facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.

Homeowners' (or Property Owners') Association. 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.

Horse Show, Rodeo. A temporary equestrian activity that is not conducted in conjunction with a riding academy. Horse shows or Rodeos may take place in permitted arenas, stadiums, or fairgrounds. Horse shows and rodeos may have temporary concessions and other associated uses enjoyed by patrons at such events.

Horizontal Zone. The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of the end of the primary surface of runways 1 and 19 and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

Hotel (Motel). A structure operated as a business in which lodging is provided and offered to the public for compensation, and which is open to transient guests. Motel access is from the exterior doors. Excluding any Sexually Oriented Business.

Hunting or Game Preserve. A parcel or parcels of land under common ownership which may include facilities for lodging, organizational meetings, or storage for the purpose of harvesting wild animals for sport. Facilities must directly be associated with the sport of hunting or the act of maintaining and preserving the wild game upon the parcels.

Incompatible Use. A use or service which is unsuitable for direct association and/or contiguity with certain other uses because it is contradictory, incongruous, or discordant.

Industrial Development. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

Industrial Discharge. The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

(1) Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
(2) Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;
(3) Stormwater will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or
(4) Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

Industrial Park. A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or government organizations.

Interior Setback. A setback from any property line not alongside a road (side and rear setbacks).

Junk. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled or wrecked automobiles or marine craft, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material or other refuse.

Junk/Salvage Yard. Any land or area used, in whole or in part, for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or marine craft or other vehicles or machinery or parts thereof, regardless of whether or not materials or any other object or junk is visible from a public right-of-way or area. An establishment or place of business which stores or keeps for a period of 15 days or more materials within the meaning of 'junk' as defined above.

Junked Motor Vehicle. A motor vehicle that does not display a current license plate and is one or more of the following: (1) is partially dismantled or wrecked; or (2) cannot be self-propelled or moved

in the manner in which it originally was intended to move; or (3) more than five years old and appears to be worth less than one hundred dollars.

Kennel. 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. Care may be overnight or on a daily basis.

Lake. Any natural or impounded body of water, including, but not limited to, a reservoir or pond.

Land Clearing Debris. Solid waste that is generated solely from land clearing activities such as stumps, trees, limbs, brush, grass and other naturally occurring vegetative material.

Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the NC General Statutes. For the purpose of these Regulations, this term does not include composting facilities.

Landfill, Debris. A disposal site for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth. Disposal of any other types of waste must be approved by the NC Division of Health Services.

Landfill, Construction and Demolition Debris (CDLF). A disposal site for waste or debris resulting from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures.

Landfill, Discharging. A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

Landfill, Land Clearing and Inert Debris (LCID). A lot, parcel, area, or 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 by burying and covering with soil. This definition does not include the placing of any land clearing or inert debris on a lot, plot, or parcel that was generated on, or came from the property on which it was placed, by the owner of the property. See also the definition of 'Land Clearing Debris' and 'Yard Trash'.

Landfill, Sanitary/Solid Waste. A site for solid waste disposal from residential, industrial, or commercial activities.

Landowner or Property Owner. The holder of the title in fee simple. Absent evidence to the contrary, Chowan County may rely on county tax records to determine who is the owner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

Lattice-Type Structure. A self-supporting, three- or four-sided open steel frame structure used to support telecommunications equipment.

Legislative Decision. The adoption, amendment, or repeal of a regulation under the Chowan County Land Use Regulations. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of NCGS Chapter 160D.

Legislative Hearing. A hearing to solicit public comment on a proposed legislative decision.

Live/Work Unit. A type of structure which includes living space and space for nonresidential activities. Typically, newly constructed live/work units are part of mixed-use townhouse developments and planned unit developments. Live/work units may also be located in existing commercial buildings that are converted to include living spaces.

Local and State Government Advisory Committee (LSGAC). An FCC-established group which works with both carriers and communities on antenna siting solutions.

Local Government. Chowan County Government.

Local Road. A road whose primary function is to provide access to abutting properties.

Lot. A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. The word 'lot' includes parcel or tract. Newly created lots must be recorded on a plat prior to being transferred in a deed of record or sale.

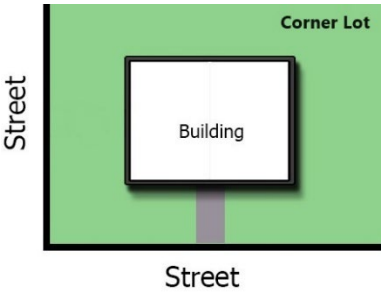
Lot Area. The total area circumscribed by boundaries of a lot except that when the legal instrument creating a lot shows the boundary of the lot extending into a public road or private right-of-way, then the lot boundary for purposes of computing the lot area shall be the road right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the road.

Lot Boundary Line. A line that divides one lot from another or from a right-of-way. The line that occupied the entire area of the lot.

Lot Coverage. The portion of a lot covered by building(s) and/or structure(s).

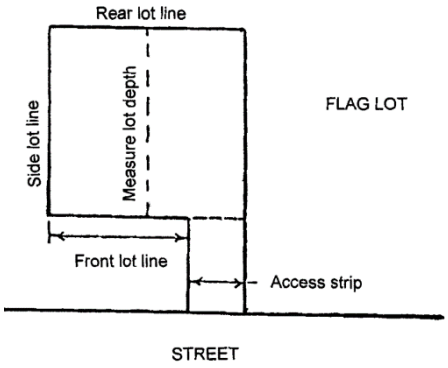
Lot, Corner. A lot abutting on and at the intersection of two or more roads. Corner lots shall not have multiple points of access.

Lot Depth. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.



Lot, Double Frontage. See 'Lot, Through'.

Lot, Flag. A lot that has less than the required amount of frontage on a road and relies on a panhandle-shaped corridor for access to the bulk of the lot. Having a minimum width of 20' of frontage on a right- of-way on the panhandle portion of the lot.



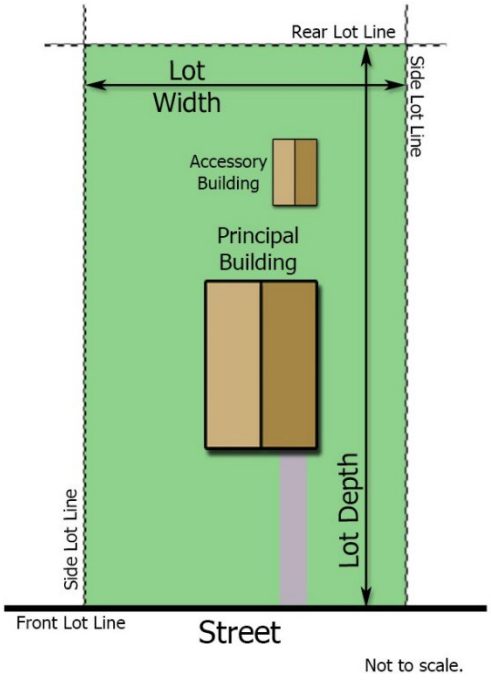
Lot, Through. A lot that has a pair of opposite lot lines along two substantially parallel roads, and which is not a corner lot. Also known as a 'double frontage lot.'

Lot, Zone. See 'Zone Lot'.

Lot, Line. Any boundary or boundary line which provides the legally defined limits of a lot, parcel, tract, or plot.

Lot Line, Front. The boundary line of a lot running along a road right-of-way. If a lot has two property lines which are also road right-of-way lines abutting different roads, then the shorter of those two lines shall constitute the front lot line; if both lines are equal, the front lot line shall be determined by the property owner if the front property line has not been designated on a final plat (minimum building lines are construed to designate the front lot line). Structures shall be designed so that they are parallel to the front lot line, with the front door or the main entry door of the structure facing the front lot line.

Lot Line, Rear. A lot line which is opposite and most distant from, the front lot line; except that in the absence of a rear lot line as is the case of the triangular shaped lot, the rear lot line may be considered as a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.



Lot of Record (Existing Lot of Record). A lot that was recorded prior to the adoption of these Regulations.

Lot, Single Tier. A lot which backs upon a limited access highway, a railroad, a physical barrier, or a nonresidential use and to which vehicular access from the rear is usually prohibited.

Lot Width. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line, front setback line.

Major Thoroughfare Road. Major thoroughfares consist of interstate, other freeway, expressway, or parkway links, and major roads that provide for the expeditious movement of high volumes of traffic within and through urban areas.

Manufactured Home. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 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 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 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. The term “manufactured home” does not include a “recreational vehicle”.

Manufactured Home Park. Any site, consisting of contiguous or adjoining real property in single ownership, on which more than one mobile home is located. Except, one additional mobile home, meeting all other standards of the Zoning Ordinance, Subdivision Regulations and with approval from the Albemarle Regional Health Services, is a residence for an immediate family member.

Manufactured Home Space. Any area of ground within a manufactured home park that has been planned, designed, and approved for the exclusive use of one manufactured home. Manufactured home spaces may not be subdivided into individual pieces of real property unless they meet all requirements of Article 22.

Manufactured Home Space, Flag. A space that has less than the required amount of frontage on a road and relies on a panhandle-shaped corridor for access to the bulk of the space.

Marina. Any publicly or privately owned dock, basin, or wet boat storage facility constructed to accommodate more than three boats that are not under the same ownership of the dock, basin or wet boat storage facility owner and providing any of the following services: permanent or transient docking spaces, dry storage, fueling facilities, haul out facilities, and repair services.

Marquee. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Mining. 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.

Minor Thoroughfare Road. Minor thoroughfares collect traffic from collector, sub collector, and local roads and carry it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating movement of moderate volumes of traffic within and through urban areas and may also serve abutting property.

Mobile Home. See Manufactured Home.

Modular Home. A dwelling unit constructed in accordance with the standards set forth in the NC State Building Code applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home, or a series of panels or room sections transported on a truck and erected or joined together on the site.

Monopole Towers. A slender, open telescoping, self-supporting tower used to support telecommunications equipment.

Motor Vehicle. Any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle.

Multi-family Dwelling. Three or more single living units under the same roof structure and connected by one 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 Building. A building that is used for two or more occupancies, provided each occupancy is separated by construction having fire-resistive ratings in compliance with the NC Building Code.

NEPA. The National Environmental Policy Act of 1969.

Non-Process Discharge. Industrial effluent not directly resulting from the manufacturing process. An example would be non-contact cooling water from a compressor.

Nonconforming. A lot, structure, sign, or use of land, which is now prohibited under the terms of these Regulations but was lawful at the date of Chowan County Land Use Regulations enactment, or any amendment or revision thereto.

Nonconforming Lot(s). A lot of record that does not conform to the dimensional requirements of the zoning district in which it is located. The nonconformity may result from adoption of these Regulations or any subsequent amendment.

Nonconforming Project. Any structure, development, or undertaking that is incomplete at the effective date of these Regulations and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

Nonconforming Situation. A situation that occurs when, on the effective date of these Regulations, any existing lot or structure or use of an existing lot or structure does not conform to one 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 matters as density and setback requirements) is not in conformity with these Regulations, because signs do not meet the requirements of Article 20, or because land or buildings are used for purposes made unlawful by these Regulations.

Nonconforming Structure(s). A structure that does not conform to the requirements of these Regulations. The nonconformity may result from adoption of these Regulations or any subsequent amendment.

Nonconforming Use. A use which once was a permitted use on a parcel of land or within a structure, but which is not now a permitted use. The nonconformity may result from the adoption of these Regulations or any subsequent amendment.

Nonconformity, Dimensional. 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 buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Non-Participating Property Owner. A land or property owner not under an agreement with the Applicant, Facility Owner, or operator.

Nonresidential Development. All development other than residential development, agriculture, and silviculture.

Nonresidential Zoning District. The following general use and conditional zoning districts as delineated in Article 14.

Nursing Home. An establishment which provides full-time convalescent or chronic care, or both, to persons who are not related by blood or marriage to the operator, or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Obstruction. Any structures, growth, or other object, including a mobile object, which exceeds a limited height set forth in Section D.

Off-Grid Solar System. A photovoltaic solar system in which the circuits energized by the solar system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Official Maps or Plans. Any maps, plans, charts, or text officially adopted by the Board of County Commissioners for the development of Chowan County. The Land Use Plan is an example of an official map or plan.

Off-site. Any area not contained within the boundaries of the site being developed or the site currently being used or current use, whether or not the developer, operator or party of interest owns such land.

Open Space. An area of land and/or water that is generally unimproved and is reserved for recreation, resource protection, amenity, or buffer purposes. Open space is encouraged to be a usable space for all patrons and easily accessible.

Outdoor Religious Event. An activity of a religious organization that is conducted outdoors as a free-standing use and is not an accessory use to a principal use such a church or other place of worship. An example of an outdoor religious event would be a tent revival on a parcel separate from the Church it is associated with. Outdoor religious events are not to exceed 30 days of continuous operation or more than 30 days of operation within a calendar year, regardless of how many parcels are utilized for the outdoor religious event.

Outside Bulk Storage. Storage for aggregates, sand, soil and other similar materials, such as mulch.

Overlay Zoning District. 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.

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

Parcel. A continuous area of land in the possession of or owned by, or recorded as the property of, the same person or persons, and which is uniquely identified by the Chowan County Tax Office.

Parking Lot. Part of a development that is designed and designated as a place to park motor vehicles.

Parking Space. A specific site within a parking area designed to accommodate a single motor vehicle.

Patio Home Dwelling. A one-family detached or semi-detached dwelling unit, on an individual lot with a zero or reduced building setback along one side lot line. Each patio home dwelling unit is built on a small lot owned in fee simple by the owner of the dwelling unit. The individual patio home lots are typically within a development containing open space that is owned in common by the patio homeowners.

Pedestrian Way. A right-of-way or easement dedicated to public use to facilitate pedestrian access to adjacent roads and properties.

Perennial Waters. Waters as identified on recent USGS topographic maps that are free flowing for the entire year.

Permit-Issuing Board/Authority. The person or board authorized by these Regulations to issue a permit in accordance with the requirements of these Regulations. The term applies to the Administrator when issuing a zoning or sign permit, and to the Board of Adjustment or any other Board authorized to act as such when issuing a special use permit.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, or public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

Personal Communications Industry Association (PCIA). A trade group which represents PCS, SMR, private radio and other wireless users and carriers.

Petitioner. Any person or entity that requests any administrative action or approval as allowed under these Regulations. Also referred to as the 'applicant'.

Photovoltaic System. An active solar energy system that converts solar energy directly into electricity.

Photography, Commercial Art Studio. A business or studio used for the act of processing, developing or creating photographs, art, pictures, or film photography. Does not include any Sexual Oriented Business or Adult Film Industry use.

Plan, Construction. The map and accompanying text, prepared and submitted under the prescribed conditions set forth in these Regulations, required improvements such as roads, fire hydrants, and street lighting.

Plan, Drainage. The portion of a construction plan that illustrates the proposed system designed to provide adequate surface and subsurface drainage for a proposed development.

Plan, Erosion and Sedimentation Control. A plan that outlines the procedure designed to control accelerated erosion and sedimentation resulting from certain land disturbing activities.

Plan, Plot. The map and accompanying text required for the review of a single-family or two-family dwelling. The information required to be included on a plot plan is delineated in Appendix A.

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

Planned Unit Development (PUD). An area of land under unified ownership or control to be developed and improved as a single entity under a Unified Development Plan in accordance with and

subject to the requirements of these Regulations. Development that provides flexibility in building location, mixtures of building types and land uses, recreational areas and open spaces, and preservation of significant natural features.

Planning Board. The Chowan County Planning Board established pursuant to NCGS 160D-301.

Planning and Development Regulation Jurisdiction. All unincorporated areas of Chowan County that lie outside of municipal limits and extraterritorial jurisdiction areas. The Chowan County Land Use Regulations applies to all these areas.

Planning Director. See Administrator.

Planning and Inspections Department. The Chowan County Planning and Inspections Department.

Plat. A surveyed map or plan of a parcel of land that is to be or has been subdivided and recorded.

Plat, Preliminary. A map of the proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.

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

Principal Building/Structure. A building or structure in which is conducted the principal use of the lot on which it is located or, in a group development, of the building site on which it is located. Any dwelling is considered a principal building unless it is an accessory dwelling in compliance with Article 19 farm tenant dwelling; or a residence for a pastor; or caretaker dwelling accessory to a nonresidential use (limited to one such residence per lot).

Principal Dwelling. Any principal building or structure which is used and designed for human habitation including living, sleeping, cooking, and eating activities excluding dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents.

Primary Surface. A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of that 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 500 feet for all runways.

Private Dormitory. A multiple unit residential accommodation which is established directly or indirectly, in association with a college, business college, trade school or university, for the purpose of housing students registered and attending such an institution. A private dormitory may contain food preparation and eating facilities primarily for the use of its occupants.

Private Drive. A vehicular travel way not dedicated or offered for dedication as a public road, providing access to parking lot(s) for two or more principal buildings in a group housing or group nonresidential development.

Private Sewer System. A system which provides for collection and/or treatment of wastewater from a development, or property, and which is not maintained with public funds.

Private Road. A vehicular travel way not dedicated or offered for dedication as a public road but resembling a cul-de-sac or a local road by carrying traffic from a series of driveways to the public road system.

Private Water System. A system that provides for the supply and/or distribution of potable water for use by a development, project, or owner, and which is not operated or maintained by a government organization or utility district.

Property. All real property subject to land-use regulation. The term includes any improvements or structures customarily regarded as part of real property.

Property Line Setback. A setback from a property line that is not coterminous with a road or street right-of-way line.

Public Hearing. A legally required, advertised meeting at which an appointed or elected board accepts public comment, evidence and opinion about matters relating to these Regulations.

Public Meeting. An informal gathering for the purpose of presenting planning proposals for discussion, review, and comment.

Public or Community Sewage System. A single system of wastewater collection, treatment and disposal owned and operated and/or maintained by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality, a public utility, or a homeowners association.

Public Road. A road right-of-way dedicated for public use and maintained or intended to be maintained by the North Carolina Department of Transportation.

Public Safety Communications Tower. A telecommunications tower utilized by the federal government, state government, local government, or a non-governmental entity engaged in public safety activities. Public safety activities include, but are not limited to, homeland security, law enforcement, emergency management, fire protection, and emergency medical services.

Public Sewer System. A system that provides for the collection and treatment of sanitary sewage from more than one property and is owned and operated by a government organization or sanitary district.

Public Water Supply System. A water supply system intended for the provision of potable water to the public as approved by the NC State Board of Health and/or the Chowan County Health Director.

Quasi-Judicial Decision. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes but is not limited to, decisions involving variances, special use permits, and appeals of administrative decisions. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the finds to be made by the decision making board. The Planning Board has been granted the authority to make quasi-judicial decisions.

Rear Yard Setback. A setback from an interior property line lying on the opposite side of the lot from the front road setback. For a through lot (double frontage), there are front and side setbacks but no rear setback.

Recreational Vehicle. A vehicle which is built on a single chassis with a body width not exceeding eight feet, designed to be self-propelled or permanently towable by a light-duty vehicle, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Tiny homes and park models that do not meet these requirements are considered to be a single-family dwelling and are required to comply with NC Building Code.

Recreational Vehicle Park. Any site or tract of land, of contiguous ownership, upon which two or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in these Regulations.

Recreational Vehicle Space. An identified and dedicated space of land within a recreational vehicle park designed for the accommodation of one recreational vehicle in accordance with the requirements set forth in these Regulations.

Recycling Centers. A facility whose operations focus on the collection, separation, and shipment of materials for reconstitution as new products. This shall include the collection of: metals, paper, junked vehicles, appliances, and the like. Recycling does not include burning, incinerating, melting, or thermally destroying solid waste. This shall not be interpreted to include junkyards or wrecking yards.

Reservation. An obligation shown on a plat or site plan to keep property free from development and available for public acquisition for a stated period of time. It is not a dedication nor a conveyance. There shall be no reservation strips for the sole purpose of preventing access to adjacent properties.

Residential Boat Dock. A permanently fixed structure providing for the docking or mooring of no greater than five boats that is intended for the private use of the owner(s) or occupant(s) of the residential structure(s) located on the parcel. Residential boat docks shall be constructed in accordance with the provisions of 15A NCAC 07H.0208(b)(6).

Residential Development. 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 District or Residential Zoning District. The following general use and conditional zoning districts as delineated in Article 14: R-5, R-15, R-25, RMH-25, and R-40.

Residuals. Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission.

Retaining Wall. A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill or other similar material.

Retreat/Conference Center. A use primarily intended for transient guests where the primary attractions are generally conference and meeting facilities and recreational activities and features. A retreat/conference center may include a mixture of such uses as (1) conference centers; (2) assembly halls; (3) indoor and outdoor recreational facilities, including but not limited to golf courses, swim and tennis clubs, and physical fitness centers; (4) hotel and motels; (5) restaurants; and (6) incidental support retail businesses.

Reverse Frontage Lot. A through lot that is not accessible from one of the parallel or non-intersecting roads upon which it fronts.

Review Officer. The Lands Record Manager (or designee) designated by the Board of County Commissioners to certify that maps and plats comply with all statutory requirements for recording.

Riding Academy. A commercial facility or school that is open to the general public and offers such activities as riding lessons, horse training, and boarding of horses. For the purposes of these Regulations, riding academy's do not include the keeping of horses for personal use.

Right-of-way. A strip of land occupied, or intended to be occupied, by a road; crosswalk; railroad; road; utility transmission line or pipeline; water main; storm or public or community sewage system main; or other similar improvement.

Road Right-of-Way. A strip of land occupied or intended to be occupied by a travel way for vehicles and also available, with the consent of the appropriate governmental agency, for installation and maintenance of sidewalks, traffic control devices, traffic signs, road name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.

Road Setback. Any setback from a street, road, or lane.

Roof Line. The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

Rooming Unit. A room designed, occupied, or intended for occupancy as separate living quarters with sleeping, but not necessarily cooking and sanitary facilities provided therein.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Rural Family Business. A nonresidential use allowed by special use permit as an accessory use to a residential use in certain designated residential and agricultural zoning districts.

Salvage Yard, Auto Parts. Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5015. Also, any zone lot which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts; or any zone lot upon which three or more, unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more.

Salvage Yard, Scrap Processing. Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5093. Also, any land or area used, in whole or part, for the storage, keeping, accumulation of scrap or waste materials, including scrap metals, waste paper, rags, building materials, machinery, or other scrap materials.

Satellite Dish Antenna. A parabolic or dish-shaped antenna that is designed for the purpose of receiving electronic signals. Satellite dish antenna that are less than two meters in diameter and located within commercial or industrial zoning districts and less than one meter in diameter and located within residential or residential-office districts are not included in this definition.

Seating Capacity. The actual seating capacity of an area based upon the number of seats, or one seat per eighteen inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the NC Building Code.

Setback. The required minimum horizontal distance that must be reserved between the nearest vertical surface of a building and the applicable road right-of-way line, boundary line, or other structure in which no other structure may be erected. Also referred to as the 'minimum building line.'

Sexually Oriented Business. Any business activity, club or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by a preponderance of material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to, adult arcades, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult theaters, massage parlors, and/or adult video rental/sale stores as defined by these Regulations. Sexually oriented businesses shall include an adult arcade, adult bookstore or adult video store, adult cabaret, adult massage parlor, adult theater, escort agency, nude model studio, lingerie studio, sexual encounter studio, or any combination of the foregoing. As used in these Regulations, the following definitions shall apply:

(1) *Adult Arcade*. An establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors or similar machines for viewing are used to show films,

motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas (as defined hereinafter).

(2) *Adult Bookstore or Adult Video Store*. A commercial establishment which as one of its principal business purposes offers for sale or rental, for any form of consideration, any one or more of the following:

- Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or

- Having as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

(3) *Adult Live Entertainment*. Any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas.

(4) *Adult Cabaret (Adult Live Entertainment Business)*. A nightclub, bar restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes:

- Persons who appear nude or semi-nude; or
- Live performances which are characterized by the exposure of specified anatomical areas and/or by specified sexual activities; or
- Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe specified sexual activities and/or specified anatomical areas.

(5) *Adult Massage Parlor*. A commercial establishment where, for any form of consideration, massage, alcohol rub, fomentation, electrical or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State of North Carolina. This definition does not include an athletic club, physical fitness center, school, gymnasium, reducing salon, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

(6) *Adult Motion Picture Theater.* An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein. "Adult motion picture theatre" does not include any adult mini motion picture theatre.

(7) *Adult Mini Motion Picture Theater.* An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, for observations by patrons but not limited.

(8) *Escort.* A person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(9) *Escort Agency.* A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or any other form of consideration.

(10) *Nude Model/Lingerie Studio.* Any place where a person who appears nude or semi-nude, or who displays specified anatomical areas, is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration. 'Nude model studio' shall not include a proprietary school licensed by the State of North Carolina or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
- Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
- Where no more than one nude or semi-nude model is on the premises at any one time.

(11) *Nude or a State of Nudity.* The appearance of a human anus, male genitals, or female genitals; or a state of dress which fails to opaquely cover a human anus, male genitals, or female genitals.

(12) *Semi-nude.* A state of dress in which clothing covers no more than the genitals, pubic region, or areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(13) *Specified Anatomical Areas*. 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.

(14) *Specified Sexual Activities*. Includes any of the following:

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

Shadow Flicker. The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

Shooting Range Facility. A public or private facility, including individual shooting ranges, safety fans or shot fall 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. Does not include incidental target practice areas on private property, turkey shoots, government facilities, or occasional 'sighting-in' of firearms. Does not include explosives, bombs or aerial exploding projectiles.

Short Term Rental. A legally permitted structure whether that be a single-family dwelling, manufactured home or an accessory dwelling unit that provides accommodations for a non-permanent short term basis, typically but not limited to tourism accommodations.

Shopping Center. A group of commercial establishments planned, developed, and managed as a unit with a unified design of buildings and with coordinated parking and service areas. Shopping centers are further classified into the following subcategories:

(1) *Neighborhood Shopping Center*. A group of three or more commercial establishments containing a total floor area of 10,000 square feet or less, designed to provide convenient shopping for the day-to-day needs of consumers in the immediate neighborhood.

(2) *Community Shopping Center*. A group of two or more commercial establishments containing a total floor area of 10,000 to 80,000 square feet, designed as a large-scale commercial center offering a wider range of retail and service establishments providing a shopping environment for the community and general public.

(3) *Regional Shopping Center.* A retail shopping area with a minimum lot size of 5 acres, containing at least two major commercial establishments and over 80,000 square feet of gross floor area designed as a large-scale commercial center with a clientele draw from the regional population.

Side Yard Setback. Any interior property line setback other than a rear setback.

Sight Distance Area, Horizontal. The area formed by extending lines from the point of intersection of intersecting roads along the centerline of such roads for a distance of forty feet and connecting the ends of such lines by a straight line to form the base for a triangle. Each of the two sides of the triangle will be forty feet in length.

Sight Distance Area, Vertical. The area between three feet and ten feet above the horizontal area measured from the level of the point of intersection of the centerlines of the intersecting roads.

Sight Distance Easement. An easement that grants to the entity responsible for road maintenance the right to maintain unobstructed view across property located at a road intersection.

Sign. See Article 21 for sign-related definitions.

Sign Permit. A zoning permit issued by the Administrator that authorizes the placement of a sign.

Single-Family Detached Dwelling. A separate, detached building designed for and occupied exclusively by one family.

Single-Family Residential. Any development where: (1) no building contains more that one dwelling unit, (2) every dwelling unit is on a separate lot, and (3) where no lot contains more than one dwelling unit.

Single ownership. Ownership by an individual, partnership, corporation, limited liability company, trust, holding company or other business entity, or subdivision thereof.

Site Plan. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site specific details such as building areas, building height and floor area, setbacks from lot lines, street rights-of-way, intensities, densities, utility lines, and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgement and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

Site Specific Vesting Plan. A site-specific vesting plan consists of a plan submitted to Chowan County Planning & Inspections in which the applicant requests vesting pursuant to the NCGS,

describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by Chowan County and described in these Regulations.

Sketch Plan. A rough sketch of a proposed subdivision or site, showing roads, lots, and any other information of sufficient accuracy to be used for discussion of the road system and the proposed development pattern.

Sleeping Unit. A room or space which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Solar Collector (Accessory). Any solar device that absorbs and accumulates solar radiation for use as a source of energy. The device may be roof-mounted or ground-mounted as an accessory use.

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

Solar Energy System. A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generating, or water heating. Solar Energy Systems may include, but not be limited to, solar farms and any of several devices that absorb and collect solar radiation for use as a source of energy as an accessory use.

Solar Energy Facility. An area of land designated use for the sole purpose of deploying photovoltaic power and generating electric energy.

Special Promotion. An advertising activity or circumstance of a business which is not part of its daily activities or normal routine, and in which the display or sale of merchandise, wares, or other tangible items is the sole purpose for the promotion. Special promotions include grand openings or closeout sales, but do not include reoccurring sales advertisements or other similar publicity. Special promotions are limited to no more than 30 days in a calendar year whether that be continuous or noncontinuous.

Special Temporary and Seasonal Event. A temporary land use activity whose duration is generally longer than one day but no longer than two weeks, is intended to or likely to attract substantial crowds and to generate significant vehicular traffic, is unlike the customary or usual activity generally associated with the property where the special event is be to located. See Article 19 for specific standards applicable to special temporary and seasonal events.

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

as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

Stabilizing Vegetation. Any vegetation that protects the soil against erosion.

Stealth. Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole tower designs.

Storm Drainage Facilities. The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Stormwater Runoff. The direct runoff of water resulting from precipitation in any form.

Structure. Anything constructed or erected whether that be on site or off-site, including a building; a manufactured or mobile home; a storage tank for gases or liquids; or any other permanent, man-made facilities, including swimming pools, walls, and signs. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

Structure (Airport). An object, including a mobile object, constructed or installed by man, including but without limitation, building, towers, cranes, smokestacks, earth formations and overhead transmission lines.

Streets. A right-of-way for vehicular traffic which is dedicated to public or private use and constructed to acceptable Chowan County standards. Streets shall be classified as one of the following.

(1) *Arterial*. A thoroughfare connecting widely separated areas and designed to carry a large volume of traffic around or through the County, which may be fast, heavy, or both. Arterials are sometimes referred to as "major thoroughfares," "freeways," etc., and are usually numbered state or federal highways.

(2) *Major County Roads*. These facilities interconnect economic, population, and recreational centers within the County and adjacent counties and carry traffic to the primary highway system. They are generally continuous and serve areas of considerable size.

(3) *Minor County Roads*. These facilities serve sub-areas of the County and perform the function of collecting traffic from the local County roads and carrying it to the major road and primary highway systems.

(4) *Local County Roads*. These facilities perform the functions of serving abutting property and collecting traffic from subdivision streets and carrying it to the County thoroughfare system.

(5) *Frontage Road*. A street that is parallel to a full or partial access controlled street facility and functions to provide controlled access to adjacent land.

(6) *Cul-De-Sacs*. These are roads no longer than 600 feet or no less than 100 feet excluding the turnaround, open at one end only, with a special provision for turning around at the other end, which is permanently closed. They have a "bulb" end design, with a specific turning radii and a limited number of lots.

(7) *Dead-End Streets*. These are streets no longer than 600 feet in length or no shorter than 100 feet in length, open at one end only, without special provisions for turning around and have no collector characteristics.

(8) *Hammer Head End of Street Turn Around*. These are on private roads no longer than 400 feet in length, open with one end only to a public road, with a special ninety degree "T" end design with specific dimensions to permit vehicles to turn around and exit the dead end.

(9) *Subcollector Road*. A road whose principal function is to provide access to abutting properties, but which is also designed to be used or is used to connect local roads with collector or higher classification roads.

Subdivider. Any person who subdivides land.

Subdivision. The division of land for the purpose of sale or development as specified in NCGS 160D-802. A subdivision shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions 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 road or change in existing roads.

Subdivision, Minor. A minor subdivision is a subdivision which:

(1) Involves not more than four lots fronting on a State maintained road;
(2) Does not constitute the enlargement of a previously platted subdivision to more than four lots;
(3) Does not involve any new street or prospectively require any new street for access to interior property;
(4) Does not require extension of public sewage or water lines or the creation of new drainage easements;
(5) Does not adversely affect the development of the remainder of the parcel or of adjoining property;
(6) Creates no new or residual parcels not conforming to the requirements of these Regulations and related controls.

Subdivision, Major. All subdivisions not classified as a minor subdivision.

Subdivision Regulations. A subdivision regulation authorized by NCGS 160D Article 8.

Superstore. A freestanding department, variety, or general merchandise store that generally contains 25,000 or more square feet of gross floor space but is not required to be of that size.

Surety. See Financial Guarantee.

Surface Drainage System. A drainage system, consisting of culverts, open ditches, or other appropriate devices, is designed to facilitate the proper removal or retention of surface water from parcels or lots.

Swimming Pool. A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty inches designed, used, and maintained for swimming and bathing.

Telecommunications Act of 1996. A broad-scoped federal act which regulates the placement of wireless communications antennae and their facilities, and which provides certain mandates on local authorities while preserving considerable local zoning authority.

Telecommunications Facilities. Any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

(1) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or
(2) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

Temporary Building. Any building of an impermanent nature, or one that is designed for use for a limited time, including any tent or canopy.

Temporary Emergency, Construction, or Repair Residence. A residence (which may be a manufactured home) that is: (1) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (2) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed; or (3) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site.

Temporary Event. An activity sponsored by a governmental, charitable, civic, educational, religious, business, or trade organization that is infrequent in occurrence and limited in duration. Examples include arts and crafts shows, athletic events, community festivals, carnivals, fairs, circuses, concerts, conventions, exhibitions, trade shows, horse shows, outdoor religious events and other similar activities.

Temporary Retail Mobile Vendor (Food Trucks). A temporary use engaged in the retail sale of merchandise or food and beverage products from a portable, mobile structure for a period of time not to exceed six months whether continuous or non-continuous within a calendar year.

Temporary Shelter. A facility which provides temporary lodging during times of life-threatening weather conditions for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements: (1) the facility shall be contained within the building of and operated by a government agency or nonprofit organization; (2) a minimum floor space of fifty square feet shall be provided for each individual sheltered; and (3) the facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.

Temporary Structure. Any structure of an impermanent nature or one that is designed for use for a limited time, including any tent or canopy.

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

Tenant. Any person who alone, or jointly, or severally with others occupies a building under a lease or holds a legal tenancy.

Thoroughfare Plan. A plan adopted by the County Board of Commissioners for the development of existing and proposed major roads that will adequately serve the future travel needs of an area in an efficient and cost-effective manner.

TOW AIR. Landing facility slope calculations designed to avoid obstruction by towers to aircraft.

Tower. A self-supporting lattice, guyed, or monopole structure constructed from grade that supports telecommunications facilities. The term tower shall not include amateur radio operator's equipment, as licensed by the FCC.

Townhouse Dwelling. A building consisting of single-family residences attached to one another in which each unit is located on an individually owned parcel, generally within a development containing drives, walks and open space in common area.

Townhouse Lot. A parcel of land intended as a unit for transfer of ownership, and lying underneath, or underneath and around, a townhouse, patio home, or unit in a nonresidential group development.

Toxic Substance. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

Tract. All continuous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership, being developed as a unit, although not necessarily all at one time.

Traditional Neighborhood Development. A Traditional Neighborhood Development (TND) is a land development technique that encourages mixed-use, pedestrian-oriented communities and promotes the diversification and integration of land uses. A TND is a human scale, walkable community composed of a variety of housing types and densities and a mixed-use core of shopping, offices, public, and civic uses.

Transitional Surfaces. These surfaces extend outward at right angles (90-degree angles) to the runway centerline and extend at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and/or conical surfaces.

Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.

Travel Trailer. See 'Recreational Vehicle'.

Two-Family Dwelling. A building on one lot arranged and designed to be occupied by two families living independently of each other, designed as units for rent and not as individual pieces of real property. Also referred to as a 'duplex'.

Understory Tree. A species of tree that normally grows to a mature height of fifteen to thirty-five feet.

Usable Open Space. An area that: (1) is not encumbered with any substantial structure; (2) is not devoted to use as a roadway, parking area (paved or peripheral), or sidewalk; (3) is left in its natural or undisturbed state, if such a state is compatible with use of the area or property planted and landscaped (facilities for the pursuit of passive types of recreation, such as picnic tables, are permissible.); (4) is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation; and (5) is legally and practicably accessible to the residents of the development out of which the required open space is taken, or to the public if dedication of the open space is required.

Use. The purpose or activity for which land or structures is designed, arranged or intended, or for which land or structures are occupied or maintained.

Use(s), Accessory. A structure or use that: (1) is clearly incidental to and customarily found in connection with a principal building or principal use; (2) is subordinate to and serves a principal building or principal use; (3) is subordinate in area, extent, or purpose to the principal building or principal use served; (4) contributes to the comfort, convenience, or necessity of occupants, business, or industry, in the principal building or principal use served; and (5) is located on the same lot as the principal building or principal use served.

Use, Mixed. Occupancy of a building or land by more than one use.

Use, Permitted. Any use, as designated in these Regulations, that is by right allowed to occur within a specific zoning district.

Use(s), Principal. The primary purpose or function that a lot or structure serves or is proposed to serve.

Utility Easement. An easement which grants to the Board of Commissioners or other utility providers the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.

Variance. A grant of relief by the Board of Adjustment to a person from the requirements of these Regulations where unusual or unique circumstances peculiar to the property exist, literal enforcement would result in unnecessary and undue hardship, and such relaxation of the regulations would not be contrary to the public interest objectives of these Regulations. See NCGS 160D-705 and Article 7.

Velocity. The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

Vested Rights. See NCGS 160D-108 & 108.1, Article 8 of these Regulations.

Video Gaming Arcade. An establishment engaged in the operation of a video gaming machine or machines, either as a principal use, combination use, or as an accessory use. Does not include Adult Arcades or electronic sweepstakes or other gaming/gambling entities.

Video Gaming Machine. A slot machine as defined in NCGS 14-306(a) and other forms of electrical, mechanical, or computer games such as by way of illustration:

(1) A video poker game or any other kind of video playing card game.
(2) A video bingo game.
(3) A video craps game.
(4) A video keno game.
(5) A video lotto game.
(6) Eight liner.
(7) Pot-of-gold.

A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

For purposes of these Regulations, a video gaming machine is a video machine which requires deposit of any coin, token, or use of any credit card, debit card, or any other method that requires payment to activate play of any of the games listed above.

Violation. Failure on the part of any person to comply with the provisions of these Regulations.

Water-Dependent Structure. Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boathouses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water-dependent structures.

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

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

Water Supply Intake. The recognized point whereby surface water is removed in order to supply water for drinking and culinary purposes.

Wet Detention Pond. A pond that has a permanent pool and which also collects stormwater runoff, filters the water, and releases it slowly over a period of days.

Wetlands. Transitional lands between terrestrial and aquatic systems where the land supports predominantly hydrophytes; where the substrate is predominantly undrained hydric soil; and where the substrate is non-soil and is saturated with water or covered by shallow water for a specified period of time during the growing season of each year.

Wind Energy Facility. An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Wind Energy Facility, Large. A wind energy conversion system consisting of one or more Wind Turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 100 kW.

Wind Energy Facility, Medium. A wind energy conversion system consisting of one or more Wind Turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 20 kW but not greater than 100 kW.

Wind Energy Facility Operator. The entity responsible for the day-to-day operation and maintenance of a Wind Energy Facility.

Wind Energy Facility Owner. The entity or entities having controlling or majority equity interest in a Wind Energy Facility, including their respective successors and assigns.

Wind Energy Facility, Small. A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single Wind Turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 20 kW or less.

Wind Energy Generator (Accessory). A single system consisting of a single wind turbine, a tower, and associated control or conversion electronics designed to supplement other electricity sources as an accessory use to existing buildings or facilities, which has a rated capacity of not more than 100 kW.

Wind Power. Power that is generated in the form of electricity by converting the rotation of wind turbine blades into electrical current by means of an electrical generator.

Wind Turbine. A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer.

Wind Turbine Height. The distance measured from grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Wireless Telecommunications Support Structure (WTSS). All freestanding monopole, self-supported, guyed, or similar structures whose primary design is to provide for support and placement of wireless telecommunications antennae.

Wireless Telecommunications Attachments (WTA). Devices mounted onto a support structure, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and accessory equipment related to broadcast services, including but not limited to private radio services, cellular or digital telephone services, pagers, beepers, wireless data repeaters and common carriers (as regulated by the FCC), including AM, FM, two-way radio, fixed point microwave dishes, commercial satellite, HDTV, cellular and PCS communication systems. The term WTA does not include electrical or telephone transmission lines or supporting distribution structures, antennae of amateur radio (ham) operators, and amateur club services licensed by the FCC.

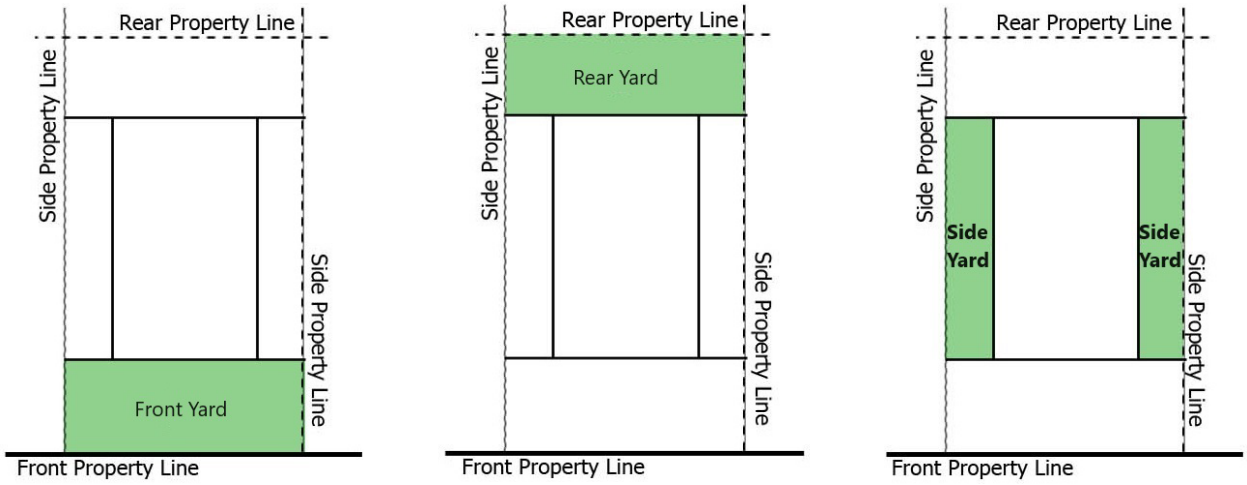
Working Days. Days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

Yard. A space on the same lot with a principal building that is open, unoccupied, and unobstructed by buildings or structures from the ground to the sky except where encroachments and accessory buildings are expressly permitted.

Yard, Front. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the road right-of-way line and the front line of the building, projecting to the side lines of the lot. Corner lots are required to have only one front yard; the front yard shall be located adjoining the road to which the property address is assigned.

Yard, Rear. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building, projected to the side lines of the lot.

Yard, Side. An open, unoccupied space on the same lot with a principal building, situated between the building and the side lot line and extending from the rear line of the front yard to the front line of the rear yard.



Yard Waste. Solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, shrubbery, leaves, and similar vegetative material.

Zero Side Setback. An alternate form of dimensional requirements that allows a dwelling unit to have one side setback of zero distance from a side property line. This definition does not apply to townhouses.

Zone Lot. 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 this Ordinance.

Zoning. The designation of a particular property or portion thereof using one of the zoning designations contained in these Regulations.

Zoning Administrator. See Administrator.

Zoning District. An area defined by these Regulations and delineated on the Official Zoning Map, in which the requirements for the use of land and in which building and development standards are prescribed. Also referred to as 'zone'.

Zoning Map Amendment. An amendment to the Chowan County Land Use Regulations, zoning regulations, for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the

territorial jurisdiction of Chowan County that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by Chowan County, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) 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.

Zoning Regulation. Zoning regulations authorized by NCGS 160D Article 7.

Zoning Permit. A permit issued by the Administrator that authorizes the recipient to make use of property in accordance with the requirements of these Regulations.

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ARTICLE 3. APPLICATIONS & REVIEW

SECTION 3.1: PERMIT REQUIRED

Certain types of development activity will require the property to undergo the rezoning or conditional rezoning process in order to proceed to the permit application stage of development. No person shall undertake any development activity subject to this Ordinance except in accordance with and pursuant to one of the following permits:

(A) A zoning permit, which includes approval of a site/plot plan, or sign permit issued by the Administrator;

(B) A special use permit or variance issued by the Board of Adjustment or other Board authorized by these regulations which may include the Planning Boar or Board of Commissioners; or

(C) Permit Exception – The Administrator may waive the requirement for a site plan or a plot plan if, in the Administrator's judgment, it is determined that it is not necessary to complete the review of the permit application.

SECTION 3.2: SUBMITTAL

Unless otherwise specified, all applications for permits under these Regulations shall be submitted by the owner of the property or the authorized agent of such owner to the Administrator. The Administrator may require reasonable proof of agency from any person submitting an application as an agent. An application for any permit under these Regulations shall be submitted in such form, number of copies and format as required by Appendix A, together with such fees as required.

The Administrator may waive submission of required elements of information when, in his opinion, such information is otherwise available or is not necessary to review the application.

A permit for any building or use for which a State or County Health Department permit for installation of a well or a sewage disposal system is required or for which approval by the State or County Health Department of an existing well or sewage disposal system is required, shall not be issued until such permit or approval has been issued by the State or County Health Department.

Applications that require administrative approval may be submitted at any time, if deemed to be a complete application, the Administrator shall have 45 days to review the application and associated plans and either approve, deny, or request revisions to the application. Failure to act within this 45-day period or provide notice to the applicant of a status update results in approval of the application. Applications must be deemed as submitted and accepted by the Administrator for this 45-day period to begin. Acceptance of the application submittal may be recorded in a submittal log, email, or notation correspondence between the applicant and the Administrator. When the Administrator receives an incomplete application, he shall not process the application, he shall contact the applicant and inform the applicant of what is required to be a complete application.

Applications that require either quasi-judicial or legislative approval shall be submitted In accordance with the annually adopted submittal calendar which is housed in the Building Inspection and Planning Division Department. Applications will be scheduled for public hearing based off of when they are submitted, per the calendar.

SECTION 3.3: APPLICATIONS

Applications may be submitted by the property owner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. Chowan County may also submit applications. Applications for all types of development described and allowed by these Land Use Regulations shall be submitted to the Administrator of the Building Inspection and Planning Division Department of Chowan County. Types of applications include general zoning (sign, site/plot plan), special use permit, variance, appeal, Land Use Regulation text amendments, comprehensive land use plan amendments, rezoning (conditional or general), and subdivision. See Appendix A for specific requirements to be included with application submittals.

SECTION 3.4: REVIEW & APPROVAL

Applications may require administrative, quasi-judicial, or legislative approval. Regardless of the type of approval that is needed, all applications for development activity shall be reviewed for their compliance with the requirements of these Regulations. If the applicant receives quasi-judicial or legislative approval, the Administrator shall issue the formal development approval on behalf of the respective Board including documentation that they have approved the application. All applications that have been approved shall be issued a development approval (see Article 4).

3.4.1 Administration Approval

Zoning permits, sign permits, site/plot plans, and subdivisions shall be reviewed and approved administratively by the Administrator. Approval shall only be granted if the Administrator finds that the application is completely in compliance with the requirements of these Regulations.

3.4.2 Quasi-Judicial Approval

Variances, Special-Use, and Appeal applications shall be accepted, reviewed, and prepared for the Planning Board and Board of Adjustment's review by the Administrator. Approval shall be given by the Board of Adjustment or the Planning Board serving in the capacity of a Board of Adjustment with full authority to perform quasi-judicial review and make decisions (see Article 7).

3.4.3 Legislative Approval

Rezonings (General & Conditional, Land Use Regulation Text Amendments, and Comprehensive Land Use Plan Amendment applications shall be accepted, reviewed, and prepared for the Chowan County Board of Commissioners review by the Administrator. Approval shall be given by the Chowan County Board of Commissioners (see Article 6).

3.4.4 Permit Approval

The Administrator shall issue permit approval when they have determined that all requirements of these Regulations have been met and when the respective Boards have approved permit request and authorized the administrator to issue approval. See Article 4 Administrative Approval.

SECTION 3.5: CONDITIONAL APPROVAL

If the site plan is granted conditional approval, the applicant shall revise and resubmit the site plan. The Administrator shall review the revised site plan and, if it meets all the approval conditions and is otherwise substantially unaltered, shall signify on the plan the change from conditional approval to approval. If the site plan is not revised within sixty days from the date of conditional approval, or the applicant notifies the Zoning Administrator that he is unwilling to revise the site plan, it shall be deemed denied.

SECTION 3.6: CONCURRENT PLAN REVIEW

In order to expedite this process, some projects may require that multiple applications receive approval prior to the commencement of development activity. The applicant has the option to submit multiple applications at once and have projects undergo concurrent review by different approval bodies, boards, or Administrator. In these instances, the applicant is required to sign an affidavit that they acknowledge approval by one board, body, or the Administrator does not constitute approval of their entire project or any other outstanding submitted applications that have yet to be approved.

SECTION 3.7: PERMIT EXEMPTIONS

(A) The following are exempt from zoning permit requirements:

(1) Bona-Fide-Farms per NCGS 160D-903.

(2) Any accessory building with any building dimension that does not exceed 12 feet as well as such accessory uses and structures as flagpoles and mailboxes; landscaping features such as fences, trees and shrubs, terraces, gazebos, and similar items; recreational improvements such as swing sets and playgrounds; and wells and pump houses.

(3) Facilities (other than buildings) of a public utility or an electric or telephone membership corporation.

(B) The following are exempt from sign permit requirements:

(1) Signs specifically exempted by Article 21.

SECTION 3.8: AUTHORIZATION TO COMMENCE WORK

The issuance of a zoning, sign, or special use permit authorizes the recipient to commence the activity resulting in a change in use of the land or, (subject to obtaining a building permit), to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures. However, except as provided in Article 9 Performance Guarantees and Development Agreements, the intended use may not be commenced and no building may be occupied until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the issuance of a special use permit have been complied with.

SECTION 3.9: PERMIT REVOCATION

A zoning, sign or special use permit may be revoked by the permit-issuing authority (in accordance with the provisions set forth in these Regulations if the permit recipient fails to develop or maintain the property in accordance with the approved plans, the requirements of these Regulations, or any additional requirements lawfully imposed by the permit-issuing authority. No person may continue to make use of land or buildings in the manner authorized by any zoning, sign or special use permit after such permit has been revoked in accordance with these Regulations.

SECTION 3.10: ZONING OR SIGN PERMIT REVOCATION

Before a zoning or sign permit may be revoked, the Administrator shall give the permit recipient ten days' notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the Administrator shall provide the permittee with a written statement of the decision and the reasons therefore.

SECTION 3.11: EXPIRATION OF APPROVED PERMITS AND SITE PLANS INCLUDING SPECIAL USE PERMITS AND VARIANCES

(A) Except for permits protected under vested rights, zoning, sign, and special use permits (including approved site or plot plans) shall expire automatically if, within one year after the issuance of such permits:

(1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or

(2) Less than ten percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development see Article 8 this requirement shall apply only to the first phase.

(B) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the zoning, or special use, shall immediately expire. However, expiration of the permit shall not affect the provisions of Article 8.

(C) The Administrator may extend for a period up to six months the date when a zoning, sign, and special use permit would otherwise expire pursuant to subsections A. or B. if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(D) For Special Use permits that have commenced use and began operation but cease to operate for a period of 180 days, the Special Use Permit will be considered as expired.

(E) Unless otherwise stated in its written decision, Variance permits shall be valid for a period of 60 days, within this 60-day period building permits or certificates of occupancy must be obtained.

(F) Notwithstanding any of the provisions of Article 10 Nonconforming Situations, this Article shall be applicable to permits issued prior to the date becomes effective.

(G) Special use permits with a vested right established in accordance with Article 8, shall expire at the end of the two-year vesting period established pursuant to Article 8.

SECTION 3.12: EFFECT OF PERMIT ON SUCCESSORS AND ASSIGNS

Zoning, sign, and special use permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

(A) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and

(B) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued.

SECTION 3.13: DEVIATION FROM APPROVED PERMITS

Due to unforeseen circumstances, from time to time the applicant may need to deviate from the approved plans. When these circumstances arise, the Administrator may elect to exercise their Administrative Modification ability granted in Article 4. If the Administrator determines that they are unable to grant the modification, the applicant is required to under the application and approval process for proposed changes.

SECTION 3.14: MAINTENANCE OF COMMON AREAS, IMPROVEMENTS, AND FACILITIES

The recipient of any zoning, or special use permit, or his successor, shall be responsible for maintaining all common areas, improvements or facilities required by these Regulations or any permit issued in accordance with its provisions, except those areas, improvements or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and that required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

SECTION 3.15: COMPLIANCE WITH OVERLAY DISTRICT PROVISIONS, SPECIAL PURPOSE REGULATIONS, AND DEVELOPMENT STANDARDS

Additional requirements that are applicable to properties within overlay zoning districts; requirements for particular uses (such as manufactured homes and wireless communications); and requirements for stormwater management and soil erosion, sedimentation control, and coordination with the Army Corps of Engineers regarding wetlands in Article 19 & 22. Use-specific standards that are applicable to those uses designated in the Table of Permitted Uses as 'DS', 'S', 'C' are provided in Article 15

SECTION 3.16: OTHER REQUIRED PERMITS AND NECESSARY COMPLIANCE

3.16.1 Stormwater Management

(A) *Natural Drainage System Utilized to Extent Feasible*. To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways shall remain undisturbed.

(B) *Developments Must Drain Properly.*

(1) All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:

(a) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or storm water runoff control plan; or

(b) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.

(2) No surface water may be channeled or directed into a sanitary sewer.

(3) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or roads.

(4) All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:

(a) No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties; and

(b) No development may be constructed or maintained so that surface waters from such development are unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

Stormwater Control Measures or stormwater detention ponds shall be located in the rear yard of the parcel when physically possible. The developer shall provide a letter from their engineer when they determine that it is not feasible to have such stormwater control measures or detention ponds located in the rear yard of the parcel. The letter shall be provided to the Administrator and the Administrator may have the County engineer review for confirmation.

3.16.2 Soil Erosion and Sedimentation Control

(A) No zoning, nor special use permit may be issued with respect to any development that would cause land disturbing activity requiring prior approval of an erosion and sedimentation control plan by the Land Quality Section, Division of Land Resources, NC Department of Environment and Natural Resources under NCGS 113A-57(4) unless the Land Quality Section has certified to the City, either that:

(1) An erosion control plan has been submitted to and approved by the Land Quality Section; or

(2) The Land Quality Section has examined the preliminary plans for the development and it reasonably appears that an erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin (and no building permits may be issued) until the Land Quality Section approves the erosion control plan.

(B) For purposes of this Section, 'land disturbing activity' means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and street construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation except activities that are exempt under NCGS 113A-52(6). Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

3.16.3 Compliance with State Guidelines for Areas of Environmental Concern

Prior to the issuance of any initial zoning permit, zoning change permit or special use permit, the Administrator and local AEC Permit Officer shall determine whether the proposed use or structure is located within an Area of Environmental Concern. This determination shall result from an on-site investigation. If the proposed use or structure is located in an Area of Environmental Concern, the Administrator and local AEC Permit Officer shall certify that the proposed use or structure complies with development standards of the State Guidelines for Areas of Environmental Concern (15 NCAC 7H) prior to issuing any zoning permit, or special use.

3.16.4 Coordination with the US Army Corps of Engineers Regarding Wetlands

If a developer, corporation, private landowner or other person proposes to perform construction/filling activities in or near a lake, stream, creek, tributary or any unnamed body of water and its adjacent wetlands, Federal permit authorization may be required from the US Army Corps of Engineers prior to commencement of earth-disturbing activities. The US Army Corps of Engineers shall be notified by the developer or person proposing such earth-disturbing activities for possible issuance of Section 404 or other permits.

ARTICLE 4. ADMINISTRATION

SECTION 4.1: LAND USE REGULATIONS ADMINISTRATOR

The Land Use Regulations Administrator, or Administrator, is the Building Inspection and Planning Division Director or his designee. The Administrator is responsible for the implementation and execution of the Chowan County Land Use Regulations. The Administrator has the authority to approve or deny applications for development activities as provided by these Regulations and take all other actions associated with the enforcement and administration of these Regulations. The Administrator serves the Planning Board, Board of Adjustment and Board of Commissioners.

SECTION 4.2: DUTIES OF THE ADMINISTRATOR

(A) Supervises the various activities of the department.

(B) Develops and maintains the comprehensive plan, area plans, other specialized plans, policies, and regulations for plan implementation.

(C) Provides recommendations to the Planning Board, Board of Adjustment, Board of County Commissioners, and County Manager.

(D) Provides administrative assistance to special boards, committees, and commissions.

(E) Serves as Executive Secretary to the Planning Board and Board of Adjustment.

(F) Performs other functions as may be necessary to effectively administer the county's overall planning program.

(G) Establishes and publishes application procedures for permits, appeals, and actions pursuant to these Regulations and forms implementing the same.

(H) Issues permits and certificates pursuant to these Regulations.

(I) Reviews all development plans and permits to assure that the permit requirements of these Regulations have been satisfied.

(J) Interprets the applicability of the provisions of these Regulations in matters where the text does not clearly provide guidance.

(K) Maintains all records pertaining to the provisions of these Regulations in his office(s) and makes said records open for public inspection.

(L) Periodically inspects properties and activities for which permits have been issued to determine whether the use(s) is being conducted in accordance with the provisions of these Regulations.

(M) Enforces the provisions of these Regulations.

(N) Causes violations of these Regulations to be investigated and issues notice of when required.

(O) Uses the remedies provided in these Regulations to gain compliance.

(P) Gathers evidence in support of said activities.

(Q) Receives appeals and forward cases to the appropriate Board.

(R) Performs the specific flood damage prevention duties delineated in Article 17.

(S) Performs other necessary functions to effectively administer these Regulations.

(T) Issues Administrative Modification approval when necessary.

SECTION 4.3: ADMINISTRATOR RECOMMENDATION

The Administrator shall review all applications for Variances, Special-Use Permits, Rezonings (general and conditional), and text amendments to the Comprehensive Plan or Land Use Regulations. The administrator shall provide the respective Board with an administrative review report that outlines findings and includes a recommendation for action from the Administrator. When making recommendations on quasi-judicial decisions, the Administrator shall be explicitly clear in their report that the recommendation shall not be used as the basis for approval or denial. The Administrator may elect to not make a recommendation but must provide a statement.

SECTION 4.4: ADMINISTRATIVE MODIFICATION

The Administrator may elect to issue modifications to approved permits, including zoning permits, special use permits, approved preliminary subdivisions, site plans, and conditional rezoning site plans. Modifications must still be in compliance with the Land Use Regulations. A modification is not in any way a variance from the requirements of these Regulations. Modifications include the following unless expressly written differently in a separate Article of these Regulations, the such modification located in that particular Article shall take precedent:

(A) Minor design changes that have no substantial impact on neighboring properties, example, the relocation of a lot (not an increase in lots) or an element of a site plan that does not constitute the alteration of proposed roadways, improved surfaces, or access points.

(B) Any reduction in scale of any element from the original proposal.

(C) An increase that would constitute no more than a 10% addition to any parking area.

(D) The addition of one lot, provided that an additional acre of open space be provided. Cannot exceed one lot addition.

All other requests for changes in approved site plans will be processed as a modification to the original application. If such requests are to be acted upon by the Planning Board or Board of County Commissioners, new conditions may be imposed only on the specific site or area requested to be modified the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

A property owner or permit holder requesting approval of changes shall submit a written request for such approval to the Administrator, which request shall identify the changes. Approval of all changes must be provided to the property owner or permit holder in writing.

The Administrator may waive their ability to issue an Administrative Modification and require the proposed modification to undergo the full process as described in Article 3 for new application submittals.

SECTION 4.5: ADMINISTRATIVE INSPECTIONS

The Administrator shall make periodic inspections of properties within Chowan County at any reasonable hour for the purpose of inspection, determination of Regulations compliance, and other enforcement action. The Administrator may only enter onto properties for the purpose of inspection for enforcement action when the violation is visible from a public right-of-way or common public access area or with the authorization of an administrative search warrant. Properties in Chowan County are fully entitled to a reasonable expectation of privacy and the Administrator shall not infringe upon that by conducting illegal observations or inspections.

The Administrator shall also perform site visits to properties that have applied for approval from either the Planning Board, Board of Commissioners, or Board of Adjustment. These site visits are necessary to develop a background and sense of knowledge of the proposal and the existing environment.

The Board of Commissioners or its agent shall also have the power to require written statements, certificates and certifications or the filing of reports under oath, with respect to pertinent questions relating to complaints or alleged violations of this Ordinance and inspections conducted by the Administrator.

SECTION 4.6: ADMINISTRATIVE DEVELOPMENT APPROVAL

When approving applications that the Administrator has been authorized to issue approval on (see Article 3), he shall issue the development approval in writing and provide an electronic copy of the approval to the applicant. The electronic copy shall be protected from further editing. The approval shall include language that all applicable State and Local laws must be complied with. No person(s) shall commence or proceed with development activity until this required development approval has been issued.

Development approvals shall be valid for a period of 12 months from the date of issuance. The work authorized by the development approval must begin and be substantially commenced within this 12-month period for the development approval to remain valid. This does not have any limitations upon vested rights per NCGS 160D-108 & 108.1.

There shall be no change or deviation from the development approval issued by the Administrator. Any change or deviation must be reviewed by the Administrator and is subject to undergoing the complete development review process as required by these Regulations.

SECTION 4.7: ADMINISTRATIVE DEVELOPMENT APPROVAL REVOCATION

The Administrator may revoke the Development Approval in instances where the Administrator finds there is evidence and valid reason to justify revocation. Revocations of development approvals shall be issued in writing to the holder of the approval. The revocation shall state the reasoning for its issuance and include supporting evidence and documentation as applicable. The same review process that is followed for the initial issuance of the development approval shall be followed for the issuance of the development approval revocation. Revocations shall be issued when it is found that there has been a substantial departure from the approved application, plans, specifications; for refusal or failure to comply with the requirements of these Regulations or any State requirements or laws that have been delegated to Chowan County for enforcement. When evidence is found that false statements or misrepresentations have been made by the applicant to obtain development approval a revocation shall be issued. In the event that it is discovered a development approval has been issued in error a revocation may be issued.

SECTION 4.8: ADMINISTRATIVE DETERMINATIONS

Once the Administrator has made a determination or a final decision on a matter such as zoning or subdivision decision, he shall give written notice to the owner of the property that the determination is being made upon and to the party who has requested that an Administrative Determination be made, if different from the owner. Written notices shall be delivered in the form of first-class mail, email or personal delivery. The notice shall be sent to the tax listed address for the property owner as well as the address that has been listed on the application requesting a determination. Once the determination has been made and provided to the owner and interested parties, a sign shall be posted upon the property of which the determination has been made. The sign shall contain language with letters a minimum of six inches in size that indicate the type of determination made and contact information for the Chowan County Administrator of these regulations. Sign postings are the responsibility of the owner or the applicant. Verification of the posting shall be provided to the Administrator.

SECTION 4.9: APPEALS OF ADMINISTRATIVE DECISIONS

Except as provided in NCGS 160D-1403.1, appeals of Administrative Decisions shall be made to the Board of Adjustment. Appeals of Administrative Decisions on Subdivision Plats shall be made to the Board of Adjustment if the decision is made by the Administrator.

Any person who has standing per NCGS 160D-1402(c) may appeal an administrative decision to the Board of Adjustment. Appeals shall be filed with the Administrator and submitted in the form of an "Appeals Application". The time in which the person with standing has to appeal is 30 days from the receipt of the administrative decision or determination. Notices given by first-class mail are deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

An appeal of an Administrative Decision, Notice of Violation, provision of these Regulations, or any other subsequent appeal in accordance with NCGS 160D-1402 stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal or during the pendency of any civil proceeding authorized by law or related appeal. If, however, the Administrator certifies to the Board of Adjustment after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of these Regulations, then enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after the request is filed. Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with these Regulations does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or Chowan County may request and the Board of Adjustment may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

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ARTICLE 5. BOARDS AND DUTIES

SECTION 5.1: PLANNING BOARD

5.1.1 Establishment

The Chowan County Planning Board is established pursuant to NCGS 160D-301, to be known as the Chowan County Planning Board and referred to herein as the Planning Board. As an appointed advisory body, the Planning Board makes recommendations to the Board of County Commissioners as generally authorized by NCGS 160D-604. The Planning Board is also authorized to perform quasi-judicial review and to serve in the capacity of the Board of Adjustment and is granted all rights of the Board of Adjustment when serving in the capacity as one for the purpose of reviewing proposed Special Uses.

(A) *Appointment and Terms of Planning Board Members*. The Chowan County Planning Board shall consist of seven members appointed by the Board of County Commissioners for terms of three years. Vacancies occurring for reasons other than the expiration of terms shall be filled by appointment from the Board of County Commissioners as they occur for the period of the unexpired term. Members shall serve until they are duly replaced.

(B) *Officers.* At its January meeting each year, the Planning Board shall elect a chair and vice-chair for the coming year. The chair and vice-chair shall hold office for one year and shall be eligible for reelection. The chair shall preside over all meetings of the Board. The vice-chair shall assist the chair and shall serve as acting chair in the absence of the chair. If the chair is vacated the vice-chair may become the chair for the remainder of the vacated term and a new vice-chair shall be elected if the vice-chair elects to become the chair. If the vice-chair elects to not become the chair, an election shall be held for the chair.

5.1.2 Terms & Membership

The Planning Board members shall be appointed for three-year staggered terms, members may continue to serve until their successors have been appointed. Vacancies may be filled for the unexpired terms. Members shall be reappointed in accordance with the Chowan County Board of Commissioner's general policies for appointment to boards, commissions, and committees. Planning Board members may be removed by the Board of Commissioners at any time for failure to attend three consecutive meetings or for failure to attend fifty percent or more of the meetings within any twelve-month period or for any other good cause related to performance of duties. If a member moves outside of Chowan County, that shall constitute a resignation from the Board, effective upon the date a replacement is appointed.

5.1.3 Duties & Responsibilities

In general, the Planning Board performs the following duties at the direction of the Chowan County Board of Commissioners:

(A) Conducts studies to identify and analyze land use issues of importance to Chowan County.

(B) Prepares and recommends to the Board of County Commissioners a comprehensive land use plan and other plans, programs, and policies to achieve community goals and objectives.

(C) Develops and recommends regulatory ordinances, text amendments, and administrative procedures to implement adopted land use plans and policies.

(D) Makes recommendations to the Board of Commissioners concerning requests for amendments to the text of this Ordinance and rezoning requests in accordance with the provisions of Article 6.

(E) Informs and advises the general public regarding planning and zoning matters through meetings, hearings, advertisements, publications, and other appropriate methods of communication.

(F) Coordinates planning activities with other jurisdictions' planning boards and commissions.

(G) Reviews and decides on applications for special use permits in accordance with the provisions of Article 7 by serving in the capacity of the Board of Adjustment.

(H) Review and make determinations upon site-specific vesting plans associated with Special Use Permit Applications.

(I) To perform any other related duties that the governing board may direct.

(J) Serves in the capacity as the Board of Adjustment for Special Use Permit requests unless specifically provided for otherwise by these regulations.

5.1.4 Advisory Committees

(A) From time to time, the Board of Commissioners may appoint one or more individuals to assist the Planning Board to carry out its planning responsibilities with respect to a particular subject area. Members of such advisory committees shall sit as nonvoting members of the Planning Board when such issues are being considered and lend their talents, energies, and expertise to the Planning Board. However, all formal recommendations to the Board of Commissioners shall be made by the Planning Board. Nothing in this section shall prevent the Board of Commissioners from establishing independent advisory groups, committees, or boards to make recommendations on any issue directly to the Board of Commissioners.

(B) The Planning Board shall have such standing committees as it finds necessary and convenient. In addition, the chair may nominate ad-hoc committee members, which shall be voted upon by the full Board. The chair can be an active member of all committees. Committee membership shall be restricted to less than the number required for a quorum of the Planning Board membership.

5.1.5 Meetings

(A) The Administrator shall propose an annual meeting schedule to the Planning Board in January for their adoption. The meetings shall be scheduled in correspondence with the annually adopted departmental submittal schedule and the Chowan County Board of Commissioners meetings to ensure applications and petitions can be advertised and heard in a timely manner.

(B) The chair of the Planning Board may call special meetings. A majority of the Planning Board may, by written demand of a majority of its members, call a meeting. Written notice of a special meeting shall be provided to all members at least one week in advance of the meeting.

(C) The Planning Board shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas. When hearing applications for special use permits as authorized in Article 7, the Planning Board acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements except that no vote greater than a majority vote shall be required for the Planning Board to issue a special use permit.

(D) The chair of the Planning Board shall preside at all public hearings and unless overruled by a majority of the Board, shall have plenary power to limit presentations in the interest of brevity, clarity, fairness or other considerations. “Limit” in this sense shall be construed broadly and shall include the power to provide for the representation of groups by spokesperson.

(E) Whenever there is no business for the Planning Board, the chair may cancel a meeting by giving notice to all members not less than one week before the time set for the meeting. In the event of severe weather or other sufficient cause, the chair may cancel a meeting by giving reasonable notice to all members before the time set for the meeting. In the case of a meeting called by a majority of the Board, the chair may cancel the meeting only upon the concurrence of a majority of the Board.

(F) All Planning Board meetings shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

5.1.6 Agenda

(A) *Proposed Agenda*.

(1) County Staff shall prepare a proposed agenda for each regular and special meeting of the Board.

(2) A request to have an item of business that the Planning Board is authorized by these Regulations to be involved in placed on the agenda for a regular meeting must be received at least two working days before the meeting. Any Board member may, by a timely request, have an item placed on the proposed agenda.

(3) County Staff shall prepare an agenda package that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce.

(4) Each Board member shall receive a copy of the proposed agenda and the agenda package and it shall also be available for public inspection and/or distribution when it is distributed to the Board members.

(5) Items that require quasi-judicial review and for the Planning Board to act in the capacity of a Board of Adjustment shall not be placed upon the agenda unless they have been properly advertised for the quasi-judicial public hearing.

(B) *Adoption of the Agenda*.

(1) As its first Order of Business at each meeting, the Board shall discuss and revise the proposed agenda and adopt an agenda for the meeting.

(2) The Board may by majority vote add items to or subtract items from the proposed agenda, except that the Board may not add items to the agenda of a special meeting unless (1) all members are present, and (2) the Board determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

(3) If items are proposed to be added to the agenda, the Board may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all Board members.

(4) The Board may designate certain agenda items "for discussion and possible action." Such designation means that the Board intends to discuss the general subject area of that agenda item before making any motion concerning that item.

5.1.7 Quorum & Voting

(A) A quorum for the Planning Board shall consist of a majority of the board membership (excluding vacant seats). A quorum is necessary for the Planning Board to take official action.

(B) All actions of the Planning Board shall be taken by majority vote, a quorum being present.

(C) The chair of the Planning Board shall be eligible to vote as any other member.

(D) A roll call vote shall be taken upon the request of any member. Once a member is physically present at a Planning Board meeting, they are required to vote unless the provisions of NCGS 160D-109 prevent them from taking such action.

5.1.8 Recommendation & Statement

After hearing a request for a zoning map amendment, land use plan map amendment, or text amendment, the Planning Board shall prepare a statement and Planning Board recommendation for

the Chowan County Board of Commissioners. The statement and recommendation shall address the Planning Boards findings regarding consistency with the Chowan County CAMA Comprehensive Land Use Plan and any other officially adopted applicable plan per NCGS 160D-605. The Planning Board must provide this recommendation to the Board of Commissioners within 30 days of the Planning Board meeting at which they reviewed the proposal and made their analysis and recommendation. Failure of the Planning Board to submit its recommendation within the 30-day time period shall constitute a favorable recommendation.

SECTION 5.2: BOARD OF ADJUSTMENT

5.2.1 Establishment

Per NCGS 160D-302, Chowan County shall provide for a Board of Adjustment to decide on quasi-judicial matters including Variances, Special Use Permits, Administrative Appeals, and any other quasi-judicial decisions. The Board shall consist of five regular members with two alternate members who serve for a period of three years. The Planning Board shall serve in the capacity of the Board of Adjustment for matters that require Special Use Permits and other quasi-judicial matters (excluding variances) approval and shall be privileged to all rights of the Board of Adjustment and be subject to all standards for the Board of Adjustment established by this section when serving in that capacity. The Board of Commissioners is authorized to serve in the capacity of the Board of Adjustment for certain special uses as indicated by the Table of Permitted Uses by the term “C”.

The reference to Board of Adjustment in these regulations shall generally be interpreted as the Planning Board acting in the capacity of the Board of Adjustment. Only when it is specifically indicated that the Planning Board does not serve in the capacity as the Board of Adjustment related to non-variances or when it is referenced in the Table of Permitted Uses that the Board of Commissioners serves as the Board of Adjustment related to non-variances will it indicate that the Planning Board has not been authorized to serve in that capacity.

5.2.2 Duties

The Board of Adjustment shall carry out the duties outlined in Article 7. Specifically, the Board of Adjustment shall hear and decide:

(A) Appeals from any order, decision, requirement, or interpretation made by the Administrator, as provided in Article 7.

(B) Applications for general variances, as provided in Article 7 and applications for variances from flood hazard overlay district requirements as provided in Article 17.

(C) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines.

(D) Applications for Special Use Permits only when specifically required to by these regulations in instances where the Planning Board or Board of Commissioners are not acting in the capacity of a Board of Adjustment.

(E) Any other matter the Board is required to act upon by any other County ordinance.

(F) Appeals of administrative decisions on subdivision plats per NCGS 160D-1403.

5.2.3 Terms of Service & Officers

The Board of Adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternate members may continue to serve until their successors have been appointed. Vacancies may be filled for the unexpired terms. Members shall be reappointed in accordance with the Chowan County Board of Commissioner's general policies for appointment to boards, commissions, and committees. Regular Board of Adjustment members may be removed by the Board of Commissioners at any time for failure to attend three consecutive meetings or for failure to attend fifty percent or more of the meetings within any twelve-month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. If a regular or alternate member moves outside of Chowan County, that shall constitute a resignation from the Board, effective upon the date a replacement is appointed. An alternate member may sit in lieu of a regular member. When so seated, alternates shall have the same powers and duties as regular members.

The Board of Adjustment shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chair and preside over the Board's meetings and one member to serve as vice-chair. The persons so designated shall serve in these capacities for terms of one year. Officer vacancies may be filled for the unexpired terms only by a majority vote of the Board membership (excluding vacant seats). The chair or any member temporarily acting as chair may administer oaths to witnesses coming before the Board. The chairman and vice-chair of the Board of Adjustment may take part in all deliberations and may vote on all issues. A staff member of the Building Inspections & Planning Division shall serve as the recording secretary to the Board of Adjustment.

5.2.4 Meetings & Procedures

The Board of Adjustment shall adopt rules and regulations governing its procedures and operations consistent with the provisions of these Regulations. All meetings shall be open to the public. Evidentiary hearings shall be conducted in compliance with the requirements of Article 7 and notice of the hearings shall be provided in accordance with Article 7. The Board of Adjustment shall keep a written public record of member attendance, findings, and decisions.

5.2.5 Conduct

The Board of Adjustment shall not enter into a "closed session" at any point during a quasi-judicial hearing. The Board of Adjustment shall not discuss any quasi-judicial matters outside of the hearing

and shall have no ex parte communication. The Board members shall disclose to the public and Board members at the meeting if any ex parte communication has taken place. Ex parte communication is prohibited at all times.

SECTION 5.3: BOARD OF COUNTY COMMISSIONERS

5.3.1 Establishment

The Chowan County Board of County Commissioners is the elected governing board of Chowan County and responsible for final decisions regarding amendments to these Regulations, the Chowan County CAMA Comprehensive Land Use Plan, and the official zoning map of Chowan County.

5.3.2 Duties & Responsibilities

The Board of County Commissioners performs the following duties:

(A) Appoints the Planning Board and the Board of Adjustment.

(B) Upon recommendation by the Planning Board, adopts, implements, and amends a comprehensive land use plan which establishes long-range goals and objectives regarding future development of the County.

(C) Adopts, amends, and implements more-detailed area plans for smaller geographic areas, as well as policies related to special land use issues.

(D) Adopts, amends, and implements other specialized plans, programs, and policies for functional topics like transportation, open space, and capital improvements.

(E) By ordinance, adopts and amends regulations relating to zoning, subdivision of land, and other private development activities;

(F) In considering proposed changes in the text of these Regulations or to the zoning map, the Board of County Commissioners acts in its legislative capacity and shall review requests for amendments in accordance with the requirements of Article 6.

(G) Establishes rules and procedures for the enforcement and administration of these Regulations.

(H) Serves in the capacity of a Board of Adjustment when reviewing certain Special Use Permit request.

SECTION 5.4: MINUTES OF PROCEEDINGS & RULES OF PROCEDURE

Per NCGS 160D-308, each board listed in this Article is authorized to update and adopt their rules of procedure and operation as they deem necessary as long as compliance with Chapter 160D of the North Carolina General Statutes is upheld. Copies of rules of procedure shall be kept in the office of

the Chowan County Clerk to the Board of Commissioners and maintained on the Chowan County Government website. Each Board is responsible for keeping accurate records and minutes of each meeting.

SECTION 5.5: OATHS OF OFFICE

Per NCGS 160D-309, all members of all Boards included in this Article shall, before entering their duties, qualify by taking an oath of office as required by NCGS 153A-26.

ARTICLE 6. ZONING MAP & TEXT AMENDMENTS (REGULATIONS & CAMA LUP)

SECTION 6.1: AMENDMENTS

Amendments to the text of these Regulations, zoning map or Comprehensive Land Use Plan shall be made in accordance with the provisions of this Article. The Board of County Commissioners shall consider amendments to these Regulations in accordance with the annually adopted Building Inspections and Planning Division submittal schedule and the corresponding Board of Commissioners meeting date.

SECTION 6.2: DOWN ZONING

No amendment to the zoning map or these Regulations that down-zones property shall be made or is enforceable without written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by Chowan County. Down-zoning means either decrease the development density of the land to be less dense than was allowed under its previous usage or reducing the permitted uses of the land that are specified within these Regulations.

SECTION 6.3: CONDITIONAL ZONING

(A) There are circumstances in which a general zoning district designation allowing a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these Regulations and adopted land development plan, comprehensive plan, corridor plans, small area plans, and other land use policy documents. The amendment process established in this Article provides for the accommodation of such uses by a reclassification of property into a conditional district, subject to additional conditions which ensure compatibility of the proposed use with the use and enjoyment of neighboring properties. A conditional district allows a particular use or uses to be established only in accordance with specified standards and conditions tailored to each individual development project. This is a voluntary rezoning procedure that is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals that may not be undertaken for some time.

(B) The review and approval process for conditional district petitions involves a legislative hearing and legislative decision by the Board of Commissioners. The review of conditional district petitions shall be undertaken in accordance with the provisions of this Article.

(C) Property may be placed in a conditional district only in response to a petition by the owners of all the property to be included.

(D) Conditional districts, parallel general use zoning districts. Only those land uses (including uses by right, and special uses, permitted in a general use zoning district to which a

conditional zoning district corresponds shall be allowed. All requirements of any corresponding general use district and all other requirements of these Regulations apply to a conditional district except to the extent that the approved rules, regulations, and conditions included in the petition for rezoning are more restrictive than the general use district requirements.

(E) *Mandatory Community Informational Meeting*. Before the public hearing may be held on a petition for a conditional district, the petitioner must file with the Administrator a written report of at least one community informational meeting held by the petitioner. The Administrator is not required but is encouraged to attend this meeting. This meeting shall take place prior to the Planning Board meeting and the minutes and findings of this meeting shall be presented to the Planning Board.

(F) Written notice of such a meeting shall be given to the property owners and organizations entitled to notice identical to the notice requirements for a Public Hearing.

(G) The petitioner's report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact; the date; time and location of the meeting; a roster of the names, mailing addresses, and telephone numbers of the persons in attendance at the meeting; a summary of issues discussed at the meeting; and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. This information shall be presented to the Planning Board by the petitioner.

(H) In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report with the Administrator documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held.

(I) The adequacy of a meeting held or report filed pursuant to this section shall be considered by the Board of County Commissioners but shall not be subject to judicial review.

SECTION 6.4: CONDITIONAL ZONING – REVIEW, APPROVAL & CONDITIONS

6.4.1 Process

Conditional zoning requests shall undergo the same process for Amendments as described in this Article. They shall be reviewed, advertised, and heard in an identical manner as that of a general rezoning. Conditional zoning request shall contain a detailed site plan in conformance with these Regulations which must be approved as part of the rezoning request. The difference is that in the approval of a Conditional Zoning request, the Board of Commissioners may impose additional conditions upon the request, within reason if the conditions address conformance of the development and use and mitigate impacts reasonably expected to be generated by the development or use of the site. Specific conditions applicable to the conditional districts may be proposed by the petitioner or the County or its agencies, but only those conditions mutually

approved by the County and the petitioner may be incorporated into the zoning regulations or permit requirements.

(A) 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 County ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

(B) Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate, or the petitioner may propose. Such conditions to approval of the petition may include dedication to the county or state, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.

(C) The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of County Commissioners.

(D) If for any reason any condition for approval is found to be illegal or invalid or if the petitioner should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted by the County to rezone the property to its previous zoning classification or to another zoning district.

6.4.2 Effect of Approval

(A) If a petition for a conditional district is approved, the development and use of the property shall be required to conform to any mutually agreed upon conditions imposed by the Board of Commissioners and is required to operate under the language within the Ordinance to Approve and the site plan that was included with the conditional zoning approval.

(B) If a petition is approved, only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to administrative approvals provided that such a change in building layout does not result in an increase in the number of structures.

(C) Following the approval of the petition for a conditional district, the subject property shall be identified on the zoning map by the appropriate district designation. A conditional district shall be identified by the same designation as the underlying general district followed by the letters ‘CD’ [for example ‘R-15 (CD)’].

(D) No permit shall be issued for any development activity within a conditional district except in accordance with the approved petition and site plan for the district.

(E) Any violation of the approved site plan or any rules, regulations, and conditions for the district shall be treated the same as any other violation of these Regulations and shall be subject to the same remedies and penalties as any such violation.

6.4.3 Alternations to Approval

(A) Except as allowed for by an administrative approval, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these Regulations or to the zoning map and shall be processed in accordance with the procedures in these Regulations.

(B) The Administrator shall have the delegated authority to approve an administrative amendment to an approved site plan. The Administrator shall have no authority to amend the conditions of approval of a petition. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan and that the change does not have a significant impact upon abutting properties. Any decision by the Planning Director must be in writing stating the grounds for approval or denial.

6.4.4 Review of Approved Conditional Districts

It is intended that property shall be reclassified to a conditional district only in the event of firm plans to develop the property. Therefore, no sooner than one year (or two years if a vested right has been established in accordance with the provisions of Article 8 after the date of approval of the petition, the Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the Board of County Commissioners a report which may recommend that the property be rezoned to its previous zoning classification or to another zoning district.

SECTION 6.5: AMENDMENT PROCESS

The review process for an amendment to the text of these Regulations, Comprehensive Land Use Plan or to the zoning map shall include:

(A) Planning and Inspections Department staff review of application submittal; pre-application meeting is encouraged but is not required. Community Information Meeting required (Conditional Rezoning).

(B) Planning Board review and recommendation in accordance with Article 5.

(C) Board of County Commissioners review and action is required. The Board of County Commissioners shall not hold their public hearing and take action until the Planning Board has reviewed the proposal and made their recommendation.

SECTION 6.6: REQUIRED NOTICE OF HEARING

(A) No ordinance that amends any of the provisions of these Regulations, Comprehensive Land Use Plan or zoning map may be adopted until a public hearing has been held on such map or text amendment application submittal.

(B) The Administrator shall publish a notice of the public hearing on any map or text amendment request that amends the provisions of these Regulations once a week for two successive weeks in a newspaper having general circulation in the County. The notice shall be published for the first time not less than (10) ten days nor more than (25) twenty-five days before the date fixed for the public hearing. In computing this period, the date of publication shall not be counted but the date of the public hearing shall be.

(C) With respect to map amendments, the Administrator shall provide first class mail notice of the public hearing to the record owners for tax purposes of all properties whose zoning classification is changed by the proposed amendment as well as the owners of all properties within 100 feet of the property rezoned by the amendment, including all parcels of land considered to be abutting the property subject to rezoning, even if separated by a street, railroad, right-of-way or other transportation corridor. The first-class mail notice shall be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The Administrator shall also post notices of the public hearing on the property proposed to be rezoned by the amendment and take any other action deemed by the Administrator to be useful or appropriate to give notice of the public hearing.

(D) The individual mailing notice required above shall not be required if the zoning map amendment directly affects more than 50 properties owned by a total of at least 50 different property owners. In this instance, the County may elect, in lieu of the mailed notice, publish a notice of the hearing once a week for 2 consecutive weeks, published for the first time not less than ten days nor more than twenty-five days before the date fixed for the public hearing. In computing this period, the date of publication shall not be counted but the date of the public hearing shall be. Each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of the individual mailed notice requirements this section. The person or persons mailing the notices to adjoining property owners, as defined in NCGS 160D-601, shall certify to the Board of County Commissioners that fact, and the certificate shall be deemed conclusive in the absence of fraud.

(E) The notice required or authorized by this Section shall:

(1) State the date, time, and place of the public hearing.

(2) Summarize the nature and character of the proposed change. For General Rezonings, this is limited to general information only as specifics of how the parcel may be utilized are not applicable in General Rezonings and should not be considered by the Board of Commissioners.

(3) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment.

(4) State that the full text of the amendment and maps of the area proposed to be rezoned can be obtained from the Administrator.

(F) When a zoning map amendment is proposed, the County shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the County shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be posted within the same 10–25-day period as required for mailed notices and newspaper advertising.

SECTION 6.7: BOARD OF COMMISSIONERS HEARING AND REVIEW

(A) After the amendment application has been received, reviewed, and the notice for hearing requirements of this article have been met, the Board of Commissioners shall hold its public hearing for the proposed amendment. At the Public Hearing, the Administrator shall present the Board of Commissioners with his findings and recommendation as well as deliver the Planning Board's findings and recommendations, which shall include a recommendation on consistency with the Comprehensive Land Use Plan. Members of the public shall also have the opportunity to speak and present comments at this public hearing.

(B) In deciding whether to adopt a proposed amendment to these Regulations, the central issue before the Board of Commissioners is whether the proposed amendment advances the public health, safety or welfare, and how the proposed amendment relates to the Comprehensive Land Use Plan. All other issues, except those issues related to a conditional rezoning as delineated in this Article, are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Chairman and excluded.

(C) When considering proposed map amendments, the Board of Commissioners is to consider all potential land uses within the district and not specific land use, (except for Conditional

Rezoning). The Board of Commissioners is also to consider the impact of the proposed change on the public at large.

(D) The Board of Commissioners are not required to make their decision based off of the Administrator's, Planning Board's, or members of the public recommendation but are encouraged to take such recommendations into consideration when making their decision. At the conclusion of a public hearing on the proposed amendment, the Board of Commissioners may proceed to vote on the proposed amendment, refer it to a committee for further study, take any other action consistent with its usual rules of procedure, or continue the public hearing to a date certain. For example, the next regularly scheduled meeting date where the date has already been set. If at the continued hearing, it is found that there have been substantial changes in the requested zoning amendment, the rezoning request must be readvertised, a new public hearing must be set, and the request shall also be reviewed by the Planning Board prior to Board of Commissioners review and conducting their public hearing.

(E) The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

SECTION 6.8: BOARD OF COMMISSIONERS VOTING

Voting for amendment request to these Regulations or the zoning map shall be by a simple majority of the members of the Board of Commissioners in accordance with NCGS 153A-45.

SECTION 6.9: AMENDMENT APPROVAL OR REJECTION

(A) After conducting its public hearing, the Board of Commissioners may decide to vote on the proposal and either accept or reject in the form of an Ordinance to Approve or a Resolution to Deny per NCGS 160D-601. In conjunction with approving or rejecting, based on the voting record, the Board of Commissioners shall also include a plan consistency statement and a reasonableness statement. These statements may be incorporated into the body of the ordinance or approved as a separate document but need to be explicitly referenced in the minutes of the meeting.

(B) The consistency statement shall address how the amendment proposal relates to and is consistent or inconsistent with the Comprehensive Land Use Plan. The plan consistency statement is not subject to judicial review. If the zoning map amendment qualifies as a "large scale rezoning" per NCGS 160D-602(b), the consistency statement may address the overall rezoning and describe how the analysis and policies in the Comprehensive Land Use Plan were considered in the action that was taken by the Board of Commissioners.

(C) The reasonableness statement shall also be provided and the Board is to consider the following when writing this statement:

(1) The size, physical conditions, and other attributes of the area to be rezoned.

(2) The benefits and detriments to the landowners, the neighbors, and the surrounding community.

(3) 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.

(4) Why the proposal is in the public interest.

(5) Any changed conditions warranting the amendment.

(D) If a zoning map amendment qualifies as a "large scale rezoning" under NCGS 160D-602(b), the reasonableness statement may address the overall rezoning.

(E) Per NCGS 160D-605, the statement of reasonableness and plan consistency may be approved as a single statement.

SECTION 6.10: PLAN CONSISTENCY & AMENDMENTS THAT CHANGE THE COMPREHENSIVE LAND USE PLAN

(A) The Board of Commissioners shall find that the proposed amendment is either consistent with the Comprehensive Land Use Plan or inconsistent with the Comprehensive Land Use Plan. If the proposed amendment is found to be inconsistent with the Comprehensive Land Use Plan and is approved by the Board of Commissioners, the amendment shall have the effect of also amending the future land use map that is part of the Comprehensive Land Use Plan.

(B) The Board is required to find the amendment proposal to be consistent or inconsistent. A finding of inconsistency does not preclude the Board from approving the amendment request, however, the Board is encouraged to take precaution and thorough consideration when approving amendment request that are not consistent with the Comprehensive Land Use Plan.

SECTION 6.11: WITHDRAWAL OF AMENDMENT PETITION

The petitioner shall have the right to withdraw, in writing, an amendment petition at any time prior to a final decision by the Board of Commissioners. However, petitions that have been withdrawn shall be reconsidered only as a new petition and shall adhere to the submission and review requirements of these Regulations.

SECTION 6.12: DENIED AMENDMENTS

(A) If an amendment petition is denied by the Board of Commissioners, the Administrator shall not accept a rezoning petition similar to that denied for the same property or a portion of the property within one year of the Board's action, except that the Administrator may accept a new rezoning petition within the one-year period if 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 that 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.

(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.

(B) The applicant may also appear at a Board of Commissioners meeting and request approval from the Commissioners for their new application proposal if the one year period has not yet expired and if the Administrator elects to not make a determination.

SECTION 6.13: APPEALS OF DENIAL

Appeals of denied amendment request shall be made in accordance with NCGS 160D-1401.

SECTION 6.14: NOTIFICATION OF DECISION

Within five working days of any action by the Board of Commissioners on an amendment petition, notice of such action shall be sent by first-class mail to the petitioner and any other persons who have indicated to the Administrator, in writing, that they would like the decision mailed to them. Additionally, within 15 days after the effective date of a zoning change to commercial or industrial zones within 660 feet of the right-of-way of an interstate or primary highway, written notice by registered mail shall be sent to the Raleigh offices of the North Carolina Department of Transportation in accordance with NCGS 136-136 and 136-153.

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ARTICLE 7. QUASI-JUDICIAL PROCEDURE & DECISIONS

SECTION 7.1: QUASI-JUDICIAL DECISIONS

The Board of Adjustment is the only authorized Board under these Regulations to hold hearings, accept testimony, and make decisions using the quasi-judicial procedure that is authorized by the North Carolina General Statutes. Quasi-Judicial Procedure applies to decisions involving Special Use Permits, Variances, Appeals of Administrative Decisions, and any other item that requires a quasi-judicial decision to be made. The procedures outlined in NCGS 160D-406 shall be followed for Quasi-Judicial Decisions.

SECTION 7.2: APPEALS OF QUASI-JUDICIAL DECISIONS, SUBJECT TO JUDICIAL REVIEW

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d). The Board of Commissioners of Chowan County that is a party to the judicial review of the quasi-judicial decision shall have the authority to settle the litigation, subject to Article 33C of Chapter 143 of the General Statutes.

SECTION 7.3: EX PARTE COMMUNICATION FORBIDDEN

There shall be no ex parte communication between any parties involved in a quasi-judicial hearing prior to the hearing. This includes communication beyond the general scope of what has been applied for. Parties include the Board of Adjustment, persons with standing, and the Administrator but is not limited to such. If ex parte communication occurs it shall be disclosed at the hearing.

SECTION 7.4: HEARINGS & EVIDENCE

(A) For all quasi-judicial decision types, all items submitted by the applicant including the application itself and any other associated document shall be submitted to the Board of Adjustment at the hearing as evidence to be part of the record. The Administrator shall submit all documents, staff reports, and correspondence to the Board of Adjustment at the hearing as well so that it is a part of the official record.

(B) All items, materials, and evidence shall also be provided to the applicant and landowner, if the landowner is different from the applicant.

SECTION 7.5: NOTICE REQUIREMENTS

Regardless of the type of quasi-judicial hearing that the Board of Adjustment will be holding, the notice requirements shall remain the same. The Administrator shall advertise for a quasi-judicial hearing to be held by the Board of Adjustment. Notice requirements include the following:

(A) The Administrator shall provide due notice to the parties involved in the permit request (any type of permit that requires quasi-judicial procedure and decision) as well as to the owners of property adjacent to the property involved in the permit request. The Administrator shall mail written notice of the evidentiary hearing to the owners of all properties involved in the permit request as well as the owners of all properties adjacent to the property involved in the permit request. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing.

(B) The Administrator shall also post notices of the evidentiary hearing on or in the immediate vicinity of the property involved in the permit request and take any other action deemed by the Administrator to be useful or appropriate to give notice of the evidentiary hearing on any permit request. The notice shall be posted upon the property at least 10 days but not more than 25 days prior to the date of the hearing.

(C) The Administrator may also publish a general public notice of the evidentiary hearing in a newspaper having general circulation in the area but is not statutorily required to do so. If published, the notice shall be published not less than ten days before the date affixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be. The newspaper notice shall:

(1) State the date, time, and place of the hearing.

(2) State the purpose of the hearing.

(3) Summarize the nature and character of the permit request.

(4) Reasonably identify the property affected by the permit request.

(5) State that the full permit request application can be reviewed at the office of the Administrator.

SECTION 7.6: SPECIAL USE PERMITS

There are certain uses that due to their nature and operation, cannot be permitted by right within certain zoning districts. These uses shall be known as special uses and require quasi-judicial review and approval from the Board of Adjustment to legally operate. The Planning Board shall serve in the capacity of the Board of Adjustment for Special Use Permits. Any reference to the Board of Adjustment within this Section in reference to the Board of Adjustment shall be understood that the Planning Board is serving in the capacity of the Board of Adjustment and has the right to impose conditions that go beyond the scope of these Regulations when they deem necessary in order to create harmony between the proposed special use and the surrounding uses, zoning districts and general area. Special Use Permits undergo a quasi-judicial evidentiary hearing and are issued based on factual evidence and determinations made by the Board of Adjustment.

7.6.1 Special Use Process

The following is the process followed for Special Use Permits from submission to approval or denial.

(A) Pre-application meeting with the Administrator to discuss proposal and any conditions that the Administrator recommend the applicant self-impose.

(B) Application submittal, Administrator review, documents provided to Board of Adjustment in advance of meeting for review.

(C) Planning Board holds quasi-judicial public hearing, Administrator presents proposal and recommendation (see Article 4 “Administrator Recommendation”).

7.6.2 Special Use Permit Submission for Planning Board

An application for a special use permit shall be submitted to the Planning Board by filing a copy of the application with the Administrator in the Planning and Inspections Department in accordance with the annually adopted submittal schedule.

(A) Planning and Inspections Department review and recommendation unless the Administrator elects not to provide one in accordance with the provisions of these Regulations.

(B) Evidentiary hearing held by the Planning Board.

(C) Planning Board review and action.

7.6.3 Recommendations on Special Use Permits

(A) When presented to the Planning Board at the evidentiary hearing, the application for a special use permit shall be accompanied by a report setting forth the Planning and Inspection Department's proposed findings concerning the application's compliance with these Regulations, as well as any staff recommendations for additional requirements to be imposed by the Planning Board.

(B) If the Administrator proposes a finding or conclusion that the application fails to comply with the requirements of these Regulations, the Administrator shall identify the requirements in question and specifically state supporting reasons for the proposed findings or conclusions.

7.6.4 Special Use Permit Hearing

(A) When conducting a hearing for a Special Use Permit request, the Planning Board is to only consider findings of fact and testimony presented by subject matter experts. Public opinion and hearsay are not to be considered when making a quasi-judicial decision. The Planning Board shall determine what they determine to be factual or valid evidence. All persons presenting to the Board for a special use permit hearing must provide sworn testimony. Any person who willfully swears falsely is guilty of a class 1 misdemeanor. The Planning Board may subpoena witnesses.

(B) At the hearing, the Administrator shall present the proposal along with their recommendation to the Planning Board and the Board shall allow for testimony at the conclusion of the Administrators presentation. Testimony shall only be presented to the Board by people withstanding per NCGS 160D-1402. The Board may prevent a witness from testifying if the witness is presenting repetitive evidence that has already been presented to the board. Evidence shall be substantial and competent material to the proposed special use.

(C) While conducting the hearing, the Board shall determine that all of the following have been met by the applicant. The Administrator shall assist the Board in making these determinations and findings.

(1) That the application is complete and that the site plan meets all requirements of these Regulations.

(2) That the notice requirements have been met.

(D) If the Planning Board determines that more time is needed for discussion, expert witnesses, or more information is needed to be presented or gathered, the Board may continue the hearing to a date certain.

7.6.5 Special Use Voting

At the conclusion of the public hearing, the Board shall close the hearing and enter its discussion, deliberation, and voting upon the special use permit request. In its voting procedure, the Board may place conditions upon their findings in accordance with this Article if the conditions are warranted. To approve a special use permit request, the Board must approve by majority all four findings listed below. If one of the four does not receive a majority vote for approval, the special use permit shall not be issued. The Board is encouraged to vote on each of these findings individually so that the record is definitively accurate. For purposes of this Section, vacant positions on the permit-issuing board and members who have been disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite majority.

7.6.6 Findings

(A) The use will not materially endanger the public health or safety if approved.

(B) The use will not substantially injure the value of adjoining or abutting property.

(C) The use will be in harmony with the area in which it is to be located.

(D) The use will be in general conformity with the land use plan or other plans and policies adopted by the Board of Commissioners.

7.6.7 Burden

The burden of producing factual evidence to the Board to prove all of the findings have been met are the duty of the applicant. If the Board determines that factual evidence has not been produced in an adequate manner to make these findings, the Board may deny the special use permit request based on the lack of substantial evidence.

7.6.8 Special Use Written Decision

(A) At the conclusion of the voting, the Board shall provide a written decision to the Applicant that reflects the record of the public hearing including testimony given and how the Board voted on the four findings. The written decision shall reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be produced within a reasonable amount of time and signed by the Chair of the Board of Adjustment. The decision is effective upon its filing with the clerk to the Planning Board.

(B) In addition to providing a copy of the decision either in electronic form or first class mail to the applicant, the decision shall be provided to the landowner if different from the applicant and any other person who has submitted a written request for a copy of the decision. Copies of decisions shall be filed and kept in the office of the Administrator.

7.6.9 Reconsideration on Special Use Permits

Whenever the Planning Board disapproves a special use permit application, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the permit-issuing board at a later time unless the applicant clearly demonstrates that:

(A) Circumstances affecting the property that is the subject of the application have substantially changed.

(B) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Administrator within the time period for an appeal to superior court. However, such a request does not extend the 30-day period within which an appeal must be taken.

(C) The permit-issuing board may, however, at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

(D) The permit-issuing board shall, by a majority vote, make the determination as to whether or not an amended application meets the criteria delineated in subsection (B) for a rehearing or qualifies as a new application pursuant to subsection (C).

7.6.10 Special Use Permit Revocation

Before a special use permit may be revoked, all the notice and hearing requirements of this Article shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

SECTION 7.7: VARIANCE

When unnecessary hardships would result from carrying out the strict requirements of these Regulations, the Board of Adjustment shall vary the provisions of these Regulations. A variance shall not be issued for a use; for example, a use that is not permitted by right or through the special use process in a zoning district is not eligible to receive a variance to allow for the use. There shall be no use variances, or variance for the creation of use.

7.7.1 Variance Process

The following is the process followed for Variance's from submission to approval or denial.

(A) Pre-application meeting with the Administrator to discuss proposal and any conditions that the Administrator recommends the applicant self-impose and discuss other options alternative to the Variance.

(B) Application submittal, Administrator review, documents provided to Board of Adjustment in advance of meeting for review.

(C) Board of Adjustment holds quasi-judicial public hearing, Administrator presents proposal and recommendation (see Article 4 "Administrator Recommendation").

7.7.2 Recommendations on Variances

When presented to the Board of Adjustment at the evidentiary hearing, the application for a variance shall be accompanied by a report setting forth the Planning and Inspection Department's proposed findings concerning the application's compliance with these Regulations, as well as any staff recommendations for additional requirements to be imposed by the Board of Adjustment.

7.7.3 Variance Hearing

(A) When conducting the hearing for a variance, the Board shall hear the Administrator's presentation of the proposed variance which will include the requirements of these Regulations, the nature of the proposal, and the Administrator's recommendation on whether or not the variance is necessary. The applicant shall then have the opportunity to present to the Board as well as any other person with standing. All persons presenting to the Board in a variance hearing must provide sworn testimony. Any person who willfully swears falsely is guilty of a class 1 misdemeanor. The Board of Adjustment may subpoena witnesses.

(B) If the Board of Adjustment determines that more time is needed for discussion, expert witnesses, or more information is needed to be presented or gathered, the Board may continue the hearing to a date certain.

7.7.4 Variance Voting

(A) At the conclusion of the public hearing, the Board shall close the hearing and enter its discussion, deliberation and voting upon the variance request. In its voting procedure, the Board may place conditions upon their findings in accordance with this Article if the conditions are warranted. Warranted conditions are those that ensure the use of the property will be compatible as practicable with surrounding properties. To approve a variance request, the Board must approve by 4/5ths of the Board's vote all five findings listed below. If one of the five does not receive a 4/5th vote for approval, the variance shall not be issued. The Board is encouraged to vote on each of these findings individually so that the record is definitively accurate. For purposes of this Section, vacant positions on the permit-issuing board and members who have been disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite majority.

(B) The burden of producing factual evidence and the burden of persuasion to the Board to prove all of these findings have been met are the duty of the applicant. If the Board determines that factual evidence has not been produced in an adequate manner to make these findings, the Board may deny the variance request based on the lack of substantial evidence.

(C) *Four Fifths Explained*. The Chowan County Board of Adjustment is a 7-member Board. For variances there must be 6 affirmative votes on each of the findings. In the event that a member is absent or is unable to vote and is not exempted due to a conflict of interest, the 6 votes are still required due to the 4/5ths rule meaning 4/5th of the Board members. For members exempted due to a conflict of interest, the 4/5ths will be calculated off the members that are able to vote on the matter.

7.7.5 Findings

(A) Unnecessary hardship would result from the strict application of these Regulations. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(B) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. 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 did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

(D) The requested variance is consistent with the spirit, purpose, and intent of these Regulations, such that public safety is secured, and substantial justice is achieved.

(E) The variance will neither result in the extension of a nonconforming situation in violation of Article 10, Nonconforming Situations nor authorize the initiation of a nonconforming use of land.

(F) No change in permitted uses may be authorized by the variance.

7.7.6 Variance Written Decision

At the conclusion of the voting, the Board shall provide a written decision to the Applicant that reflects the record of the public hearing including testimony given and how the Board voted on the five findings. The written decision shall reflect the Board's determination of contested facts and their application to the applicable standards The decision written decision shall be produced within a reasonable amount of time and signed by the Chair of the Board of Adjustment. The decision is effective upon its filing with the clerk to the Board of Adjustment.

In addition to providing a copy of the decision either in electronic form or first-class mail to the applicant, the decision shall be provided to the landowner if different from the applicant and any other person who has submitted a written request for a copy of the decision. Copies of decisions shall be filed and kept in the office of the Administrator.

7.7.7 Variance from Flood Hazard Overlay District Requirements

(A) In passing upon an application for a variance from the Flood Hazard Overlay District Requirements Article 17, the Board of Adjustment, as established by Article 5, shall consider all technical evaluations, all relevant factors, all standards specified in other Articles of these Regulations, and:

(1) The danger that materials may be swept onto other lands to the injury of others.

(2) The danger of life and property due to flooding or erosion damage.

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(4) The importance of the services provided by the proposed facility to the community.

(5) The necessity of the facility of a waterfront location, where applicable.

(6) The availability of alternative locations on the subject property, not subject to flooding or erosion damage, for the proposed use.

(7) The compatibility of the proposed use with existing and anticipated development.

(8) The relationship of the proposed use to the land development plan and floodplain management program for that area.

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and roads and bridges.

Upon consideration of the factors listed above and the purposes of these Regulations, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of these Regulations. Variances are subject to review by the Federal Emergency Management Agency.

(B) Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.

(C) Conditions for Variances.

(1) Variances may not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

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

(3) 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, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local law or ordinances.

(4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

(5) The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(D) Variances may be issued for 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 the variance is the minimum necessary to preserve the historic character and design of the structure. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in subsections (A) and (C), above.

(E) A variance may be issued for solid waste disposal facilities, 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.

(1) The use serves a critical need in the community.

(2) No feasible location exists for the use outside the Special Flood Hazard Area.

(3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection level.

(4) The use complies with all other applicable federal, state and local laws.

(5) The Administrator has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of Chowan County's intention to grant a variance at least thirty days prior to granting the variance.

A zoning permit may be issued for such facilities only if a variance is granted.

(F) 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 a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.

7.7.8 Variances from Airport Protection District Overlay Requirements

(A) Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in compliance with the regulations prescribed in Article 19 may apply to the Board of Adjustment for a variance in accordance with the provisions of this Article. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief, if granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this Section. Additionally, no application for a variance to the requirements of Section 7.01 may be considered by the Board of Adjustment unless a copy of this

application has been furnished to the manager of the Edenton Municipal Airport for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within thirty days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

(B) Any variance granted, if such action is deemed advisable to effectuate the purpose of Article 19 and be reasonable in the circumstances, may be so conditioned as to require the owner of the structure or tree in question to install, operate or maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Edenton Municipal Airport Authority, at its own expense, to install, operate and maintain the necessary markings and lights.

SECTION 7.8: APPEALS

Administrative decisions may be appealed to the Board of Adjustment by any person with standing under NCGS 160D-1402(c). Appeals may be made on the Administrators interpretation and decisions based on his interpretation of these Regulations. Quasi-judicial procedure shall apply to hearings on appeals.

7.8.1 Appeal Process

The following is the process followed for Appeals from submission to approval or denial. Appeals must be made within 30 days of the Administrators decision.

(A) The aggrieved person shall submit the Appeals application to the Administrator.

(B) Administrator review, documents provided to the Board of Adjustment in advance of the meeting for review, including the record of the Administrators decision.

(C) The Board of Adjustment holds a quasi-judicial hearing to make a determination on the appeal.

7.8.2 Appeal Hearing

(A) When conducting a hearing for an appeal, the Board of Adjustment must examine the language of these Regulations and the decision made by the Administrator and determine if the Administrator has correctly interpreted and applied these Regulations. The presentation of evidence and factual information is an important aspect of the hearing and should be closely reviewed and considered by the Board of Adjustment. All persons presenting to the Board in an appeal hearing must provide sworn testimony. Any person who willfully swears falsely is guilty of a Class 1 misdemeanor. The Board of Adjustment may subpoena witnesses.

(B) The Administrator shall appear as a witness at the hearing, or the person who currently occupies that position if the decision-making Administrator is no longer employed by Chowan County.

(C) At the hearing, the Administrator shall present their determination with a detailed analysis of why such decision was made. The Administrator has the initial burden of presenting evidence to justify why such decision was made, this burden shifts to the aggrieved person at the conclusion of the Administrator's testimony. Likewise, the aggrieved person or party shall present to the Board a detailed analysis of their grievance with the decision and what they believe is the correct interpretation of these Regulations.

(D) If the Board of Adjustment determines that more time is needed for discussion, expert witnesses, or more information is needed to be presented or gathered, the Board may continue the hearing to a date certain.

7.8.3 Appeal Voting

At the conclusion of the public hearing, the Board shall close the hearing and enter its discussion, deliberation, and voting upon the appeal request. The vote shall be a simple majority and the Board shall vote to uphold the Administrator's decision, overturn, or modify the decision. The Board may make any order, requirement, decision, or determination they deem necessary to be made. The Board must make its decision based on competent, material, and substantial evidence in the record produced at the hearing. For purposes of this Section, vacant positions on the permit-issuing board and members who have been disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite majority.

7.8.4 Appeal Written Decision

(A) At the conclusion of the voting, the Board shall provide a written decision to the Applicant that reflects the record of the public hearing, including testimony given and how the Board voted on the appeal and decision made by the Administrator. The written decision shall reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be produced within a reasonable amount of time and signed by the Chair of the Board of Adjustment. The decision is effective upon its filing with the clerk to the Board of Adjustment.

(B) In addition to providing a copy of the decision either in electronic form or first-class mail to the applicant, the decision shall be provided to the landowner if different from the applicant and any other person who has submitted a written request for a copy of the decision. Copies of decisions shall be filed and kept in the office of the Administrator.

ARTICLE 8. VESTED RIGHTS, PERMIT CHOICE, & SITE-SPECIFIC VESTING PLANS

SECTION 8.1: ZONING VESTED RIGHTS

(A) Typically, there is an associated level of cost that is devoted by the applicant and parties of interest into each project or application that is seeking development approval. Due to some level of associated cost and time invested in the majority of applications for development approval, it is necessary to provide for vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between Chowan County and the public in land use and development regulation.

(B) Granted vested rights run with the land except for the use of the land for outdoor advertising governed by NCGS 136-131.1 and NCGS 136-131.2 in which case the rights granted by this section run with the owner of a permit issued by NCDOT.

(C) A vested right, once established or provided for in this section, precludes any zoning action by Chowan County which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in the approved site-specific development plan, except:

(1) With the written consent of the affected landowner.

(2) Upon findings, by ordinance after notice and a public hearing, that natural or man-made hazards in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific development plan.

(3) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the County, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property, which is caused by such action.

(4) Upon findings, by ordinance after notice and a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the County of the site-specific development plan.

(5) Upon the enactment or promulgation of a state or federal law or regulation which precludes development as contemplated in the site-specific development plan, in

which case the County may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a public hearing.

(D) The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the County, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes.

(E) Notwithstanding any provisions of this Section, the establishment of a vested right shall not preclude, change, or impair the authority of the County to enforce provisions of these Regulations governing nonconforming situations or uses. A vested right obtained under this section is not a personal right but shall attach to and run with the applicable property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise such vested rights. The County shall not require a landowner to waive his vested rights as a condition of developmental approval.

(F) Unless otherwise specifically 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 Section.

(1) *Landowner*. Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site-specific development plan.

(2) *Property*. All real property is subject to the regulations and restrictions of these Regulations as well as the zoning district boundaries established by these Regulations and depicted on the official zoning map.

(3) *Site-Specific Development Plan*. A plan which has been submitted to Chowan County by a landowner describing in detail the type and intensity of use for a specific parcel or parcels of property. Such plan shall be in the form of a site plan required to obtain a special use permit. The information required by Appendix A, as applicable, shall be included. All site-specific development plans shall be approved by either the Administrator, Planning Board, or Board of Commissioners.

(4) *Vested Right*. The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

SECTION 8.2: PERMIT CHOICE

(A) If these Regulations are amended between the time a development permit application was submitted (including all types of development permit applications listed in these Regulations) and a decision is made upon the application, the applicant of the development permit has the right to choose which version of these Regulations shall apply to their development permit. If the development permit applicant chooses the version of the rule of these Regulations 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 rule, map, or Regulations prior to acting on the development permit. If an applicable rule or Regulation is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or Regulations will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or Regulations that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.

(B) If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the local or State government 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.

SECTION 8.3: MULTIPLE PERMITS FOR DEVELOPMENT PROJECT

Subject to the Duration of Vesting section of this Article, where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of these Regulations applicable to the project upon submittal of the application for the initial development permit. This subsection is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. This subsection does not limit or affect the duration of any vested right established under the Duration of Vested Rights section of this Article. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

SECTION 8.4: ESTABLISHMENT OF VESTED RIGHT

A vested right is established once valid approval or conditional approval has been issued for a site-specific vesting plan. These valid approvals shall only be given by either the Administrator, Planning Board, or Board of Commissioners.

SECTION 8.5: PROCESS TO CLAIM VESTED RIGHT

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Administrator, who shall make an initial determination as to the existence of the vested right. The decision of the Administrator may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

SECTION 8.6: DURATION OF VESTED RIGHTS

The duration for vested rights for a site-specific vesting plan is for a period of two years from the date of the Administrator's approval. A vested right shall not be extended by any amendments or modifications to an approved site-specific development plan unless expressly provided for by the Administrator or Board of Commissioners. A vested right shall expire at the end of two years if no building permit applications have been filed with the County to construct the use or uses proposed in the approved site-specific development plan. If building permits are issued, the provisions of NCGS 160D-1111 and NCGS 160D-1115 shall apply, except that a building permit shall not expire or be revoked because of the lack of progress during the two-year vesting period. A vested right 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.

SECTION 8.7: PHASED DEVELOPMENT

A multi-phased development (development containing 25 acres or more) is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this Article remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

SECTION 8.8: SITE-SPECIFIC VESTING PLAN

A site-specific vesting plan consists of a plan submitted to the Administrator in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional zoning plan, or any other land-use approval designation as indicated in these Regulations. Unless otherwise expressly provided by Chowan County, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer,

roads, and pedestrian walkways. What constitutes a site-specific vesting plan under this section that would trigger a vested right shall be finally determined by the Administrator pursuant to these Regulations, and the document that triggers the vesting shall be so identified at the time of its approval. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

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ARTICLE 9. DEVELOPMENT AGREEMENTS & PERFORMANCE GUARANTEES

SECTION 9.1: AUTHORIZATION FOR DEVELOPMENT AGREEMENTS

(A) Some projects typically can take multiple years and/or phases in order to reach completion, a long-term commitment is beneficial to be reached in the initial stages of certain projects. These unique types of development may create situations that are not addressed by these Regulations in their entirety. These projects shall require careful planning, scheduling and investment and will require an agreement between Chowan County and the developer to ensure that sufficient assurances are in place for both parties.

(B) Development that is authorized by a development agreement shall comply with all State and Federal laws including the provisions of these Regulations. Chowan County shall not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.

(C) Development Agreements must be approved by the Board of Commissioners in accordance with procedures set forth in NCGS 160D-1005. A legislative hearing shall be on the proposed Development Agreement and shall follow the procedure set forth in Article 6. The hearing notice shall specify the location of the property subject to the Development Agreement, the development uses proposed on the property, and specify a place where the copy of the proposed agreement can be obtained.

SECTION 9.2: APPLICABILITY OF DEVELOPMENT AGREEMENTS USED IN CONCURRENCE

Development agreements may, by an Ordinance to Approve, be incorporated, in whole or in part, into any development regulation adopted by Chowan County. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plan required under a subdivision regulation, or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

SECTION 9.3: PARCEL SIZE AND TIME RESTRICTIONS

There is no minimum parcel size requirement for a Development Agreement and the Board of Commissioners shall determine a reasonable time for the agreement based upon the scope of the project.

SECTION 9.4: CONTENTS OF AGREEMENT

(A) The following are the minimum requirements of components that must be incorporated into the Development Agreement:

(1) A description of the property subject to the agreement and the names of its legal and equitable property owners.

(2) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.

(3) The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.

(4) A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that Chowan County shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.

(5) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to the protection of environmentally sensitive property.

(6) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.

(7) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(B) The Development Agreement may also include language that stipulates when certain aspects or phases of the development must be commenced or completed by. The Development Agreement shall include a development schedule timeline and no portion of the timeline shall have greater than 5-year increments in between phases. Failure to meet a commencement or completion date does not, in and of itself, constitute a material breach of the development agreement pursuant to G.S. 160D-1008 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as required to be set forth in the agreement.

(C) If Chowan County is not the sole party in the agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.

(D) The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by Chowan County shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

(E) major modifications to Development Agreements shall follow the same procedures as required for initial approval of a development agreement.

SECTION 9.5: VESTING FOR DEVELOPMENT AGREEMENTS

Article 8 and NCGS 160D-1007 apply to Development Agreements concerning vested rights for the agreement and its contents thereof.

SECTION 9.6: BREACH AND CURE

(A) The Administrator shall periodically review the project and contents of the Development Agreement to ensure that the developer is demonstrating good faith compliance with the terms of the agreement. If the Administrator finds and determines that the developer has committed a material breach of the agreement, the Administrator shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach. Consistent with the provisions of Article 11.

(B) If the developer fails to cure the material breach within the time given, then Chowan County unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by G.S. 160D-405. An ordinance adopted pursuant to G.S. 160D-1003 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation.

(C) Nothing in this Article shall be construed to abrogate or impair the power of Chowan County to enforce applicable law. A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of the development agreement.

SECTION 9.7: AMENDMENT & TERMINATION AND CHANGE OF JURISDICTION

(A) Subject to the provisions of G.S. 160D-1006(e), a development agreement may be amended or terminated by mutual consent of the parties.

(B) Any development agreement entered into by Chowan County before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the local government assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction. A local government assuming jurisdiction may modify or suspend the provisions of the development agreement if the local government determines that the failure of the local government to do so would place the residents of the territory subject to the development agreement or the residents of the local government, or both, in a condition dangerous to their health or safety, or both.

SECTION 9.8: RECORDATION

The developer shall record the agreement with the Chowan County Register of Deeds within 14 days after the local government and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

SECTION 9.9: APPLICABILITY OF PROCEDURES TO APPROVE DEBT

In the event that any of the obligations of Chowan County in the development agreement constitute debt, Chowan County shall comply at the time of the obligation to incur the debt and before the debt becomes enforceable against Chowan County with any applicable constitutional and statutory procedures for the approval of this debt.

SECTION 9.10: PERFORMANCE GUARANTEES

9.10.1 Generally

Certain situations may exist, exclusive of financial hardship, that deem it necessary for a permit to be issued, a project to be approved or for a final subdivision plat to be signed and recorded prior to the installation of required infrastructure or items shown to be installed on a site plan. These situations may include but are not limited to installation of a buffer in non-planting months, construction of a road prior to the recordation of a subdivision plat, etc.

When these situations exist, the applicant or developer may provide a Performance Guarantee to the Administrator for review to determine if the situation warrants the allowance of a Performance

Guarantee to be posted. For example, the Administrator should not permit the posting of a guarantee when the developer has no factors prohibiting the initial installation requirements of these Regulations. Developers and applicants should make good faith efforts for all improvements to be installed and in working order and good condition prior to their attempt at obtaining a final permit or plat approval.

When the Administrator determines that a Performance Guarantee is valid and necessary, the Administrator shall accept the guarantee to ensure that any outstanding requirements are completed prior to the release of the Performance Guarantee back to the applicant or developer.

Incomplete improvements that have been assured by a Performance Guarantee are expected to be completed within a one-year period.

Performance Guarantees shall be provided and approved prior to any issuance of permit, or the Administrators signature is signed upon the final plat.

9.10.2 Performance Guarantee Types

The following types of guarantees may be accepted by Chowan County. The Administrator may consult the County attorney to determine if the type of proposed guarantee is sufficient and in an acceptable format.

(A) Surety bond issued by any 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) Cash or Check.

9.10.3 Performance Guarantee Amount

The amount required to be posted for the Performance Guarantee shall be 125% of the cost estimated to complete the incomplete infrastructure or outstanding site requirements. This projected cost is to be provided by the developer or applicant. The cost estimate will be reviewed by the Administrator and other Chowan County employees as deemed necessary by the Administrator to accurately determine validity of the proposed cost. The cost estimate shall contain a detailed description of cost, materials, activities, and anticipated completion dates for the proposed infrastructure within the estimate. A lump sum estimate without any detailed explanation is not to be accepted by the Administrator.

Specifically, the estimate is to include the cost of labor and material necessary for the completion of the required improvements. Cost shall be based upon unit pricing where applicable.

9.10.4 One-Year Administrative Meeting

One year from the date of the posting of the guarantee, the Developer or Applicant is required to have a meeting with the Administrator to provide updates on installation and give a progress report with estimated dates for completion.

9.10.5 Performance Guarantee Duration

The initial guarantee shall be valid for a period of one year unless the Administrator and Developer or Applicant have mutually determined that the type of required improvement necessitates a period longer than one year. The Developer or Applicant shall not independently decide the scope of work necessitates a longer time than one-year.

Bonds and Letters of Credit shall include language for automatic renewal in the event that the required improvements have not been completed by the designated expiration date.

9.10.6 Performance Guarantee Extension

The Developer or Applicant shall put forth a good faith effort and actively work to have all required improvements completed prior to the initial expiration date. Chowan County does acknowledge that certain situations may necessitate the need for an extension. In the event that the posted Performance Guarantee is going to expire and there is no longer language that automatically extends the guarantee in either the bond or letter of credit, the Developer or Applicant is required to request an extension. An extension request must be made to the Chowan County Board of Commissioners. These requests must be made in advance of the expiration of the guarantee, if the applicant has failed to request an extension within 30 days of the defined expiration date, Chowan County shall call upon the bond or letter of credit and begin the necessary process to obtain the guaranteed funds for the purpose of completing the required improvements.

The Administrator shall notify the applicant or developer 6 months prior to the expiration date and inform them of their responsibility to either complete the improvements or petition to the Board of Commissioners for an extension. The notification shall include the language of Chowan County's intention to obtain the guaranteed funds in the event the applicant or developer fail to comply with the notice.

9.10.7 Performance Guarantee Release

(A) Once the required improvements have been made, the Developer or Applicant shall notify the Administrator so that he may inspect to verify that the improvements have been completed and are adequate. The Developer or Applicant shall provide all documentation relevant to the improvements when notifying the Administrator including but not limited to certification letters, testing results, invoices, and notarized statements from the parties contracted for improvement installation as determined necessary by the Administrator.

(B) The Administrator shall return Bonds, Letters of Credit, or escrowed funds upon completion of the improvement back to the Developer or Applicant. The Administrator shall include written acknowledgement with return of the Performance Guarantee.

(C) Cash or check guarantees will be deposited into Chowan County's bank account for the purpose of being used to complete the required improvements in the event the Developer or Applicant fails to do so. If the Developer or Applicant completes the required improvements, the Administrator shall petition to the Chowan County Finance Office for release of the funds back to the Developer or Applicant.

(D) The Developer or Applicant may request a partial refund if more than 50% of the required improvements have been completed, this 50% is based off of the initial Cost Estimate provided to determine the guarantee amount. A partial refund request must be accompanied by detailed cost estimates outlining the work that has been completed with the inclusion of any applicable invoices and acceptance documents as deemed necessary by the Administrator.

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ARTICLE 10. NONCONFORMING SITUATIONS

SECTION 10.1: GENERAL

A nonconforming situation occurs when, on the effective date of these Regulations, an existing lot or structure or use of an existing lot or structure does not conform to one 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 these Regulations, because signs do not meet the requirements of these Regulations, or because land or buildings are used for purposes made unlawful by these Regulations.

Unless otherwise specifically provided for in these Regulations 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 the adoption of these Regulations may be continued. Whenever these Regulations refers to the effective date of these Regulations, the reference shall be deemed to include the effective date of any amendments to these Regulations if the amendment, rather than these Regulations as originally adopted, creates a nonconforming situation.

SECTION 10.2: NONCONFORMING LOTS

10.2.1 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 of record at the time of adoption of these Regulations 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.

(B) In residential zones, only a permitted residential use shall be permitted on the nonconforming lot.

(C) Nothing contained herein exempts a lot from meeting the applicable provisions of the Chowan County Board of Health regulations.

10.2.2 Lots with Contiguous Frontage in One Ownership

(A) When two or more adjoining and vacant lots of record with contiguous frontage are in one ownership at the time of the adoption of this Ordinance or subsequent to adoption 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 or more

lots that meet the standards of the district where located, prior to the issuance of any development permit for either lot.

(B) Nothing contained herein exempts the contiguous lots considered as a single buildable lot or lots from meeting the applicable provisions of the Chowan County Board of Health regulations.

10.2.3 Reduction of a Lot of Record

A lot of record reduced to less than the required area, width, or setback dimensions as the result of a condemnation or purchase by a local or state government agency shall become a nonconforming lot of record.

10.2.4 Lot of Record with Setback Nonconformity

When the use proposed for an undeveloped nonconforming lot is one that is conforming in all other respects except that the applicable setback requirements cannot reasonably be complied with, then the Administrator may allow deviations from the applicable setback requirements if it finds that:

(A) The deviations are necessitated by the size or shape of the nonconforming lot.

(B) The property can be developed as proposed without any significant adverse impact on surrounding properties or public health or safety.

(C) The deviation is no more than a 20% allowance from the required setbacks.

(D) The Administrator may waive the ability to review and approve such nonconformities and place the request upon the next agenda of the Board of Adjustment to review for approval based upon the standards herein.

10.3.1 Continuance of Nonconforming Use of Land

Any nonconforming use legally existing at the time of adoption or amendment of this Ordinance may be continued so long as it remains otherwise lawful subject to conditions provided in this Section.

10.3.2 Conditions for Continuance

Such nonconforming use of land shall be subject to the following conditions:

(A) No nonconforming use shall be changed to another nonconforming use unless such use is determined to be of equal or less intensity. In determining whether a nonconforming use is of equal or less intensity, the Board of Adjustment shall consider:

(1) Probable traffic of each use.

(2) Parking requirements of each use.

(3) Probable number of persons on the premises of each use at a time of peak demand.

(4) 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.

(B) The number of dwelling units in a nonconforming residential use shall not be increased.

(C) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of these Regulations.

(D) If any nonconforming use of land ceases for any reason for a continuous period of more than 180 days, any subsequent use of such land shall be a permitted use in the district in which such land is located. The 180-day period shall begin either on the date a given use is removed from the property, or on the date a given use suffers substantial damage. Substantial damage for the purposes of this section is defined as any structure that has incurred damages exceeding 60% of the structure's fair market value. Restoration of any nonconforming use must be with the clear intent of being continuous and permanent. The fact that utilities may still be in service at the structure does not count for continuance of the use.

(E) The resumption of a nonconforming use of land shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.

(F) No additional structure(s) not conforming to the requirements of these Regulations shall be erected in connection with such nonconforming use of land.

10.3.3 Extension, Enlargement or Replacement of a Nonconforming Use

(A) Except as provided for in subsections (B) through (F), no nonconforming use shall be extended, enlarged, or replaced.

(B) Any single-family residential nonconforming use (which may be a residentially occupied manufactured home) may be enlarged or replaced with a similar single-family residential structure of the same size or of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to setback requirements. If a unit is vacant at the time of replacement, then the replacement unit must comply with the manner described above.

(C) A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by these Regulations, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building unless specifically authorized in accordance with subsection F.

(D) 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 ten percent or more of the natural materials had already been removed on the effective date of these Regulations.

(E) 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 the Board of Adjustment can determine in a quasi-judicial hearing that the intensification will have no adverse impact on adjacent property and that no violations of other Articles of these Regulations occur.

(F) Any other nonconforming use may be extended, enlarged, or replaced only upon the issuance of a Special Use Permit if the Board of Adjustment finds that, in completing the extension, enlargement, or replacement work:

(1) There is no increase in the total amount of lot area devoted to the nonconforming use.

(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.

(3) There is no significant adverse impact on surrounding properties or public health or safety.

(G) In issuing a Special Use Permit, the Board of Adjustment 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. When issuing a Special Use Permit the Board of Adjustment shall follow the same procedures and process as outlined in Article 7.

SECTION 10.4: NONCONFORMING STRUCTURES

10.4.1 Continuance of Nonconforming Structure

Any nonconforming structure legally existing at the time of adoption or amendment of these Regulations may be continued so long as it remains otherwise lawful.

10.4.2 Conditions for Continuance

Such nonconforming structures shall be subject to the following conditions:

(A) No nonconforming structure may be enlarged or altered in any way which increases its dimensional deficiencies; however, any nonconforming structure or portion thereof may be altered to decrease its dimensional deficiencies. Any enlargement of the structure shall conform to the current dimensional requirements.

(B) In the event of damage by fire or other causes to the extent exceeding sixty percent of its tax value prior to such damage as established by the Building Inspector, reconstruction of a

nonconforming structure shall be permitted only in compliance with the dimensional provisions of this Ordinance.

(C) In the event of damage by fire or other causes to the extent causing less than sixty percent of its tax value prior to such damage as established by the Building Inspector, reconstruction of a nonconforming structure shall be permitted provided it is constructed:

(1) In the same manner in which it originally existed subject to compliance with the requirements of the NC State Building Code; or

(2) In compliance with the dimensional requirements.

(D) 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 NC State Building Code.

10.4.3 Preservation of Safe or Lawful Conditions

Nothing in these Regulations shall prevent the strengthening or restoration to a safe or lawful condition, any part of any building declared unsafe or unlawful by the County Building Inspector or other duly authorized official.

SECTION 10.5: MISCELLANEOUS NONCONFORMING SITUATIONS

10.5.1 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 Ordinance.

10.5.2 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 these Regulations 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 and may require that satellite parking space be obtained.

SECTION 10.6: NONCONFORMING PROJECTS

All nonconforming projects on which construction was begun at least 180 calendar days before the effective date of these Regulations as well as all nonconforming projects that are at least ten percent completed in terms of the total expected cost of the project on the effective date of these Regulations may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in

stages, this Section shall apply only to the particular phase under construction. In addition, neither these Regulations nor any amendment to it shall, without the consent of the property owner, affect any lot with respect to which a building permit has been issued pursuant to NCGS 160D-403 prior to the enactment of the Article making the change so long as the building permit remains valid, unexpired, and unrevoked.

SECTION 10.7: NONCONFORMING SIGNS

10.7.1 Continuance of Nonconforming Signs

(A) Signs in existence on the effective date of these Regulations which do not conform to the provisions of these Regulations, but which were constructed, erected, affixed, or maintained in compliance with all previous regulations, shall be regarded as nonconforming signs. Although it is not the intent of these Regulations to encourage the continued use of nonconforming signs, nonconforming signs shall be allowed to continue and a decision as to the continued existence and use or removal of such signs shall be controlled as follows:

(1) No nonconforming sign shall be changed to another nonconforming sign.

(2) No nonconforming sign shall have any changes made in the words or symbols used or the message displayed on the sign unless the sign is specifically designed for periodic change of message.

(3) No nonconforming sign shall be structurally altered so as to change the shape, size, type or design of the sign other than to make the sign a conforming sign.

(4) No nonconforming sign shall be re-established after the activity, business, or use to which it relates has been discontinued and such sign shall be removed.

(5) No nonconforming sign shall be re-established and all remains of the sign must be removed after damage or destruction, if the estimated expense of repairs exceeds sixty percent of the estimated total value of the sign at the time of destruction, as determined by the Building Inspector. If damaged by less than sixty percent, but repairs are not made within three months of the time such damage occurred, the nonconforming sign shall not be allowed to continue and must be removed.

(6) No nonconforming sign shall be relocated unless it is brought into conformance with the requirements of this Ordinance.

(7) Normal maintenance and repair of a nonconforming sign is permitted providing the shape, size, type or design of the sign is not altered.

(B) Any nonconforming sign that is structurally altered, relocated, or replaced shall immediately be brought into compliance with all the provisions of these Regulations.

(C) Any nonconforming sign which (i) is a menace to the public safety, (ii) has been abandoned, or (iii) which has not been properly maintained, including cleaning and painting of painted surface areas and replacement of damaged parts, shall be removed after due notice has been given by the Administrator.

10.7.2 Violations of Nonconforming Sign Provisions

The Administrator shall order the removal of any sign maintained in violation of the provisions of this Section for which removal procedures are herein prescribed, accordingly: the Administrator shall give ninety days written notice to the owner or lessee to remove the sign or to bring it into compliance with these Regulations. If the owner or lessee fails to remove the sign within ninety days after the ninety-day written notice has been given, the Administrator or his duly authorized representative may institute removal proceedings according to the procedures specified in NCGS 153A-123.

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ARTICLE 11. VIOLATIONS AND ENFORCEMENT

SECTION 11.1: VIOLATIONS

Any of the following shall be a violation of these Regulations and shall be subject to the enforcement remedies and penalties provided by these Regulations and by state law. When it is found that a violation of these Regulations exists, a Notice of Violation will be sent to the violator and property owner.

11.1.1 Development without Permit

A 'development without a permit' violation means to engage in any development, use, construction, remodeling or other activities of any nature upon the land or improvements thereon subject to the jurisdiction of these Regulations without required permits, certificates or other forms of authorization as set forth in these Regulations.

11.1.2 Development Inconsistent With Permit

A 'development inconsistent with a permit' violation means to engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

11.1.3 Violation by Act or Omission

A 'violation by act or omission' means to violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the Board of County Commissioners or its authorized boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon.

11.1.4 Use in Violation

A 'use in violation' means to erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this Ordinance, or any other regulation made under the authority conferred thereby.

SECTION 11.2: ENFORCEMENT PROCEDURES

When the Administrator or his agent discovers a violation of these Regulations or receives a complaint alleging a violation of these Regulations, it shall be his/her duty to inspect the alleged violation to determine its validity. In the event that the alleged violation is found to be a valid violation of these Regulations, the Administrator may attempt to immediately notify the owner and occupant of the land, building, structure, sign, or use of the violation. The Administrator may elect to take informal action with the property owner or violator to achieve compliance prior to the issuance of a formal Notice of Violation. Complaints or reports of violations that are made by citizens must come

from citizens who are a minimum of 18 years old, the Administrator may take measures to verify that the complaint is made by a person of valid age.

11.2.1 Right to Inspection

The Administrator has the right to inspect and enter upon properties at any reasonable hour for the purpose of determining if a violation of these Regulations exists. The Administrator shall respect the property owner's reasonable expectation of privacy and shall not inspect any areas of the property which are not viewable from a public right-of-way. The Administrator may elect to obtain an administrative search warrant for inspection If he deems the situation necessary. The Administrator shall not enter upon any property that is marked no trespassing. However, if the Administrator is able to observe violations on such properties from a public right-of-way, he may issue a notice of violation for such properties. The Administrator shall not inspect any properties from other properties that would infringe upon a reasonable expectation of privacy. For example, the Administrator may not conduct an inspection from the rear yard of an adjacent property to find a violation.

11.2.2 Initial Notification

Upon discovery of the existence of a violation of these Regulations, the Administrator shall by first-class mail notify the property owner and violator if the property owner is not a resident of the property, and may elect to notify by telephone, fax, email, or personal service attempt. This shall be considered as the official Notice of Violation unless the Administrator elects to first send an informal mailed notice to achieve compliance. The letter must indicate if it is the official Notice of Violation or an informal remedy request letter.

11.2.3 Contents of Notice of Violation

At a minimum, the official Notice of Violation shall include all the following information. The Administrator may elect to include additional information as he deems necessary.

(A) Description of the Violation.

(B) Date that the violation was observed and the Chowan County employee who observed the violation.

(C) Citation of these Regulations that apply to the violation.

(D) Instructions to remedy the violation.

(E) Date that the violation must be brought into compliance.

(F) Notice of right to appeal.

(G) Description of civil penalties including notice that fees are accruing and enforcement action that will be taken if compliance is not reached. Include the date in which the civil penalties begin accruing.

(H) Optional: The Administrator may include language in the NOV to have a meeting with the violator to discuss the nature of the violations and establish a timeline for compliance.

11.2.4 Appeal

Any owner or occupant who has received a Notice of Violation may appeal in the manner set forth by these Regulations for appeals of Administrative Decisions Section 7.8. In the absence of an appeal, the remedies and penalties sought by the Administrator in the Notice of Violation shall be final.

11.2.5 Order of Corrective Action by the Board of Adjustment

If upon a hearing held pursuant to an appeal as described in Section 7.8.2, the Board of Adjustment shall find that the owner or occupant is in violation of these Regulations, the Board of Adjustment shall issue an order in writing to the owner or occupant affirming the violation and ordering compliance.

11.2.6 Failure to Comply with an Order

If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by the NC General Statutes and this Article. If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

11.2.7 Emergency, Dangerous, or Hazardous Situations

In the event that the Administrator determines that a violation creates an immediate hazard to the public safety, health, or welfare, the standard notice requirements delineated in subsection 11.2.2 may be waived. The Administrator is authorized to make a reasonable attempt to notify the person responsible for the violation, property owner, or other person that has an identifiable relationship to the violation and/or property owner and to order the immediate remedying of the violation. In the case of a safety hazard created by a sign or sign structure, the Administrator is authorized to immediately remove such sign or sign structure, at the expense of the property owner. In the case of a safety hazard created by the use or occupancy of a building or land, the Administrator shall consult with the county legal staff for guidance concerning immediate enforcement actions.

SECTION 11.3: PENALTIES AND REMEDIES

As authorized by NCGS 153A-324, NCGS 153A-123, and NCGS 14-4, any one or all of the following procedures may be used to enforce the provisions of these Regulations.

11.3.1 Injunction

Any violation of these Regulations or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

11.3.2 Civil Penalties

Any person who violates any provisions of these Regulations shall be subject to the assessment of a civil penalty under the procedures provided in this Article.

11.3.3 Denial of Permit or Certificate

The Administrator may withhold or deny any permit, certificate, occupancy, or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted. The Administrator may not withhold permits for a parcel when instances exist where the property owner has a separate piece of real property that is in violation of these Regulations per NCGS 160D-1110(h).

11.3.4 Revocation of Permits

In accordance with Section 11.06, permits shall be revoked for any substantial departure from the approved applications, plans, or specifications; 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 permit mistakenly issued in violation of an applicable state or local law may also be revoked.

11.3.5 State and Common Law Remedies

In addition to other enforcement provisions contained in these Regulations, the Board of County Commissioners may exercise any and all enforcement powers granted to it by state law or common law.

SECTION 11.4 CIVIL PENALTIES – ASSESSMENT AND PROCEDURES

11.4.1 Penalties

Any person who violates any provisions of these Regulations shall be subject to assessment civil penalties on an escalated scale for each day that the violation exists. Penalties shall be $50 per day for the first 30 days, and shall increase to $100 on the 31st day, $250 on the 32nd day, $400 on the 33rd day and $500 on the 34th day and every day that the violation is in existence after the 34th day. The District Court of Chowan County maintains the right to cap the limit of accruing penalties.

11.4.2 Notice

No civil penalty shall be assessed until the person alleged to be in violation has been served with an official Notice of Violation in accordance with the provisions set forth in this Article. After receiving a notice of violation or if the violator fails to take corrective action, a civil penalty may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of Violation. The citation shall state the date in which the official Notice of Violation was provided to the alleged person in violation, the description of the violation, and the date indicated in the Notice of Violation that the accrual of civil penalties would begin. The citation shall serve as an additional

notice and reminder that civil penalties continue to be accrued and direct the violator to seek corrective action by bringing the violation into compliance and direct the violator to pay the accrued civil penalties. The citation may include estimated payoff dates.

11.4.3 Responsible Parties

The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent, holder of valid development approval from Chowan County or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of these Regulations may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

11.4.4 Continuing Violation

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty subject to accruing civil penalties on an escalated scale as described within this Article.

11.4.5 Final Request for Payment

The Administrator shall make a final written request for payment and compliance upon the property owner or the person in violation and shall set forth in detail a description of the violation for which the civil penalty has been imposed and the total amount of accrued civil penalties.

11.4.6 Nonpayment

If payment is not received or equitable settlement reached within thirty days, after final request for payment is made, the matter shall be referred to the Chowan County attorney for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided however, if the civil penalty is not paid within the time prescribed, the Administrator may have a criminal summons or warrant issued against the violator. Nothing herein shall preclude the Administrator from exercising other enforcement rights simultaneously.

11.4.7 Repeat Offenders

In instances where the same violator is found to repeatedly violate the provisions of these regulations for the same offense or a separate offense in similar nature and circumstance on the same parcel, the Administrator may elect to expedite the enforcement process and proceed directly to the issuance of Notice of Violation with the inclusion of the Citation and Final Request for Payment.

SECTION 11.5: ILLEGAL SUBDIVISION ENFORCEMENT

Any person who, being the owner or agent of the owner of any land located within the platting jurisdiction of Chowan County, as defined herein, thereafter transfers or sells any such land as a subdivision, as defined in Article 2, without such subdivision of land having been platted and approved under these Regulations and recorded in the Office of the Registrar of Deeds of Chowan

County, shall be guilty of a misdemeanor as established by G.S. 160D-807. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties as the courts may exact. The County, through its attorney or other official designated by the County Board of Commissioners, may enjoin illegal subdivision, transfer, or sale of land by action for an injunction, and/or an Order of Abatement.

Pursuant to N.C. General Statute 153A-123, as amended from time to time, a violation of any part of these Regulations may result in civil penalties being assessed against the violator in lieu of criminal penalties. When civil penalties are involved in the County's discretion, the penalty will be assessed in an amount of one hundred dollars ($100.00) for a first-time offence, three hundred dollars ($300.00) for a second offence, and five hundred dollars ($500.00) for a third or subsequent offence per day for every day's violation, payable to the Clerk of the Board of the County Commissioners. A citation shall be prepared and issued by the Administrator and shall require payment within ten (10) working days of issuance. If the civil penalty is not paid within ten (10) working days of the issuance of the citation, then the County has the option of collecting the civil penalty by a civil action in the nature of debt in the General Court of Justice of North Carolina. Building permits required pursuant to NCGS 160D-403 shall be denied for lots that have been illegally subdivided. In addition to other remedies, Chowan County may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

As permitted by Statute, the County may use any of the listed penalties for violation of these Regulations on a non-exclusive basis.

ARTICLE 12. NUISANCE PROPERTIES & VEHICLES

SECTION 12.1: PURPOSE

It is the purpose of this Article to regulate properties within Chowan County that have conditions that are detrimental to the quality and enjoyment of life of adjacent properties and its citizens or create situations or conditions that are potentially prejudicial to public health or safety or place humans at an adverse risk due to the conditions that they create. These conditions include but are not limited to accumulations of solid waste, junk, junkyards, vehicle graveyards, inoperable, junk or abandoned motor vehicles, common household items that are to be located within the structure such as furniture, appliances, electronics and clothes off of clothesline, unkept and uncontrolled growth of vegetation, noxious weeds, and grass that serve as a breeding ground for insects, pests, rodents, vermin and reptiles, animal and vegetable matter and abandoned unsecured structures.

SECTION 12.2: CONDITIONS CONSTITUTING VIOLATION

The existence of any of the following conditions on any parcel of land within the jurisdiction of Chowan County is hereby declared to be a condition that constitute a violation of this Article and is subject to enforcement, regardless of the status of ownership or the physical location of the condition constituting such violation upon the property.

(A) The uncontrolled growth of noxious weeds or grass causing or threatening to cause a hazard detrimental to the public health or safety.

(B) Any accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard or causing or threatening to cause the accumulation of stagnant water or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(C) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors of the inhabitance therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(D) The open storage of any abandoned icebox, refrigerator, stove, glass, furniture, other appliances, building material, building rubbish, or household electronics.

(E) The existence of an abandoned structure, where the structure has the absence of doors, windows, or other similar types of structural features without adequate means to prevent entry into the structure such as solid coverings to obscure the openings and make them airtight and physically impassable.

(F) The presence of abandoned or junk motor vehicles upon a property.

(G) The existence of vehicle graveyards or junkyards even as considered part of a garage, service station or sales establishment, within ten (10) feet of the State right-of-way of any "public road", within one quarter mile of any "school" or within any residential area. For the purposes of this Article, a junkyard or vehicle graveyard shall be within a residential area if there are two (2) or more "housing units" within a geographical area comprised of a one (1) mile wide strip contiguous and parallel to the external boundary lines of the tract of real property on which said vehicle graveyard or junkyard is located if within one quarter mile of any "housing unit".

(H) All junk and vehicles within a vehicle graveyard or junkyard shall be required to keep all junk and junked vehicles a minimum of ten (10) feet from State rights-of-ways at all points and for this area to be fenced as defined in this Article with no portion of the fencing to be closer than ten (10) feet to the State rights-of-way.

(I) Any condition detrimental to public health violates the rules and regulations of the Chowan County Health Department.

(J) Any condition detrimental to public safety.

SECTION 12.3: ABANDONED & JUNK MOTOR VEHICLES TOWING REQUIREMENTS

12.3.1 Generally

The following procedures and requirements are to be followed if after investigation, the Administrator determines that towing and removal of the abandoned or junk motor vehicle is necessary.

Whenever there exists an Abandoned Motor Vehicle with a valid registration plate which is towed, the vehicle must be wrecked or appear to be in a condition in which more than 50% of the vehicle is destroyed. It is not the intent for this to apply to registered vehicles in sound condition. Once a vehicle is towed, the authorizing person shall immediately notify the last known registered owner of the vehicle of the following:

(A) A description of the vehicle;

(B) The place where the vehicle is stored;

(C) The violation with which the owner is charged, if any;

(D) The possible sale or other disposition of the vehicle;

(E) The procedure the owner must follow to have the vehicle returned; and,

(F) The procedure the owner must follow to request a probable cause hearing on the towing.

12.3.2 Abandoned Motor Vehicle with Valid Registration

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this state, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed to the owner's last known address unless the owner or the owner's agent waives this notice in writing.

12.3.3 Invalid Registration

Whenever a vehicle with neither a valid registration plate nor registration is towed, the Administrator shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and notify the owner. Unless the owner has otherwise been given notice, it is presumed that the Administrator has not made reasonable efforts, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least ten days before the towing actually occurred; except, no pre-towing notice need be given if the vehicle impedes the flow of traffic or otherwise need be given if the vehicle impedes the flow of traffic or otherwise jeopardizes the public welfare so that immediate towing was necessary.

SECTION 12.4: INVESTIGATION

The Administrator, upon notice from any person or personal observance of the possible existence of conditions constituting a violation, shall investigate within reason as may be necessary to determine whether conditions exist which may constitute a violation of this Article.

SECTION 12.5: ADMINISTRATIVE HEARING

12.5.1 Generally

In the event that the Administrator found the complaint to be valid in his investigation and informal means of achieving compliance were unsuccessful, the Administrator shall notify the violator to attend an administrative hearing. The Administrator shall cause to be delivered or mailed to the owner and violator, if different from the owner of the said property upon which the conditions exist by certified mail-return receipt requested, a notice stating the reasons why the conditions may constitute a violation and that a hearing will be held before the Administrator at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the delivery or mailing of the notice. The owner, violator or any party of interest shall have the right to file an answer to the notice and to appear in person, or otherwise, and give evidence at the place and time fixed in the notice. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in such hearings.

12.5.2 Abandoned & Junk Motor Vehicles Hearing

The owner or any person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. The hearing request shall be filed in writing

with the Administrator no later than ten (10) days following notification of removal. Upon receipt of a timely request, a hearing date and time shall be promptly set. The owner, the person who requested the hearing (if someone other than the owner), the tower, and the person who authorized the towing shall be notified of the time and place of the hearing. An appeal from the decision of the Administrator may be timely made to the Chowan County District Court per NCGS 153A-140.

SECTION 12.6: ABATEMENT

If a determination after examining all evidence and arguments made at the administrative hearing is made that such conditions constituting a violation exist, the Administrator shall notify, in writing, the owner and violator if different from the owner of the premises in question of the determination and the conditions constituting such public nuisance and shall order the prompt abatement thereof within five to thirty days, depending upon the nature and severity of the violation from the receipt of such written notice. Written notice of the determination shall inform the owner of the right to seek judicial review of the order by filing a petition in the Chowan County Superior Court within thirty (30) days of the owners' receipt of written notice of the order.

12.6.1 Abandoned Motor Vehicles Abatement

When the investigation reveals that there is an abandoned vehicle, the Administrator may take the required measures to have the vehicle towed in accordance with the provisions for towing set forth within this Article. If the investigation reveals that an abandoned motor vehicle is located upon a piece of private property, the Administrator may have the vehicle towed only if they are able to make the determination that the abandoned motor vehicle is a public health or safety hazard, and its expeditious removal is necessary. The owner may request for the vehicle to be removed, in these instances the County must require the owner to indemnify the county against any loss, expense, or liability incurred due to the vehicle's removal, storage or sale.

12.6.2 Junk Motor Vehicle Abatement

The Administrator must find the following in his investigation to begin the abatement process for a junk motor vehicle. After finding in writing that the aesthetic benefits of removing the vehicle outweigh the burden imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following, among other relevant factors, may be considered:

(A) Protection of property values;

(B) Promotion of tourism and other economic development opportunities;

(C) Indirect protection of public health and safety;

(D) Preservation of the character and integrity of the community; and,

(E) Promotion of comfort, happiness and emotional stability of area residents.

The county must require the owner requesting the removal of junked motor vehicles from private property to indemnify the county against any loss, expense or liability incurred because of the removal, storage or sale of the junked motor vehicle.

12.6.3 Reclaim of Possession

The owner or any other person entitled to claim possession of an abandoned or junk motor vehicle may regain possession of the motor vehicle by paying to the county all reasonable costs incidental to the removal and storage.

12.6.4 Failure to Abate

If the owner, having been ordered to abate such a violation of this Article fails, neglects, or refuses to abate or remove the condition constituting a violation within the five (5) to 30 day period from the receipt of the said order, and the order has not been otherwise stayed by order of the Superior Court of Chowan County, the Administrator shall cause said violation to be removed or to otherwise be remedied by having employees of the County to go upon said premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Administrator. Any person who has been ordered to abate a public nuisance may within the time allowed by this Article request the County in writing to remove such condition, the cost of which shall be paid by the person making such request. An administrative cost of $250.00 shall be charged to the owner of such lot or parcel of land upon which a nuisance has been determined to exist and which remains unabated or subject to County removal by the owner's request.

SECTION 12.7: DISPOSAL

12.7.1 Disposal of Abandoned Motor Vehicles

After holding an abandoned motor vehicle for thirty (30) days after the date of removal, the county may sell or dispose of the vehicle as follows:

(A) If the vehicle is more than five years old and appears to be worth less than one hundred dollars ($100.00), the county may dispose of the vehicle as a junked motor vehicle as described within this Article. With the consent of the owner, the county may remove and dispose of a motor vehicle as a junked motor vehicle without regard to the value, condition, or age of the vehicle and without holding it for any prescribed period of time.

(B) If the vehicle appears to be worth one hundred dollars ($100.00) or more, the vehicle shall be sold at a public auction. The county shall give twenty (20) days written notice of the sale to the registered owner at his last known address, to each holder of a lien of record against the vehicle and to the State Division of Motor Vehicles. Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date. The proceeds of the sale shall be paid to the finance officer of the county, who shall pay to the

appropriate officers or persons the cost of removal, storage, investigation, sale and liens in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the county for sixty (60) days or if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within sixty days after the day of the sale, the funds shall be deposited in the county's general fund and the owner's rights in the vehicle are extinguished.

12.7.2 Disposal of Junk Motor Vehicles

After holding a junked motor vehicle for fifteen (15) days, the county may destroy it or sell it at private sale as junk. Within fifteen (15) days after the final disposition of a junked motor vehicle, the county shall notify the State Division of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and has been disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined. The full proceeds of the sale of the junked motor vehicle shall be paid to the finance officer of the county, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale and liens, in that order. The remainder of the proceeds of sale, if any, shall be held by the county for thirty (30) days after the day the vehicle is disposed of, the funds shall be deposited in the county's general fund, and the owner's rights in the vehicle are extinguished.

If a junked motor vehicle does not display a current license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, the county may destroy the vehicle or sell it at private sale, without regard to value, after having held the vehicle for forty-eight (48) hours. The proceeds shall be placed in the county's general fund.

SECTION 12.8: REMEDIES

12.8.1 Charges for Remedy

The actual cost incurred by the County in removing or otherwise remedying a violation of this Article, including administrative costs, shall be charged to the owner of such lot or parcel of land and it shall be the duty of the County Tax Collector to forward, by certified mail, return receipt requested, a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within thirty (30) days from the receipt thereof.

12.8.2 Lien and Collection

In the event charges for the removal or abatement of a violation of this Article are not paid within thirty (30) days after the receipt of a statement of charges as provided for in this Article, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. 153A-140.

12.8.3 Remedies, Generally

The procedure set forth in this Article for the general enforcement of conditions that constitute a violation shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this Article shall not prevent the County from proceeding in a criminal action against any person, firm, or corporation violating the provisions of this Article as provided in G.S. 14-4.

12.8.4 Abandoned & Junk Motor Vehicle Specific Remedies

(A) The County may secure injunctions, abatement orders and other appropriate equitable remedies to further ensure compliance as provided in G.S. 153A-123.

(B) The violation of this Article shall be a misdemeanor and in addition to, or in lieu of, remedies authorized in subsection "A" above shall be punishable by a fine not to exceed $500.00, or imprisonment for not more than thirty (30) days.

12.8.5 Vehicle Graveyard and Junkyard Remedies

Any person, firm, corporation, or other entity who maintains or operates or who controls the maintenance of a junkyard or vehicle graveyard in violation of this Article shall be guilty of a misdemeanor and subject to prosecution, and if convicted, shall be punished by a fine not to exceed $50.00 or by imprisonment no to exceed thirty (30) days, or both, at the discretion of the court. Each day that said vehicle graveyard or junkyard shall be maintained or operated in violation of this ordinance shall constitute a separate and distinct offense.

The Administrator shall be responsible for initiating the enforcement of the provisions of this Article and may take informal measures to procure compliance from any person deemed by the County or its representative to be in violation.

SECTION 12.9: ABANDONED & JUNK MOTOR VEHICLE PAYMENT

Nothing in this Article would prohibit the County from assigning responsibility for the removal, storage, sale or disposal of motor vehicles identified to be in violation of this Article to an outside agent. Said agent may be authorized to act on behalf of the County as specified in a legally binding contract duly executed between the County and the agent under terms specified by the Board of Commissioners.

SECTION 12.10: EXCEPTIONS

12.10.1 Abandoned & Junk Motor Vehicle Exceptions

This article does not apply to the following:

(A) Any motor vehicle in the process of repair or restoration on property under the control of the owner If the vehicle or property under the control of the person repairing or restoring the vehicle. Visible evidence of repair or restoration shall be apparent on a monthly basis.

(B) This article does not apply to any vehicle in an enclosed building, to any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the county.

12.10.2 Vehicle Graveyard and Junkyard Exceptions

This Article shall not apply to permitted service stations, repair shops, garages or car sales establishments except for junked vehicles on premises unless considered a health hazard. The presence of junk vehicles will require compliance under this Article.

ARTICLE 13. SUBSTANDARD HOUSING

SECTION 13.1: DEFINITIONS & AUTHORITY

For the purposes of this Article, certain terms and words used herein shall be interpreted as follows; this definition shall only be used in the nature it is defined here when it is applied to substandard and nuisance housing subject to the enforcement set forth by this Article. The authority to enact the provisions set forth in this Article may be found in Article 11 and 12 of the NCGS Chapter 160D.

(A) Public Nuisance: A *public nuisance* is one which affects an indefinite number of persons or all people coming within the extent of its range or operation, although the extent of the annoyance or damage inflicted upon individuals may be unequal. Maintaining a *public nuisance* is by act, or by failure to perform a legal duty, intentionally causing or permitting a condition to exist which injures or endangers the public health, safety or welfare.

(B) Reserved.

SECTION 13.2: DECLARATION BY BUILDING INSPECTOR

(A) Any building or structure or part thereof, partially destroyed or otherwise, which is found by the building inspector to be in such dilapidated state of disrepair or other substandard conditions as to be dangerous to life, health or other property, or to constitute a fire or safety hazard or public nuisance shall be declared by the building inspector to be unsafe.

(B) Such unsafe conditions may be caused by defective construction, overloaded structural parts, decay, susceptibility to fire, exits or any other hazardous conditions or circumstances.

(C) The Building Inspector shall have authority, and it shall be his/her duty to declare all such buildings or structures unsafe and to take appropriate action to have such conditions corrected or removed.

(D) Such declaration by the Building Inspector shall constitute an order of condemnation for the purposes of this Article.

SECTION 13.3: REMOVAL AFTER CONDEMNATION

13.3.1 Duty of Owner

Whenever any building or structure has been condemned by the Building Inspector and the existence of such building or structure in a dilapidated state of disrepair or other substandard condition is found and determined by the Building Inspector or, upon appeal from or report by the Building Inspector as hereafter provided, by the County Commissioners to be dangerous to life, health or other property, or is in such condition as to constitute a fire safety hazard or public nuisance, the owner or owners of such building or structure shall be required to demolish and remove the same and remedy such conditions under the regulations and procedures herein provided.

13.3.2 Authority of County on Failure of Owner

In the event such owner fails or refuses so to do within the time directed by the Building Inspector or by the County Commissioners, as herein provided, the County Commissioners may, in its judgment, cause the same to be demolished and removed or such other steps taken as it may find to be necessary to suppress and abate the nuisance and remove the fire and safety hazard and the danger to life, health, or other property found to exist, and specially assess the cost and expense of doing such work against the lot of land on which the building or structure is located.

SECTION 13.4: NOTICE AND HEARING

Before any building or structure may be ordered to be demolished and removed as provided in this Article, the Building Inspector shall notify the owners thereof, in writing, by certified or registered mail to the last known address of such owner, or by personal service of such notice by the Building Inspector or his assistant or by posting notice as hereinafter provided, that such building or structure is in such condition as appears to constitute a fire or safety hazard or dangerous to life, health, or other property, or to be a public nuisance, and that a hearing will be held before the Building Inspector at a designated place at a time not less than ten (10) days after the date of such written notice, at which time and place the owner shall be entitled to be heard in person or by counsel upon all legal or factual questions relating to the matter and shall be entitled to offer such evidence as he may desire which is relevant or material to the questions sought to be determined or the remedies sought to be effected. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice herein referred to shall be considered property and adequately served if a copy therefore is posted on the outside of the building or structure in question at least ten (10) days prior to the date fixed for the hearing and a notice of the hearing is published on time in a newspaper having general circulation in the county at least one week prior to the date fixed for such hearing. Such notice shall state the address or location of the building or structure and the time, place, and purpose of the hearing.

SECTION 13.5: ORDER TO REMEDY OR DEMOLISH

If, upon such hearing, the Building Inspector shall find that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health or other property or is a public nuisance, he/she shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy such conditions so found to exist by demolishing and removing such buildings or structure or taking such other steps as may be necessary to abate the nuisance and remove the hazards, within such period, not less than sixty (60) days, as the Building Inspector may prescribe.

SECTION 13.6: APPEALS – FINANLITY OF ORDER NOT APPEALED

The owner of any building or structure ordered by the Building Inspector to be demolished and removed, or who is directed by the Building Inspector to take any other steps to abate a nuisance or

remove hazards found by the Building Inspector to exist, shall have the right of appeal from such orders to the County Commissioners, provided, that such owner gives notice of appeal to the Building Inspector at the time of the hearing at which the order is made, or, within ten (10) days after such order is made, files with the Building Inspector, a written notice of such appeal. Notice of appeal shall state the grounds therefore. Unless an appeal is taken within the time and in a manner herein prescribed, the action of the Building Inspector shall be deemed final, subject only to such action as the County Commissioners may take as herein elsewhere provided. Whereas appeal has been properly taken and notice thereof given in accordance with the provisions of this section, it shall be the duty of the Building Inspector to report the same to the County Clerk who shall cause the matter to be placed on the agenda for action by the County Commissioners at its next ensuring regular meeting.

SECTION 13.7: REPORT WHEN OWNER FAILS TO COMPLY

In the event the owner does not appeal from the final order or direction of the Building Inspector requiring that the building or structure be demolished and removed or the taking of such other steps as may be required to abate the nuisance and remove the hazards, and fails or refuses to comply with such order and direction, it shall be the duty of the Building Inspector to file a written report thereof with the County Clerk who shall cause such report to be placed on the agenda of action by the County Commissioners at its next ensuing regular meeting. The Building Inspector shall mail a copy of such report by certified or registered mail to the owner at his last known address or have a copy of said report delivered to such owner. Such report shall specify the date of the meeting of the County Commissioners for which the matter will be docketed for action.

SECTION 13.8: ORDER BY COUNTY COMMISSIONERS

In all cases referred to in this Article which reach the County Commissioners for action, either upon appeal of the owner from the ruling of the Building Inspector or upon report of the Building Inspector that the owner fails or refuses to comply with his order or direction, the County Commissioners shall hear the matter, and if it finds and determines that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard, or to be dangerous to life, health, or other property, or is a public nuisance, and that the owner of such building or structure has failed or refused to abate the nuisance and has failed or refused to have such building or structure demolished and removed or has failed or refused to take such other steps as may be necessary to abate the nuisance and remove the hazards found to exist, it may cause the demolition and removal of such building or structure to be done, or effect such other remedies as may be necessary to abate the nuisance and remove the hazards, and specifically assess the cost of such work against the lot or parcel of land on which the building or structure was situated; and such assessment shall constitute a specific lien upon said lot or parcel of land, which may be enforced by and action instituted in the name of the County in the nature of action to foreclose a mortgage as provided by Section 105-414 of the General Statues of North Carolina in the case of ad valorem taxes and local improvements assessments.

SECTION 13.9: WHEN POSTING PUBLICATION OF NOTICE REQUIRED

In cases in which the Building Inspector has been unable to give the owner actual notice of hearing in the manner hereinabove provided, and has given such notice by posting and publishing the same as authorized in this Article, and the owner has failed or refused to comply with the order or direction of the Building Inspector to demolish and remove the building or structure, or take such other remedial action as will remove hazards, and such case is referred to the County Commissioners for action, the County Commissioners shall, before taking action, cause to be posted on the outside of the building or structure in question at least ten (10) days prior to the date fixed for the hearing, and published one time in a newspaper having general circulation in the County at least one (1) week prior to the date fixed for such hearing, a written notice stating the address or location of the building or structure involved and the time, place, and purpose of the hearing and such other information as the County Commissioners may deem advisable.

SECTION 13.10: PRESUMPTION OF PUBLIC DANGER

In all cases in which the County Commissioners, under authority of this Article, causes the demolition and removal of any building or structure to be carried out, or directs such other remedial steps to be taken as may be necessary to abate the nuisance and remove the hazards, it shall be conclusively presumed that the public nuisance and the fire safety hazard and danger to life, health or other property, created and maintained by the continued presence of such building or structure in such condition as is found to exist, constitutes a clear and present danger amounting to a situation of emergency involving the public health, safety and general welfare, which requires entry upon private property for the summary abatement and removal of such danger, in the public interest.

SECTION 13.11: FAILURE TO COMPLY WITH ORDERS, PENALTIES, CONTINUING VIOLATIONS

It shall be unlawful for any person to willfully fail or refuse to comply with any final order or direction of the Building Inspector or County Commissioners made by virtue and in pursuance of this Article, and any person violating this Article shall, upon conviction, be punished as provided by Section 14-4 of the General Statures of North Carolina for the violation of the Chowan County Land Use Regulations, and every day such person shall willfully fail or refuse to comply with any final order or direction of the Building Inspector or County Commissioners made by virtue and in pursuance of this Article shall constitute a separate and distinct offense.

ARTICLE 14. ZONING DISTRICTS AND GENERAL ZONING PROVISIONS

SECTION 14.1: ZONING DISTRICTS AND ZONING MAP

To achieve the purposes of these Regulations as set forth, all property within the Chowan County planning and zoning jurisdiction is divided into districts with the designations and purposes listed in this Article. The minimum lot sizes and dimensional requirements for each zoning district are also provided in this Article.

SECTION 14.2: GENERAL USE ZONING DISTRICTS

14.2.1 R-5 Residential District

This district supports medium-density residential areas and additional open space areas where similar residential development will be a viable land use. The minimum lot size is 5,000 square feet for one unit and 4,100 for each additional unit. The uses permitted in this district are designed to stabilize and protect the essential character of the area and prohibit all activities of a commercial nature except certain home occupations. The district is intended to accommodate moderate density single-family residential uses, multi-family residential uses, and supporting public and institutional uses in areas that have the necessary utilities and road systems to support such development. Mobile homes are not permitted.

14.2.2 R-15 Residential District

This district supports low-density residential areas and additional open space areas where similar residential development will be a viable land use. The minimum lot size is 15,000 square feet. The uses permitted in this district are designed to stabilize and protect the essential character of the area and prohibit all activities of a commercial nature except certain home occupations controlled by specific limitations. Mobile homes are not permitted.

14.2.3 R-25 Residential District

This district supports low-density residential areas and additional open space areas where similar residential development will be a viable land use. The minimum lot size is 25,000 square feet. The uses permitted in this district are designed to stabilize and protect the essential character of the area and prohibit all activities of a commercial nature except certain home occupations. Mobile homes on individual lots are not permitted.

14.2.4 RMH-25 Residential District

This district supports low-density residential areas and additional open space areas where similar residential development will be a viable land use. The minimum lot size is 25,000 square feet. The uses permitted in this district are designed to stabilize and protect the essential character of the area

and prohibit all activities of a commercial nature except certain home occupations. Mobile homes on individual lots are permitted.

14.2.5 R-40 Rural Residential District

This district supports very low-density residential areas and additional open space areas where similar residential development will be a viable land use. The minimum lot size is 40,000 square feet. The uses permitted in this district are designed to stabilize and protect the essential character of the area and prohibit all activities of a commercial nature except certain home occupations controlled by specific limitations. Mobile homes on individual lots are permitted.

14.2.6 A-1 Agricultural District

This district is primarily intended to accommodate very low-density residential uses as well as associated public and institutional uses, low intensity commercial uses, and agricultural-related industrial uses which are interspersed throughout areas that are principally characterized as rural in nature. This district reflects the diverse nature of land uses within predominantly rural areas and, therefore, permits a wide array of land uses. However, those intensive land uses, which could have an adverse impact on the rural nature, are not permitted and are only allowed provided a special use permit is approved. The district is specifically established for the following purposes:

(A) To preserve and encourage the continued use of land for agricultural, forestry, and open space purposes;

(B) To encourage small-scale and low intensity commercial uses that primarily provide goods and services to residents of the surrounding rural areas;

(C) To encourage only those industries which are agricultural-related;

(D) To encourage the concentration of more intensive urban land uses in and around identified growth areas that have the capacity to accommodate the utility and traffic demands of such development, thereby avoiding premature conversion of farmland to urban uses; and

(E) To discourage any use which, because of its character, would create premature or extraordinary public infrastructure and service demands.

14.2.7 B-1 General Business District

This district supports serving both non-residents and residents along major transportation routes. This district is designed to accommodate retail or service establishments customarily patronized by transient traffic as well as non-transient traffic. This district allows a range of retail, service, office, limited wholesale, and moderate density residential uses that have access to major roads and the necessary utilities to support such development.

14.2.8 B-2 Highway Commercial District

This district supports serving both non-residents and residents along major transportation routes. This district is designed to accommodate retail or service establishments customarily patronized by transient traffic as well as non-transient traffic.

14.2.9 B-3 Neighborhood Commercial District

This district supports areas that are designed to serve limited retail, office, service, and moderate density residential uses. Neighborhood Commercial districts are typically located in the intersection area of rural roads and are intended to provide moderate intensity shopping and personal services.

14.2.10 I-1 Light Industrial District

This district supports areas where manufacturing establishments may be developed. The purpose of this district is to permit the normal operations of many types of industries except those that would be detrimental to adjoining properties. Excluded from this district are those industries which deal primarily in hazardous products. This district is intended to serve limited manufacturing, warehousing, wholesaling, and related commercial and service activities that have little or no adverse impact upon adjoining properties. This district is intended for areas that have access to major thoroughfares and the necessary utilities to support such development.

14.2.11 I-2 Heavy Industrial District

This district supports areas that serve a wide range of assembling, fabricating, manufacturing, warehousing, wholesaling, and support retail and service uses. The Heavy Industrial District is established for the purpose of providing appropriate locations and development regulations for uses which may require special measures to ensure compatibility with adjoining properties. This district is intended for areas that have access to major thoroughfares and the necessary utilities to support such development.

SECTION 14.3: CONDITIONAL ZONING DISTRICTS

In addition to the general use zoning districts, a corresponding conditional zoning district, bearing the designation ‘CD’, may be established in accordance with the provisions of these Regulations. Conditional zoning districts may be designated upon approval by the Board of County Commissioners of a petition by the property owners to establish a conditional zoning district:

The development and use of property within a conditional zoning district is subject to the general zoning district standards of these Regulations in addition to any rules, regulations, and conditions imposed as part of the legislative decision creating the district. All other rules, regulations, and conditions which may be offered by the property owner and approved by the Board of County Commissioners as part of the rezoning process shall also apply. Property may be placed in a conditional zoning district only in response to a petition by the owners of all the property proposed

to be included in the conditional zoning district. Requirements for conditional zoning districts are delineated in Section 6.3 & 6.4.

SECTION 14.4: NO CONDITIONAL USE DISTRICT ZONING

Per NCGS 160D-703, any existing Conditional Use District converts to a Conditional District.

SECTION 14.5: OVERLAY ZONING DISTRICTS

Overlay districts establish certain regulations that are in addition to those of the underlying general use or conditional zoning districts. Property within a designated overlay district may be used in a manner permitted in the underlying general use or conditional zoning districts only if and to the extent such use is also permitted in the applicable overlay district.

14.5.1 AP Airport Protection Overlay District

This district is intended to protect the Edenton Municipal Airport environs from encroachment of incompatible land uses which present hazards to users of the airport as well as persons residing or working in the airport vicinity. The Airport Protection Overlay District consists of four subdistricts: APA, Approach Zone; APT, Transitional Zone; APH, Horizontal Zone; and APC, Conical Zone. The regulations governing development within the AP District are specified in Article 19.

14.5.2 FHO Flood Hazard Overlay District

This district is intended to set forth regulations that will protect people and property from the hazards of flooding. The FHO shall include the land in the floodplain within the zoning jurisdiction of Chowan County that is subject to a one percent or greater chance of flooding in any given year. As used in these Regulations, the term refers to that area designated as subject to flood from the one-hundred-year flood on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency; copies of which are on file in the Chowan County Planning and Inspections Department. The regulations applicable to the Flood Hazard Overlay District are specified in Article 17.

14.5.3 HCO Highway Corridor Overlay District

The Highway Corridor Overlay District is established to provide specific appearance and operational standards for major highway corridors in Chowan County while accommodating development along the corridors. The manner in which land uses impact interchanges, intersections, and feeder roads is of particular concern in this overlay district. The Highway Corridor Overlay District boundaries shall encompass land located within a buffer extending five hundred feet in depth on either side of the designated highway right-of-way. Designated thoroughfare corridors include the following as delineated on the official zoning map:

(A) US Highway 17: From the Edenton ETJ east and west to Chowan County line.

(B) NC Highway 32: From the Edenton ETJ north to the Hancock Lane/NC 32 intersection, from the Edenton ETJ south to the NC32/NC37 intersection, and a within a 500-foot diameter from the intersection of the centerlines of:

(1) Center Hill Road (SR 1312) and Sandy Ridge Road (SR 1303),

(2) Center Hill Road (SR1312) and Virginia Road (NC 32),

(3) Cannon Ferry Road (SR 1231) and Virginia Road (NC 32),

(4) Virginia Road (NC 32) and Rocky Hock Road (SR 1222),

(5) Virginia Road (NC 32) and Glide Road (NC 37), and

(6) Virginia Road (NC 32) and Sandy Ridge Road (SR 1303),

(7) Rocky Hock Road (SR 1222) and River Road (SR 1218),

(8) Haughton Road (NC 32) and NC 37.

(C) NC 94 (Soundside Road): From the Edenton ETJ south to NC 32 intersection.

(D) Reduction of the depth of district boundaries may be granted, at the discretion of the Planning Board, when:

(1) Intervening topography or other permanent natural features preclude adjacent development from being visible from the designated highway corridor; or

(2) The adjacent underlying zoning is classified as residential and existing or approved residential development has already defined or substantially altered the natural character of the adjacent land. Within the HCO, specific standards have been developed regarding buffers between incompatible uses, landscaping, unified architectural design, maximum building height, pedestrian access, traffic impact analyses, signage, outdoor lighting, and vehicular access/driveways. Supplementary Highway Corridor Overlay District standards are delineated in Article 16.

SECTION 14.6: ESTABLISHMENT OF OFFICIAL ZONING MAP

14.6.1 Official Zoning Map

The Chowan County planning and zoning jurisdiction is hereby divided into zones, or districts, as established in this Article. The official zoning map is the most recent copy of the digitized zoning map as produced and maintained by the Chowan County Planning and Inspections Department.

14.6.2 Map Changes

If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map. Amendments to the Official Zoning Map shall be made utilizing the same procedures that apply to text amendments, as set forth in Article 6.

14.6.3 Unauthorized Changes

No changes in zoning district boundaries shall be made on the Official Zoning Map, except in conformance with the procedures set forth in these Regulations. Any unauthorized change shall be considered a violation of these Regulations.

14.6.4 Map Location

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the Chowan County Planning and Inspections Department, shall be the final authority as to the current zoning of property within the county's planning and zoning jurisdiction.

14.6.5 Map Damage and Replacement

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners may by resolution adopt a replacement Official Zoning Map, which shall supersede the prior Official Zoning Map. Unless the prior Official Zoning Map has been lost, or has been destroyed, the prior map or any significant remaining parts thereof, shall be preserved, together with all available records pertaining to its adoption or amendment.

14.6.6 Replacement of Official Zoning Map

The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The replacement Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners, be attested by the Clerk to the Board, and bear the seal of Chowan County.

14.6.7 Interpretation of Zoning District Boundaries

Guidelines regarding the interpretation of zoning district boundaries are provided in Article 2. The Board of Adjustment, in accordance with the provisions of Article 5, is authorized to make interpretations regarding the zoning map and to pass upon disputed questions of zoning district boundaries. These interpretations are made based off the Administrator making the initial determination of the boundary or the Administrator or other persons appealing to the Board of Adjustment for the official interpretation.

SECTION 14.7: ZONING DISTRICTS AND DENSITY REQUIREMENTS/ ALLOWANCES

Requirement	R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2
Minimum Lot Area (sq. ft.)											
Single-family dwelling	5,000	15,000	25,000	25,000	40,000	40,000	5,000	5,000	5,000	N/A	N/A
Two-family dwelling	9,100	N/A	32,500	32,500	N/A	N/A	9,100	9,100	9,100	N/A	N/A
Multi-family dwelling											
1st dwelling unit	5,000	N/A	N/A	N/A	N/A	N/A	5,000	5,000	5,000	N/A	N/A
2nd dwelling unit	4,100	N/A	N/A	N/A	N/A	N/A	4,100	4,100	4,100	N/A	N/A
Each add'l dwelling unit	4,100	N/A	N/A	N/A	N/A	N/A	4,100	4,100	4,100	N/A	N/A
Other permissible uses	5,000	15,000	25,000	25,000	40,000	40,000	*a*	*a*	*a*	*a*	*a*
Maximum dwellings per acre	10.4 du/ac	2.9 du/ac	1.7 du/ac	1.7 du/ac	1.0 du/ac	1.0 du/ac	10.4 du/ac	10.4 du/ac	10.4 du/ac	N/A	N/A
Minimum Lot Width (ft.)											
Traditional lot	50	75	100	100	100	100	75	75	75	100	100
Cul-de-sac bulb lot	40	40	40	40	40	40	40	40	40	40	40
Corner lot	60	85	110	110	110	110	85	85	85	110	110
Flag lot at the public street	20	20	20	20	20	20	20	20	20	20	20
Principal Bldg. Setback (ft.)											
Road (from ROW) *b*											
US or NC Highway	50	50	50	50	50	50	50	50	50	50	50
All other public roads	20	25	25	25	25	25	25	25	25	25	25
Side property line	8	12	15	15	15	15	10	10	10	10	10
Rear property line	20	30	40	40	40	15	10	10	10	10	10
Accessory Bldg. Setback (ft.)											
Road right-of-way *b*	40	40	40	40	40	40	40	40	40	40	40
Property line	10	5	5	5	10	10	10	10	10	10	10
Building Height (ft.)	35	35	35	35	35	35	*c*	*c*	35	*c*	*c*

Table Notes:

N/A **-** Not applicable.

du/ac **-** Dwelling units per gross acre.

a - As needed to comply with applicable setback, parking, and screening requirements (Article 20) plus the minimum lot area determined by the Environmental Health Services Division of the Albemarle Regional Health Department to be necessary for an on-site septic system, if applicable.

b - Corner lots shall be required to provide a road setback along all similarly classified side roads. Double frontage lots shall provide the applicable road setback along both road frontages.

c - No maximum building height. However, all building setbacks shall increase one foot for every foot in height between 50 feet and 80 feet. No additional setback is required for buildings greater than 80 feet in height.

Notes:

(A) Permitted residential uses in nonresidential districts shall comply with the density and dimensional requirements outlined in this section.

(B) Setback distances shall be measured from the edge of the road right-of-way line or property line to a point on the lot that is the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it nor a building part allowed to encroach into a setback, as described in this Article.

(C) Whenever a greater building setback is required by the NC Building Code or by the North Carolina Department of Transportation or other State agency, such greater setback shall be provided.

(D) See **Setbacks from Private Roads** for calculating setback distance from private roads and for situations where no road private road right-of-way or easement exists.

(E) See Article 10 for setbacks on nonconforming lots.

SECTION 14.8: ZERO SIDE SETBACK

14.8.1 Zero Side Setback Option

Zero side setbacks may be used in any zoning district provided the setbacks are applying to structures eligible to utilize them, zero side setbacks are permissible for single-family and two-family dwellings (attached, ex. townhomes, duplexes). Standalone single-family dwellings are not permitted to utilize zero side setbacks. Commercial units are also permitted to utilize zero side setbacks when they are arranged in a manner in which they share a common party wall, standalone commercial structures shall not utilize a zero-side setback. Zero side setbacks and proposed building locations must be delineated on the approved subdivision plat.

14.8.2 Development Standards

(A) Setbacks of zero feet are permitted only where the lots on both affected lot lines are part of a zero-side setback development, examples include but are not limited to townhomes, duplexes, and commercial sites with individual units for ownership.

(B) A wall and roof maintenance easement (five feet along one-story walls, ten feet along two-story walls) shall be provided on the opposite side of the zero-setback lot line. Easements shall be designed to accommodate and provide access for maintenance to all structures when multiple units are arranged with zero side setbacks.

(C) Whenever one side setback is zero, the minimum setback on the opposite side of the same lot shall be twice the minimum side setback required by these Regulations for the zoning district in which the development is located.

SECTION 14.9: LOTS INELIGIBLE FOR VARIANCE

No lot created after the effective date of these Regulations that is less than the lot width required in dimensional table found in Section 14.7 shall be entitled to a variance from any building setback requirement.

SECTION 14.10: NORTH CAROLINA CODE PRECEDENCE

Whenever a greater building setback is required by the NC Building Code, NCDOT, or any other State agency, such greater setback shall be applicable.

SECTION 14.11: ACCESSORY USES, BUILDINGS, AND STRUCTURES

The following requirements are for customary accessory buildings and structures. Other accessory buildings and structures containing specific accessory uses listed in the Table of Permitted Uses may have additional development requirements found in Article 19.

14.11.1 Setback Requirements

(A) No encroachment in the front setback is permitted.

(B) Side and Rear: If the footprint of the accessory structure or building (including but not limited to extended roofs, porches, lean-to attachments is less than six hundred square feet, the structure or building may be located from a side or rear line as delineated in the dimension table found in Section 14.7 for accessory building setbacks. If the footprint of the accessory structure is six hundred square feet or greater, it must meet the setback requirements of the principal building(s) as outlined in the dimension table found in Section 14.7.

(C) The setback requirements in subsection 2 are not applicable to water-dependent structures such as piers, docks, and boathouses or other common structures such as doghouses (without concrete foundation), playground sets/equipment, or pump houses.

14.11.2 Location

(A) Accessory structures and buildings may be in front of the principal structure but in no case may they encroach in the front building setback.

(B) No accessory structure or building except utility substations shall be erected in any easements. When utility substations are erected within easements, the Administrator may require that additional area be added to the easement to compensate for the area occupied by the utility substation, if requested by the utility provider.

(C) There shall be no accessory structure located upon a lot without a primary structure, if the primary structure has an adjacent lot in the same ownership the adjacent lot must be combined with the lot that has the primary structure in order for the accessory structure to be placed or built upon it.

14.11.3 Maximum Height

The height of all accessory structures and buildings shall comply with maximum height requirements of the zoning district in which located, the accessory structure shall not in any case be at a height that is more than the principal structure. However, all accessory building setbacks shall increase one foot for every foot in height over 15 feet.

14.11.4 Accessory Use Area

The area set aside for a home occupation shall occupy no more than 40 percent of the floor area of the residential dwelling unit when located within the residential structure. For home occupations that are located within an accessory structure, the accessory structure shall not be more than 50% of the floor area of the primary structure.

14.11.5 Agricultural Use Accessory Buildings and Structures

Accessory structures that are used for bona-fide agricultural purposes shall be regulated by the Bona Fide Farms section of these Regulations. Accessory structures that are not considered to be a Bona Fide Farm are regulated as a customary accessory building or structure.

14.11.6 Prohibition of Manufactured Home as an Accessory Storage Building

In no case shall a manufactured home be used as an accessory building for storage purposes or any other use other than a dwelling unit unless a licensed NC Engineer certifies the structure to no longer be built to NC Building Code as a residential dwelling and that it meets all NC Building Code Requirements to be considered an accessory structure and that it contains no components of a residential dwelling. The square footage requirements for accessory structures must also be met.

SECTION 14.12: SUPPLEMENTARY DIMENSIONAL REQUIREMENTS

14.12.1 Structures Permitted Above Height Limits

Except as otherwise prohibited by these Regulations, the height limitations of these Regulations shall not apply to public buildings, church spires, belfries, cupolas and domes not intended for residential purposes, or to monuments, water towers, observation towers, power transmission towers, silos, grain elevators, chimneys, smokestacks, derricks, conveyors, flag poles, radio, television and communication towers, masts, aerials and similar structures, provided such structures meet the required NC Building Code.

14.12.2 Prevailing Road Setback

Where fifty percent or more of the lots in a recorded subdivision on the same side of the road as the lot in question are developed with less than the required road setbacks, the average setback of the two principal buildings nearest that lot shall be observed as the required minimum setback.

14.12.3 Encroachments into Required Setbacks

(A) Encroachments Permitted in Required Setback: The following are permitted in required setbacks provided there is no interference with any sight area:

(1) Landscaping features, including but not limited to, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;

(2) At grade patios, ornamental entry columns and gates, flag poles, lamp posts, address posts, HVAC equipment, mailboxes, public utility wires and poles, pumps or wells, fences or retaining walls;

(3) Handicapped ramps.

(B) Structures Permitted in Required Setbacks: The following structures may encroach into any required setback:

(1) Cornices, steps, overhanging eaves and gutters, windowsills, bay windows or similar architectural features, chimneys and fireplaces, fire escapes, fire balconies, and fire towers may project not more than two and one-half feet into any required setback, but in no case shall be closer than three feet to any property line; and

(2) Porches and decks may encroach into the required front and rear setbacks as follows:

Porch or Deck Type	Setback	Maximum Encroachment	Maximum Area
Covered or Uncovered	Front	3 feet	35 sq. feet
Uncovered Only	Rear	50% of setback	N/A

(C) Canopy Projections: Gas station and convenience store pump island canopies may be located in the front setback provided that no equipment or part of a canopy is located closer than twelve feet to a road right-of-way line.

14.12.4 Easement and Right-of-Way Encroachments

(A) Utility Easements: In addition to the lines, boxes, structures, and substation buildings for which utility easements are intended, fences without foundations may be located within utility easements.

(B) Drainage Maintenance and Utility Easements: Water-related improvements, such as boat docks, may be placed or constructed within drainage maintenance and utility easements with the approval of the utility provider having jurisdiction over the easement.

(C) Public Street Rights-of-Way: No structure or landscape plantings may be placed within a public road right-of-way without the express written approval of the NCDOT.

14.12.5 Setbacks from Thoroughfares

Where proposed road alignments have been established, in accordance with an adopted Thoroughfare Plan, building setbacks shall be measured from the future right-of-way line of the proposed road.

14.12.6 Setbacks from Private Roads

Building setbacks from approved private roads shall be the same distance as specified in the dimension table in Section 14.7 but shall be measured from the private road right-of-way, private road easement, or the boundary line of the common area reserved for the private road. In situations where no right-of-way or easement exists, the setback from the road shall be calculated by adding 30 feet to the applicable road setback required in the dimension table in Section 14.7.

14.12.7 Setbacks on Flag Lots

Flag lot setbacks shall be measured from where the "flagpole" ends and the flag portion begins.

14.12.8 Visibility at Intersections

No building, structure, wall, fence, shrub or tree shall be erected, maintained, or planted on any lot which will allow an obstruction in the horizontal or vertical sight distance area as defined in Article 2.

SECTION 14.13: GENERAL LOT REQUIREMENTS

14.13.1 Principal Buildings Per Lot

Every building hereafter erected or moved shall be located on a buildable lot and in no case shall there be more than one principal building and its accessory buildings on a buildable lot except as provided below.

(A) Nonresidential Group Development: Two or more principal nonresidential buildings are permitted on a lot pursuant to a site plan approved by the applicable permit-issuing authority, provided that an access driveway is maintained to each building in passable condition for service and emergency vehicles. Buildings must be separated at least twenty feet apart. Shopping center developments shall comply with the applicable requirements of Article 19.

(B) Residential Group Development: Two or more principal buildings are permitted in a multi-family development pursuant to a site plan approved by the applicable permit-issuing authority, provided that an access driveway is maintained to each building in passable condition for service and emergency vehicles. Buildings must be separated at least twenty feet apart. Multi-family developments shall comply with the applicable requirements of Article 19.

(C) Manufactured Home Park: Two or more principal buildings are permitted in a manufactured home park pursuant to a site plan approved in accordance with the provisions of Article 19.

(D) Two or More Single-family Dwellings on a Single Tract: If a single tract contains enough area to support more than one single-family dwelling and the owner wishes to construct an additional dwelling upon the property, the property must be subdivided in accordance with the provisions of these Regulations.

14.13.2 Road Access Requirements

(A) Access to Public or Private Road Required: No building or structure shall be constructed, erected, or placed on a lot that does not abut or have direct legal access to a publicly maintained road or to an approved private road, except as provided in this Article.

(B) Single-Family Detached Cluster Development: Private roads, approved in accordance with the requirements of Article 22 may be used to meet access requirements for lots in single-family detached cluster developments and for single-family lots in planned unit developments, provided the development as a whole abuts and has direct access to a publicly maintained road.

(C) Townhouse, Condominium, and Planned Unit Developments: Individual parcels shall have right of access through common areas containing private roads and/or private drives at least twenty-four feet in width leading to a publicly maintained road. Individual parcels may have direct access to a publicly maintained road with Administrator approval. Such easements, drives, and maintenance responsibilities shall be recorded with the Chowan County Register of Deeds and shown upon the plat and site plan as applicable.

(D) Manufactured Home Park: Manufactured home park lots or spaces developed in accordance with Article 19.

(E) Nonresidential Group Development: Individual parcels, whether leased or sold, in a group development shall have shared rights of access along private roads and/or along private drives at least twenty-four feet in width leading to a publicly maintained road. Maintenance of all private roads and private drives shall be a mandatory responsibility, running with the land, exercised by a single entity which shall be composed of one landowner, an Owners' Association, or all owners acting collectively pursuant to a binding agreement. Such easements, drives, and maintenance responsibilities shall be recorded with the Chowan County Register of Deeds and shown upon the plat and site plan as applicable.

(F) Exceptions: Special purpose lots may provide access via an easement in accordance with the provisions of this Article.

(G) Access Easements: Lots may be afforded access via an access easement approved in accordance with the requirements of Article 22.

14.13.3 Group Development (Commercial Sites)

(A) Parking and Landscaping: A nonresidential group development shall be treated as a single lot for the purpose of providing required off-road parking and required planting yards, even if outparcels for sale are included within the development.

(1) If the entire development meets the total off-road parking requirement, it is not required that each parcel provide all the required parking for the use thereon. The parking calculation for the group development shall take into consideration the amount of parking needed for reasonable use of the outparcel. The outparcels may also utilize shared parking on the adjacent group development property.

(2) If required buffer yards are provided along the development perimeter, including road frontages, and requirements for parking lot planting are met, buffer yards are not required along property lines and lease lines between two parcels within the group development.

(B) Plat and Notice Requirements: If the owner of a development elects to organize it in as a group development, a subdivision plat shall be recorded displaying a prominent note identifying it as such and explaining that the property must be developed with common driveways and off-road parking and be subject to a common signage plan and a common landscaping plan. The note shall further state that should the property cease function as a group development, the property will then be in violation of these Regulations and shall be retrofitted with conventional parking and landscaping, even if doing so requires the removal of previously installed improvements.

14.13.4 Water and Sewage Disposal Requirements

Every structure intended for human occupancy shall be served by a water supply system and a sewage disposal system that (i) is adequate to accommodate the reasonable needs of the proposed use of the lot and (ii) complies with all applicable health regulations.

SECTION 14.14: LOT SIZE REDUCTION PROHIBITIONS

14.14.1 Single Lot

No lot shall be reduced in size so that noncompliance with respect to any frontage, building coverage, area, built-upon area, width, setback, parking, buffer yard, or signage requirement of these Regulations is created, nor shall any existing nonconformity or violation be increased.

14.14.2 Buildable Lot

Where two or more contiguous lots in one ownership collectively form a buildable lot, that lot shall not be reduced in size so that noncompliance with respect to any frontage, building coverage, area, built-upon area, width, setback, parking, buffer yard, or signage requirement of these Regulations is created, nor shall any existing nonconformity or violation be increased. An Instrument of Combination (or similar document or procedure) in addition to a Recombination Plat shall be prepared and recorded where two or more contiguous lots in one ownership collectively form a buildable lot.

14.14.3 Exemption

These prohibitions shall not apply to county, municipal or state acquisition of land.

SECTION 14.15: SPECIAL PURPOSE LOTS

Requirements of these Regulations this Ordinance with respect to road frontage, minimum lot area, and minimum lot dimensions shall not apply to lots for family or church cemeteries, sewer lift stations, and similar utility uses. Such lots shall comply with the requirements below. Such lots shall not be utilized for any type of residential use or commercial use. Easements serving such lots shall have recorded maintenance agreements, to include overall lot maintenance as well.

14.15.1 Minimum Size

The special purpose lot shall be permitted only after the Administrator has determined that the proposed lot has sufficient dimensions to accommodate the intended use and, where required by these Regulations, buffer yards.

14.15.2 Access Easement

If the special purpose lot does not have direct access to a public road, an easement for ingress and egress with a minimum width of twenty feet shall be platted and recorded. The subdivision to create the lot shall be approved in accordance with the procedures of Article 22.

SECTION 14.16: PLANNED UNIT DEVELOPMENT

A planned unit development is an area of land under unified ownership or control to be developed and improved as a whole under a unified development plan in accordance with the requirements of this Section. The planned unit development regulations are designed to provide flexibility, consistent with the public health and safety and without increasing overall density, to the developer who subdivides property and constructs buildings on the lots created in accordance with a unified and coherent plan of development.

14.16.1 Relationship to Other Applicable Regulations

A planned unit development shall be subject to all the applicable standards, procedures and regulations of these Regulations except as varied or changed by the express terms of this Section and Article 19.

14.16.2 Dimensional Requirements

The minimum lot area requirements for individual lots may be reduced, but in no case may an individual lot area be reduced such that it is less than 70 percent of the minimum lot size delineated in the dimension table in Section 14.7 for the underlying zoning district in which the planned unit development is located. For planned unit developments in nonresidential zoning districts, minimum lot sizes for residential uses shall not be reduced to less than 30 percent of the minimum lot size delineated in the dimension table in Section 14.7. Each lot created within a planned unit development shall be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of these Regulations.

The overall residential density of a PUD shall not exceed that normally permitted in the underlying zoning district. Building setback requirements are waived except that lots and structures within 150 feet of the perimeter of the planned unit development shall be in harmony with development on adjacent lands. No commercial use shall be permitted within 150 feet of the perimeter of the planned unit development unless the same or a similar use exists adjacent to the perimeter at the time of approval of the planned unit development.

14.16.3 Review and Approval Procedures

The procedure for approval of a planned unit development shall combine the special use permit review process and the subdivision plat review process. A master site plan for the entire development shall be prepared and submitted along with a preliminary plat of those portions of the PUD which will be subdivided. Submission and review procedures for special use permit requests are described in Appendix A. Specific development standards for a PUD are delineated in Article 19. A final approved and recorded subdivision plat, site plan and special use permit is required prior to the issuance of a certificate of zoning compliance.

SECTION 14.17: CLUSTER DEVELOPMENT

14.17.1 Objectives

The objective of the cluster option is to place the houses in a residential development closer together and on smaller lots than would normally be permitted by the zoning district in which the development is located, and to place land which would otherwise have been included in private lots into public dedication or common area. The total number of lots permissible within a cluster development shall not exceed the maximum number of lots allowed if the tract were subdivided into the size of lots

required by the dimension table in Section 14.7 for the zoning district in which the proposed development is located.

14.17.2 Development Standards

(A) Cluster development may be used in any zoning district which permits single-family uses if the tract to be developed is ten acres or larger in area.

(B) Cluster developments must be served by a public water system.

(C) Lots within a cluster development shall be allowed a reduction in the standard minimum lot area, minimum lot width, and minimum principal building setback requirements for the zoning district in which located based upon the total amount of common open space as indicated in the following table:

% of Total Tract Set Aside as Common Open Space	Permissible Reduction
15-19%	10%
20-29%	20%
30% or more	30%

(D) The minimum open space required is 15% of the total area of the development tract. Common open space shall comply with the requirements of Article 20.

SECTION 14.18: TOWNHOUSE AND CONDOMINIUM DEVELOPMENT

Townhouse and condominium developments shall comply with the density and dimensional requirements of Article 19.

SECTION 14.19: TRADITIONAL NEIGHBORHOOD DEVELOPMENT

A Traditional Neighborhood Development (TND) is a land development technique that encourages mixed-use, pedestrian-oriented communities and promotes the diversification and integration of land uses. A TND is a human scale, walkable community composed of a variety of housing types and densities and a mixed-use core of shopping, offices, public, and civic uses.

14.19.1 General Design Principles

TNDs shall adhere to the following general principles and design standards:

(A) Neighborhoods have clearly delineated centers and edges and are limited in size to promote pedestrian activity.

(B) The distance from the center to the edge of a neighborhood is generally no greater than ¼ to ½ mile.

(C) TNDs provide a balanced mix of residential, retail, professional and personal service, office, civic, public, and recreational uses.

(D) Residential uses include a diversity of housing types.

(E) Street patterns are interconnected, and blocks are short.

(F) TNDs are organized around an activity center consisting of shopping, offices, public, and civic uses.

(G) Public and civic uses, such as schools, libraries, government offices, parks and recreational facilities, plazas, and village greens are prominent features and focal points.

(H) Formal and informal open space is located throughout a TND.

14.19.2 Specific Design Principles

A traditional neighborhood development shall be subject to all of the applicable standards, procedures and regulations of these Regulations except as varied or changed by the express terms of this Article and Article 19.

14.19.3 Dimensional Requirements

To promote flexibility and creativity, dimensional standards shall be established in accordance with the TND purpose and design principles. The determination of appropriate building setbacks, lot coverage, building heights for proposed uses will be made during the special use permit review process.

Each lot created within a TND shall be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this Ordinance.

14.19.4 Permissible Residential Densities

The permitted density of the residential component of a TND shall be determined during the special use permit review process but in no case shall exceed the maximum density delineated in the following table:

Zoning District	Maximum DU/Gross Residential Acre
R5	15
R15	12
R25	6
RMH25	6
R40	4
A1	4
B1	15
B2	15
B3	15

Factors taken into consideration in determining the permissible density of a specific TND shall include the anticipated vehicular traffic, infrastructure, and environmental impacts of the proposed TND.

14.19.5 Permissible Land Uses

The permissible types and mix of land uses within a TND are delineated in Article 19.

14.19.6 Review and Approval Procedures

The procedure for approval of a TND shall combine the special use permit review process and the subdivision plat review process. A master site plan for the entire development shall be prepared and submitted along with a preliminary plat of those portions of the TND which will be subdivided. Submission and review procedures for special use permit requests are described in Appendix A and Article 7. Specific development standards for a TND are delineated in Article 19. A final approved and recorded subdivision plat, site plan and special use permit is required prior to the issuance of a certificate of zoning compliance.

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ARTICLE 15. ZONING TABLE OF PERMITTED USES

SECTION 15.1: PERMITTED USE TABLE

15.1.1 Table of Permitted Uses

(A) Within each zoning district indicated on the Official Zoning Map and subject to all requirements and conditions specified in these Regulations, land, buildings, and structures shall only be used and buildings and structures shall only be erected which are intended or designed to be used for uses listed in the Table of Permitted Uses.

(B) In the appropriate columns of the Table of Permitted Uses, uses permitted by right with a zoning permit in the various districts are indicated by a P, uses permitted by right with a zoning permit subject to meeting additional development requirements and additional standards (as set forth in Article 19) are indicated with a 'DS', uses requiring a special use permit from the Board of Adjustment are indicated by an 'S', and uses requiring a special use permit from the Board of County Commissioners are indicated by a 'C'. Special uses must also comply with the development standards delineated in Article 19 as well as any additional standards or conditions required by the permit-issuing board. Permit applications and site plans for the uses designated in the Table of Uses with a 'DS', or 'S', or 'C' shall demonstrate how compliance with the applicable development standards will be achieved.

(C) A blank space in the table indicates that a particular use is not permitted, where uses are not permitted a variance application shall not be submitted, a zoning map change would have to occur in order for the subject parcel to participate in such use. Should there be a discrepancy between the Table of Permitted Uses and any other section of these Regulations as to a use being permissible, the Table of Permitted Uses shall prevail. Exempt uses are indicated by an 'E' in the Table of Uses.

(D) The Administrator of these Regulations may determine that a proposed use identifies almost completely or very closely with a use listed in the Table of Uses and allow for the application for such use to be submitted with a description from the Administrator of how the use determination was made and how it is like or similar to an identified use. The Administrator may also determine that the proposed use does not relate closely to any identified uses and deny the application request on that basis. A text amendment to these regulations is required to add new uses to the Table of Uses. The SIC Manual shall serve as a guide for classifying unlisted uses.

15.1.2 Formulation of Permitted Use Table

(A) The *Standard Industrial Classification (SIC) Manual - 1987* was utilized in the preparation of this table and shall be referred to as a guide for purposes of interpretation by the Administrator. SIC codes are used to refer to SIC Classifications. Entries with '0000' in the Reference SIC column do not correspond to any classification in the SIC Manual.

(B) Rental and leasing of any commodity shall be permitted under the same classification and in the same districts, as are sales of that commodity, unless rental or leasing of that commodity is listed separately in the Permitted Use Table.

SECTION 15.2: PERMISSIBLE USES NOT REQUIRING PERMITS

Notwithstanding any other provisions of these Regulations, neither a zoning or special use permit, is necessary for the following uses; these uses may not be exempted from acquiring additional permits from their respective State of North Carolina Agencies.

(A) Property used for bona fide farm purposes, as specifically exempted by NCGS 160D- 903. The Administrator shall verify that the proposed use is a valid exemption under the provisions of the NCGS.

(B) Construction of rights-of-way or easements that have been recorded and approved on a plat and certified by the Administrator through his approval.

(C) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.

SECTION 15.3: CHANGE IN USE

(A) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:

(1) The change involves a change from one principal use category to another.

(2) If the original use is a combination use, the relative proportion of space devoted to the individual principal uses that comprise the combination use changes to such an extent that the parking requirements for the overall use are altered or if there is a change in the intensity of the use.

(3) If the original use is a combination use, and one of the existing combined uses changes, an individual change in one of the use types.

(4) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building moves out and is replaced by a clothing store, that constitutes a change in use. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a

change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center-combination use) has not changed.

(B) A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.

(C) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

SECTION 15.4: COMBINATION USES

(A) When a combination use comprises two or more principal uses that require different types of permits (zoning or special use), then the permit authorizing the combination use shall be:

(1) A special use permit if any of the principal uses combined requires a special use permit.

(2) A zoning permit in all other cases.

SECTION 15.5: MIXED USES

Two or more permitted uses may occupy the same principal building. The more stringent use requirements of these Regulations shall apply for parking, buffering, landscaping, etc.

SECTION 15.6: ACCESSORY USES

(A) Whenever an activity is conducted in conjunction with another principal use and the former use (i) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (ii) is customarily associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use.

(B) For purposes of interpreting subsection A:

(1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use;

(2) To be 'customarily associated' with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

(C) Without limiting the generality of subsections A and B, the following activities are specifically regarded as accessory to residential principal uses so long as they satisfy the general criteria set forth above:

(1) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities of a commercial nature, so long as such activities do not fall within the definition of a home occupation.

(2) Hobbies or recreational activities of a non-commercial nature.

(D) Table of Permitted Uses, Accessory Uses and Structures outlines the zoning districts in which specific accessory uses are allowed.

SECTION 15.7: PROHIBITED USES

Within certain overlay districts, some uses are specifically prohibited. The following uses are prohibited in the overlay districts listed.

15.7.1 AP, Airport Protection Overlay District

Notwithstanding any other provisions of this Article, no use may be made of land or water within any zone established by Article 19 in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the Edenton Municipal Airport.

15.7.2 FHO, Flood Hazard Overlay District

The following uses are prohibited in designated floodways: (1) Buildings, including manufactured homes; and (2) Any use that would cause any increase in base flood levels.

SECTION 15.8: PETS, LIVESTOCK, POULTRY, AND WILD ANIMALS

(A) Any tract of land smaller than three (3) acres and on which there is a single-family dwelling is presumed to be a residential use of property. The keeping of livestock or wild animals, as defined in subsection B, shall not be considered an appropriate accessory use in such an instance. This shall apply in the R-5, R-15, R-25, RMH-25, and R-40 zoning districts or any other future principal residential district established in Article 14. For the purposes of these Regulations, domestic fowl shall not be considered livestock. However, the owner of any chicken or tame or domestic fowl of whatever description shall not permit such an animal to run at large within a residential zoning district, they are encouraged to be contained to a

fenced area or coop and If allowed to have free range the owner must take all means necessary to ensure they do not leave the boundary of the parcel in which they reside.

(B) For the purposes of this section, 'livestock' shall include horses, mules, cows, pigs, hogs, goats, sheep and all other animals that typically are kept primarily for productive or useful purposes rather than as pets. 'Wild animals' shall include an animal that (i) is typically found in a non-domesticated state and that, because of its size or vicious propensity or because it is poisonous or for any other substantial reason poses a potential danger to persons, other animals or property, or (ii) is classified as a wild animal by the North Carolina Wildlife Resources Commission (WRC) so that any person wishing to possess the same is required by state law to obtain a permit from the WRC.

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Table 5-1. Proposed Chowan County Table of Permitted Uses

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
AGRICULTURE-RELATED USES													
Bona Fide Farms		P	P	P	P	P	P	P	P	P			Sec 1.4
Animal Aquaculture	0273						P				P	P	
Animal Livestock Services	0751						P					P	
Animal Specialty Services, except Animal Shelters	0752						P					P	
Animal Shelters	0752						DS	P			P	P	Sec. 19.8
Fish Hatchery	0920						P				P	P	
Veterinary Service, Livestock	0741						P					P	
MINING USES													
Mining, Quarrying, Sand Pits, and Mineral Extraction	1000						C					DS	Sec. 19.60
RESIDENTIAL USES													
Bed and Breakfast Inn & Home	7011		S	S	S	S	S	P	P	P			Sec. 19.12
Boarding and Rooming House	7021	DS						DS		DS			Sec. 19.13
Family Care Home	0000	DS	DS	DS	DS	DS	DS	DS	DS	DS			Sec. 19.31
Group Care Facility	0000	DS						DS					Sec. 19.41
Halfway House	0000	C						C					Sec. 19.42
Homeless Shelter	0000	C						C					Sec. 19.45
Live/Work Combination Dwelling and Nonresidential Unit	0000	DS	DS	DS	DS	DS	DS	P	P	P			Sec. 19.51
Manufactured Home, on Individual Lot	0000				DS	DS	DS						Sec. 19.54, 19.115
Manufactured Home, Hardship Exception	0000		DS	DS		DS	DS						Sec. 19.53
Manufactured Home Park	0000				S		S						Sec. 19.54
Modular Home	0000	P	P	P	P	P	P	P	P	P			
Multifamily Dwellings, including condominiums	0000	DS			DS			DS	DS	DS			Sec. 19.62
Planned Unit Development	0000	C	C	C	C	C	C	C	C	C			Sec. 19.68
Residential Subdivisions of fewer than 25 lots	0000	P	P	P	P	P	P	P	P	P			Sec 22.5.1
Residential Subdivisions of 25 or more lots*	0000	P	P	P	P	P		P	P	P			Sec 22.5.2
Short Term Rentals	0000	DS	DS	DS	DS	DS							Sec. 19.87
Single-Family Detached Dwelling	0000	P	P	P	P	P	P	P	P	P			

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
Temporary Emergency, Construction, and Repair Residence	0000	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	Sec. 19.93
Temporary Shelter	0000	DS						DS					Sec. 19.95
Townhouse or Condominium Dwelling	0000	DS						DS	DS	DS			Sec. 19.98
Traditional Neighborhood Development	0000	C	C	C	C	C	C	C	C	C			Sec. 19.99
Two-Family Dwelling (duplex)	0000	P		P	P			P	P	P			
ACCESSORY USES AND STRUCTURES													
Accessory Dwelling Unit	0000	DS	DS	DS	DS	DS	DS						Sec. 19.3
Accessory Uses and Structures (customary)	0000	P	P	P	P	P	P	P	P	P	P	P	
Automatic Teller Machine (ATM), freestanding; permitted only within HCO-zoned areas	6099	P	P	P	P	P	P	P	P	P	P	P	
Automatic Teller Machine (ATM), accessory to and part of a principal building	6099	P	P	P	P	P	P	P	P	P	P	P	
Boathouse	0000	P	P	P	P	P	P	P	P	P	P	P	
Caretaker Dwelling	0000	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	Sec. 19.16
Emergency Shelter	0000	P	P	P	P	P	P	P	P	P	P	P	
Home Occupation	0000	P	P	P	P	P	P	P	P	P			
Marina (accessory to a residential use)	0000	DS	DS	DS	DS	DS	DS						Sec. 19.57
Recreational Vehicle	0000				DS	DS	DS						Sec. 19.75
Recreational Vehicle, Temporary Placement	0000	DS	DS	DS	DS	DS	DS						Sec. 19.113
Residential Boat Dock	0000	P	P	P	P	P	P						
Rural Family Business	0000					DS	DS						Sec. 19.78
Satellite Dish Antenna	0000	P	P	P	P	P	P	P	P	P	P	P	
Swimming Pool	0000	P	P	P	P	P	P	P	P	P	P	P	
Temporary Retail Mobile Vendor	5963							DS	DS	DS			Sec. 19.94
Wireless Communications Tower Under 50 feet in height	0000	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	Sec. 19.105
RECREATIONAL USES													
Amusement or Water Park, Fairground	7996						DS	DS	DS		DS	DS	Sec. 19.7
Athletic Fields	0000	P	P	P	P	P	P	P	P	P	P	P	
Auditorium, Coliseum or Stadium	0000							P					
Batting Cages	7999							DS					Sec. 19.11
Billiard Parlor	7999							P	P	P			

Use Type	Ref. SIC	Zoning Districts											Use Standard
		R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	
Bingo Games	7999							P	P				
Bowling Center	7933							P	P				
Carnivals and Fairs	7999						DS	DS	DS		DS	DS	Sec. 19.17
Civic, Social, and Fraternal Associations	8641	DS	DS	DS	DS	DS	DS	P	P	P	P	P	Sec. 19.19
Country Club with Golf Course	7997	DS	DS	DS	DS	DS	DS	P	P				Sec. 19.26
Dance School, Music Instruction	7911							P	P	P			
Fortune Tellers, Astrologers	7999							P	P				
Go-Cart Raceway	7999							DS					Sec. 19.37
Golf Course	7992	DS	DS	DS	DS	DS	P	P	P				Sec. 19.38
Golf Course, Miniature	7999							P	P				
Golf Driving Range	7999							DS	DS				Sec. 19.39
Hunting or Game Preserve	0971						S						Sec. 19.46
Physical Fitness Center	7991							P	P	P	P	P	
Private Campground/RV Park	7033						DS	DS	DS				Sec. 19.69
Private Club or Recreation Facility, Other	7997	DS	DS	DS	DS	DS	DS	P	P	P			Sec. 19.70
Public Park or Recreational Facility, Other	7990	DS	DS	DS	DS	DS	DS	P	P	P	P	P	Sec. 19.70
Race Track Operation	7948						C						Sec. 19.72
Riding Academy, Riding Stables, Equestrian Facility	7999					DS	DS	P					Sec. 19.76
Shooting Range, Indoor	7999							DS	DS		DS	DS	Sec. 19.84
Shooting Range, Outdoor	7999						C				C	C	Sec. 19.85
Skating Rink	7999							P	P		P	P	
Sporting and Recreational Camp	7032						P						
Sports and Recreation Club, Indoor	7997							P	P				
Swim and Tennis Club	7997	DS	DS	DS	DS	DS	DS	P	P	P	P	P	Sec. 19.92
Video Gaming Arcade	7993							P	P	P			Sec. 19.102
EDUCATIONAL AND INSTITUTIONAL USES													
Cemetery or Mausoleum on Same Property as Church	0000	P	P	P	P	P	P	P	P	P			
Cemetery or Mausoleum Not on Same Property as Church	0000	DS	DS	DS	DS	DS	DS	DS	DS	DS			Sec. 19.18
Church or Other Place of Worship	8661	DS	DS	DS	DS	DS	P	P	P	P			Sec. 19.19
College, University, Technical Institute	8220						C	P	P		P	P	Sec. 19.21
Correctional Institution	9223											S	Sec. 19.25
Day Care Center, Adult and Child	8322	DS	DS	DS	DS	DS	DS	P	P	P	P	P	Sec. 19.27

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
Elementary or Secondary School	8211	DS	DS	DS	DS	DS	DS	P	P	P	P	P	Sec. 19.29
Fire Station/Emergency Medical Service	9224	DS	DS	DS	DS	DS	DS	P	P	P	P	P	Sec. 19.33
Government Office	9000							P	P	P	P	P	
Hospital	8062							P	P				
Library	8231	DS	DS	DS	DS	DS	DS	P	P	P			Sec. 19.50
Museum or Art Gallery	8412							P	P				
National Guard /Military Reserve Center	0000							P	P		P	P	
Nursing and Convalescent Home	8050	DS	DS	DS	DS	DS	DS	P	P				Sec. 19.63
Orphanage	8361	DS	DS	DS	DS	DS	DS	P	P				Sec. 19.64
Law Enforcement Substation	9221	P	P	P	P	P	P	P	P	P	P	P	
Post Office	0000						P	P	P	P	P	P	
Psychiatric Hospital	8063							P	P				
Retreat/Conference Center	0000						DS	P	P		P	P	Sec. 19.74
School Administration Facility	9411							P	P		P	P	
BUSINESS, PROFESSIONAL and PERSONAL SERVICES													
Accounting, Auditing or Bookkeeping	8721							P	P	P			
Administrative or Management Services	8740							P	P				
Advertising, Outdoor Services	7312							P	P				
Automobile Parking (Commercial)	7521							P	P	P			
Automobile Rental or Leasing	7510							P	P			P	
Automobile Repair Services	0000						DS	P	P	P		P	Sec. 19.10
Automobile Towing Services	7549							P	P			P	
Bank, Savings and Loan, or Credit Union	6000							P	P	P	P	P	
Barber Shop	7241						P	P	P	P			
Beauty Shop	7231						P	P	P	P			
Blacksmith	7699						P	P	P			P	
Boat Building and Repair	3732						DS	P	P			P	Sec. 19.10
Building Maintenance Services, No Outside Storage	7349							P	P		P	P	
Car Wash	7542							P	P	P			
Clothing Alteration or Repair	0000							P	P	P			
Computer Maintenance and Repair	7378							P	P				
Computer Services	7370							P	P				

Use Type	Ref. SIC	Zoning Districts											Use Standard
		R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	
Crematorium	7261							P	P		P	P	
Employment Agency, Personnel Agency	7360							P	P				
Engineering, Architect or Survey Service	8710							P	P	P			
Equipment Rental and Leasing (no outside storage)	7350							P	P		P	P	
Equipment Rental and Leasing (with outside storage)	7350							P	P			P	
Equipment Repair, Heavy	7690											P	
Equipment Repair, Light	7690							P	P		P	P	
Finance or Loan Office	6100							P	P	P			
Funeral Home	7261							P	P				
Furniture Refinishing	7641							P	P	P		P	
Furniture Repair Shop	7641							P	P	P		P	
Hotel or Motel, except Adult Motel	7011							P	P				
Insurance Agency	6411							P	P	P			
Kennels or Pet Grooming	0752						DS	P	P	P			Sec. 19.47
Landscape and Horticultural Services	0780						P	P	P			P	
Laundromat, Coin-Operated	7215							P	P	P			
Laundry or Dry Cleaning Plant	7211							P	P			P	
Law Office	8111							P	P	P			
Medical, Dental or Related Office	8000							P	P	P			
Medical or Dental Laboratory	8071							P			P	P	
Miscellaneous Services, Not Listed	7699							P					
Motion Picture Production	7810										P	P	
Office Uses Not Otherwise Classified	0000							P					
Pest or Termite Control Services	7342							P	P		P	P	
Pet Cemetery/Crematorium	6553						P	P	P				
Photocopying and Duplicating Services	7334							P	P	P		P	
Photofinishing Laboratory	7384										P	P	
Photography, Commercial Art Studio	7335							P	P		P	P	
Real Estate Office	6500							P	P	P			
Refrigerator or Large Appliance Repair	7623							P	P			P	
Research, Development or Testing Services	8730							P	P		P	P	
Shoe Repair or Shoeshine Shop	7251							P	P	P			
Taxidermist	7699						P	P	P				

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
Television, Radio or Electronics Repair	7620							P	P				
Theater (indoor), except Adult Theater	7832							P	P	P			
Theater (outdoor)	7833							DS	DS				Sec. 19.96
Tire Recapping	7534							P	P			P	
Truck Driving School	8249							P	P		P	P	
Truck and Utility Trailer Rental and Leasing	0000							P	P			P	
Truck Washing	7542							P	P			P	
Welding Shop	7699						DS	P	P			P	Sec. 19.112
Veterinary Clinic	0742						P	P	P	P	P	P	
Vocational, Business or Secretarial School	8240							P	P		P	P	
RETAIL TRADE													
ABC Store (liquor)	5921							P	P	P			
Antique Store	5932							P	P	P			
Appliance Store	5722							P	P				
Auction House	5999						S	S					
Arts and Crafts	0000							P	P	P			
Auto Supply Sales	5531						-	P	P				
Bakery	5461							P	P	P			
Bar, Night Club, Tavern	5813							P	P	P			
Boat Sales/Marine Supply Dealers	5551						DS	P	P			P	Sec. 19.61
Bookstore, except Adult Bookstore	5942							P	P	P			
Building Supply Sales	5211						DS	P	P			P	Sec. 19.15
Computer Sales	5734							P	P				
Convenience Store	5411						DS	DS	P	P		P	Sec. 19.24
Department, Variety or General Merchandise <10,000sf	5300						S	P	P				
Department, Variety or General Merchandise >10,000sf	5300						S	P	P				
Drugstore	5912							P	P	P			
Fabric or Piece Goods Store	5949							P	P				
Farm Supplies and Equipment	0000						DS	P	P			P	Sec. 19.32
Floor Covering, Drapery or Upholstery	5710							P	P			P	
Florist	5992							P	P	P			

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
Food Stores	5400						DS	P	P	P			Sec. 19.36
Fuel Oil Sales	5980							P	P			P	
Furniture Sales	5712							P	P				
Garden Center or Retail Nursery	5261						P	P	P	P			
Hardware Store	5251						DS	P	P	P			Sec. 19.43
Home Furnishings, Miscellaneous	5719							P	P				
Manufactured Home Sales	5271							DS	DS			DS	Sec. 19.56
Miscellaneous Retail Sales	5999							P					
Motor Vehicle Sales (new and used)	5511						DS	P	P	P		P	Sec. 19.61
Motorcycle Sales	5571							P	P	P		P	
Musical Instrument Sales	5736							P	P				
Newsstand	5994							P	P	P			
Office Machine Sales	5999							P	P			P	
Optical Goods Sales	5995							P	P				
Paint and Wallpaper Sales	5231						P	P	P			P	
Pawnshop or Used Merchandise Store	5932							P	P	P			
Pet Store	5999							P	P	P			
Record and Tape Store	5735							P	P	P			
Recreational Vehicle Sales	5561							P	P			P	
Restaurant (with drive-thru)	5812						DS	P	P	P		P	Sec. 19.73
Restaurant (without drive-thru)	5812						P	P	P	P		P	
Service Station, Gasoline Sales	5541						DS	P	P	P	P	P	Sec. 19.81
Sporting Goods Store, Bicycle Shop	5941							P	P	P			
Tire Sales	5531							P	P			P	
Truck Stop	5541							P	P			P	
Video Tape Rental and Sales, except Adult Video Store	7841							P	P	P			
WHOLESALE TRADE													
Agricultural Chemicals, Pesticides or Fertilizers	5191						DS					P	Sec. 19.4
Agricultural Products, Other Including Tobacco Auction Warehousing	5159						DS					P	Sec. 19.4
Ammunition	5099											P	
Animals and Animal Products, Other	5159						DS					P	Sec. 19.4

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
Apparel, Piece Goods and Notions	5130							P			P	P	
Beer, Wine or Distilled Alcohol Beverages	5180							P			P	P	
Books, Periodicals and Newspapers	5192							P			P	P	
Chemicals and Allied Products	5169											P	
Durable Goods, Other	5099							P			P	P	
Electrical Goods	5060							P			P	P	
Farm Supplies, Other	5191						DS	P			P	P	Sec. 19.32
Fish and Seafoods	5146						DS	P			P	P	Sec. 19.34
Flowers, Nursery Stock and Florist Supplies	5193						DS	P			P	P	Sec. 19.35
Forest Products	5099						DS					P	Sec. 19.35
Furniture and Home Furnishings	5020							P			P	P	
Grain and Field Beans	5153						DS					P	Sec. 19.40
Groceries and Related Products	5140							P			P	P	
Hardware	5072							P			P	P	
Jewelry, Watches, Precious Stones and Metals	5094							P			P	P	
Livestock	5154						DS					P	Sec. 19.52
Lumber and Other Construction Materials	5030						DS					P	Sec. 19.52
Lumber, Millwork and Veneer	5031											P	
Machinery, Construction and Mining	5082											P	
Machinery, Equipment and Supplies	5080										P	P	
Machinery, Farm and Garden	5083						DS	P			P	P	Sec. 19.52
Market Showroom (furniture, apparel, etc.)	0000							P			P	P	
Metals	5051											P	
Minerals	5052						DS					P	Sec. 19.59
Miscellaneous Wholesale Not Elsewhere Classified	5199											P	
Motor Vehicles	5012											P	
Motor Vehicles, Parts and Supplies	5010										P	P	
Motor Vehicles, Tires and Tubes	5014										P	P	
Paints and Varnishes	5198										P	P	
Paper and Paper Products	5110							P			P	P	
Petroleum and Petroleum Products	5170											P	Sec. 19.67
Plastic Materials	5162										P	P	
Plumbing and Heating Equipment	5070										P	P	

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
Professional and Commercial Equipment and Supplies	5040							P			P	P	
Resins	5162											P	
Scrap and Waste Materials	5093											P	
Sporting and Recreational Goods and Supplies	5091							P			P	P	
Tobacco and Tobacco Products	5194						DS	P			P	P	Sec. 19.97
Toys and Hobby Goods and Supplies	5092							P			P	P	
Wallpaper and Paint Brushes	5198							P			P	P	
TRANSPORTATION, WAREHOUSING AND UTILITIES													
Airport or Air Transportation Facility	4500						C					C	Sec. 19.5
Bulk Mail and Packaging	4212										P	P	
Bus Terminal	4100							P	P	P			
Communication or Broadcasting Facility	4800							P			P	P	
Courier Service	4215							P			P	P	
Doppler Radar Tower	0000							C					Sec. 19.28
Farm Product Warehousing and Storage	4221						DS					P	Sec. 19.32
Hazardous and Radioactive Waste (transportation, storage and disposal)	4953											S	Sec. 19.44
Heliport	4522										P	P	
Landing Strip, Flying Field	0000						S				S	S	Sec. 19.48
Marina (Commercial), Boat Yard	4493					DS	DS	P	P	P	P	P	Sec. 19.57
Moving and Storage Service	4214										P	P	
Outside Bulk Storage	0000											P	
Railroad Terminal or Yard	4010											P	
Recycling Materials Collection	0000							P	P		P	P	
Recycling Materials Collection/Processing Operations	0000											P	
Refrigerated Warehousing	4222										P	P	
Refuse and Raw Material Hauling	4212											P	
Sewage Treatment Plant	4952						S	P	P		P	P	Sec. 19.82
Solar Energy Facility							C	C	C	C	C	C	Sec. 19.109
Solar Panel (Accessory)							DS						Sec. 19.108
Solid Waste Disposal, Convenience Center	4953						P	P	P		P	P	
Solid Waste Disposal, CDLF Landfill	4953						C					P	Sec. 19.88

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
Solid Waste Disposal, LCID Landfill	4953						C					P	Sec. 19.88
Solid Waste Disposal, Sanitary Landfill	4953						C					P	Sec. 19.89
Solid Waste Disposal, land application of sludge or petroleum-contaminated soil	4953						C					P	Sec. 19.89
Taxi Terminal	4121							P	P			P	
Trucking or Freight Terminal	4213										P	P	
Utility Company Office	0000						P	P	P	P	P	P	
Utility Lines	0000	P	P	P	P	P	P	P	P	P	P	P	
Utility Service and Maintenance Facility	0000						P	P	P		P	P	
Utility Related Appurtenances, Substation	0000	DS	DS	DS	DS	DS	DS	P	P	P	P	P	Sec. 19.101
Warehouse (general storage, enclosed)	4220							P			P	P	
Warehouse (self-storage)	4225							P	P		P	P	
Water Treatment Plant	0000	S	S	S	S	S	S	P	P		P	P	Sec. 19.103
Wind Energy Facility, Small							DS						Sec. 19.110
Wind Energy Facility, Medium							P						Sec. 19.110
Wind Energy Facility, Large							P						Sec. 19.110
Wireless Communications Towers 50 feet or greater in height, except Public Safety Communications Towers	0000						C	C	C		C	C	Sec. 19.106
Wireless Communications Tower, Public Safety	0000	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	Sec. 19.107
MANUFACTURING and INDUSTRIAL USES													
Aircraft and Parts	3720										P	P	
Ammunition, Small Arms	3482											S	Sec. 19.6
Animal Feeds (including dog and cat)	2048											P	
Animal Slaughter or Rendering	0000											C	Sec. 19.9
Apparel and Finished Fabric Products	2300										P	P	
Arms and Weapons	3480										P	P	
Asbestos, Abrasive and Related Products	3290										P	P	
Asphalt Plant	2951										P	P	
Audio, Video and Communications Equipment	3600										P	P	
Bakery Products	2050										P	P	
Batteries	3691										P	P	
Beverage Products (alcoholic)	2080										P	P	
Beverage Products (nonalcoholic)	2086										P	P	

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
Bicycle Assembly, Parts and Accessories	3751										P	P	
Boat and Ship Building	3730										P	P	
Brooms and Brushes	3991										P	P	
Burial Caskets	3995										P	P	
Chemicals, Paints and Allied Products, except Industrial Inorganic Chemicals	2800										P	P	
Coffee	2095										P	P	
Computer and Office Equipment	3570										P	P	
Concrete, Cut Stone and Clay Products	3200											P	
Contractors (no outside storage)	0000						P	P	P		P	P	
Contractors, General Building	1500						DS	DS	DS		P	P	Sec. 19.23
Contractors, Heavy Construction	1600											P	
Contractors, Special Trade	1700						DS	DS	DS		P	P	Sec. 19.23
Costume Jewelry and Notions	3960										P	P	
Dairy Products	2020										P	P	
Drugs (Pharmaceutical Production)	2830										P	P	
Electrical Components	3670										P	P	
Electrical Equipment	3600										P	P	
Electrical Industrial Apparatus, Assembly	3620										P	P	
Electrical Industrial Apparatus, Manufacturing	3620										P	P	
Explosives & Storage/Manufacture	2892											C	Sec. 19.30
Fabricated Metal Products	3400										P	P	
Fabricated Valve and Wire Products	3490										P	P	
Fats and Oils, Animal	2077											P	
Fats and Oils, Plant	2070											P	
Fish and Seafoods, Prepared Fresh or Frozen, Canned, or Cured	2090						DS				P	P	Sec. 19.34
Floor Coverings (excluding carpet)	3996										P	P	
Food and Related Products, Miscellaneous	2090										P	P	
Furniture and Fixtures	2500										P	P	
Furniture and Fixtures Assembly	0000										P	P	
Furniture Framing	2426										P	P	
Glass	3200										P	P	

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
Glass Products from Purchased Glass	3231										P	P	
Grain Mill Products	2040						DS					P	Sec. 19.40
Heating, Equipment and Plumbing Fixtures	3430										P	P	
Household Appliances	3630										P	P	
Ice	2097							P			P	P	
Industrial and Commercial Machinery	3500										P	P	
Industrial Inorganic Chemicals	2810											P	
Jewelry and Silverware (no platting)	3910										P	P	
Leather and Leather Products (no tanning)	3100										P	P	
Leather and Leather Products (tanning)	3100											DS	Sec. 19.49
Lighting and Wiring Equipment	3640										P	P	
Manufactured Housing and Wood Buildings	2450										P	P	
Measurement, Analysis and Control Instruments	3800										P	P	
Meat and Poultry, Packing and Processing (no rendering)	2010										P	P	
Medical, Dental and Surgical Equipment	3840										P	P	
Metal Coating and Engraving	3470											DS	Sec. 19.58
Metal Fasteners (screws, bolts, etc.)	3450										P	P	
Metal Processing	3350											P	
Millwork, Plywood and Veneer	2430											P	
Miscellaneous Manufacturing Industries, not elsewhere listed	0000											P	
Motor Vehicle Assembly	3710											P	
Motor Vehicle Parts and Accessories	3714											P	
Motorcycle Assembly	3751											P	
Musical Instruments	3930										P	P	
Paper Products	2670										P	P	
Paperboard Containers and Boxes	2650											P	
Pens and Art Supplies	3950										P	P	
Petroleum and Related Industries	2900											DS	Sec. 19.67
Pharmaceutical Preparations	2834										P	P	
Photographic Equipment	3861										P	P	
Photographic Supplies	3861										P	P	

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
Pottery and Related Products	3260										P	P	
Preserved Fruits and Vegetables (no can manufacture)	2030										P	P	
Primary Metal Products and Foundries	3300										P	P	
Printing and Publishing	2700							P			P	P	
Pulp and Paper Mills	2610											DS	Sec. 19.71
Recycling Centers							S	S	S		S	S	Sec. 19.111
Rubber and Plastics, Miscellaneous	3000											DS	Sec. 19.77
Salvage Yards, Auto Parts	5015											S	Sec. 19.79
Salvage Yards, Scrap Processing	5093											S	Sec. 19.79
Sawmill or Planing Mills	2420						DS	DS				DS	Sec. 19.80
Signs	3993										P	P	
Soaps and Cosmetics	2840										P	P	
Sporting Goods and Toys	3940										P	P	
Sugar and Confectionery Products	2060										P	P	
Surface Active Agents	2843										P	P	
Textile Products (no dying and finishing)	2200										P	P	
Textile Products (with dying and finishing)	2260										P	P	
Tires and Inner Tubes	3011										P	P	
Tobacco Products	2110										P	P	
Wineries	2084						DS				P	P	Sec. 19.104
Wood Containers	2440											P	
Wood Products, Miscellaneous	2490											P	
OTHER USES													
Arts and Crafts Show	0000	P	P	P	P	P	P	P	P	P	P	P	
Automobile Parking on Same Lot as Principal Use	0000	P	P	P	P	P	P	P	P	P	P	P	
Billboard, Outdoor Advertising Sign	0000							P			P	P	
Brewery	0000						DS	DS					Sec. 19.14
Christmas Tree Sales	0000	P	P	P	P	P	P	P	P	P	P	P	
Concerts, Stage Show	7920						DS	P			P	P	Sec. 19.22
Conventions, Trade Show	0000							P			P	P	
Fireworks Stand	0000							P	P	P			
Horse Show, Rodeo	7999						P	P					
Outdoor Flea Market (temporary)	5932						DS	P	P	P			Sec. 19.65

Use Type	Ref. SIC	Zoning Districts R5	R15	R25	RMH25	R40	A1	B1	B2	B3	I1	I2	Use Standard
Outdoor Fruit and Vegetable Market (seasonal)	5431					DS	P	P	P	P			Sec. 19.66
Outdoor Religious Event	0000					P	P	P	P	P	P	P	
Sexually-Oriented Business* *	0000							S					Sec. 19.83
Shopping Centers, Neighborhood	0000							DS	DS				Sec. 19.86
Shopping Centers, Community and Regional	0000							S	S				Sec. 19.86
Special Temporary and Seasonal Events	0000	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	Sec. 19.90
Superstores	0000							DS	DS				Sec. 19.91
Temporary Construction, Storage or Office; Real Estate Sales or Rental Office (with concurrent building permit for permanent building)	0000	P	P	P	P	P	P	P	P	P	P	P	
Turkey Shoot	0000						DS					DS	Sec. 19.100

**Residential subdivisions of 25 or more lots proposed in the A-1 zoning district will require a rezoning to a residential zoning district.*

***Includes adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, massage parlor, adult motion picture theater, adult theater, escort agency, sexual encounter studio, or any combination of the foregoing.*

ARTICLE 16. HIGHWAY CORRIDOR OVERLAY DISTRICT

The Highway Corridor Overlay (HCO) District, as described in Article 14, is established to provide specific appearance and operational standards for specifically designated highway corridors while accommodating development along the corridors. All nonresidential uses in the Highway Corridor Overlay District (HCO) shall require site plan approval from the Administrator. All other requirements of the underlying zoning districts shall also apply, with the more stringent regulations prevailing when standards conflict.

SECTION 16.1: PROCEDURES

(A) The applicant shall submit a site plan of the parcel and the proposed nonresidential use to the Administrator. The Administrator shall review the site plan in accordance with the provisions of this Article. Approval of the site plan and the proposed uses by the Administrator authorizes the issuance of a zoning permit. For those uses that require a special use permit, the site plan shall be approved by Board of Commissioners, respectively.

(B) Permits are issued at each phase of development and only in accordance with the approved site plan.

(C) If a site plan was approved and a use permit was issued for the development of a lot or lots, no subsequent change or expansion which was not shown on the site plan shall be allowed unless also approved by the Administrator.

SECTION 16.2: GENERAL STANDARDS

(A) A site development plan shall provide for the following:

(1) Convenient vehicular servicing of the buildings in the parking areas, and no undue interference with through traffic in gaining ingress to and egress from the proposed site;

(2) A vegetative buffer not less than 20 feet wide where nonresidential development abuts a residential zoning district or residentially used lots;

(3) A building group that is architecturally unified. Accessory buildings shall conform in appearance to the exterior design standards of the principal structure;

(4) Vehicular loading spaces in conformance with the requirements of Article 20;

(5) Convenient and safely located pedestrian crosswalks;

(6) Signs in accordance with the requirements of Article 21; and

(7) A maximum building height of 50 feet.

(B) A traffic analysis indicating the estimated effect of the proposed development on adjacent existing road traffic, including volume flows to and from the development prepared by a NC Licensed & registered professional engineer.

(C) A preliminary plan or engineering feasibility report providing for the site grading, landscaping, storm drainage, sanitary sewerage, and water supply prepared by a NC licensed & registered professional engineer.

(D) A brief listing of intended deed restrictions.

SECTION 16.3: USAGE OF REQUIRED SETBACKS

(A) Sediment impoundments, boundary fences, gates and security stations may be located in any required yard, provided, however, sediment impoundments shall not be located within any required front yard.

(B) Accessory buildings, other than as specified in subsection (A) shall not be located in any required front, side, or rear yard setback.

(C) Parking and loading are permitted in any required yard, however, all parking and loading areas shall be a minimum of 20 feet from any lot line and 50 feet from any public road right-of-way. Loading areas shall be oriented such that they are not visible from any public road right-of-way.

SECTION 16.4: LANDSCAPING OF UNDEVELOPED AREAS

Those portions of the front, rear, or side yards that are not devoted to the uses, buildings, parking lots, and structures that are permitted within this Section shall be landscaped in accordance with the following requirements:

(A) All site plan drawings shall include a landscaping plan which shows the area to be landscaped along with the types of trees, shrubs, or plants.

(B) When an area is required to be landscaped through vegetation, the requirements shall be met by the installation and maintenance of a combination of trees, shrubs, grasses and other ground cover. For property lines adjacent to the rights-of-way of highways designated in Article 14 as being within a highway corridor overlay district, a minimum 50-foot-wide buffer is required along the entire adjoining property line.

(C) No less than one tree shall be planted for each 1,000 square feet of landscaped area.

(D) When planted, all canopy trees shall be at least 10 percent of their mature height and all understory trees shall be at least 20 percent of their mature height. A ‘canopy tree’ is a variety expected to reach a height in excess of 30 feet at maturity (e.g., oaks, pines, sycamores, etc. ‘Understory tree’ is a variety not expected to reach a height of 30 feet at maturity (e.g., dogwoods, crepe myrtles, certain types of maples, etc.)

(E) All tree and plant material selections shall be native or adaptable to the Chowan County region and its climate.

(F) When the required landscaping improvements have not been completed prior to the issuance of a building Certificate of Occupancy, the developer shall provide a guarantee in accordance with the requirements of Article 9.

(G) In the event that any of the installed landscaping is removed, dies or ceases to exist, the responsible party for such landscaping whether that be the owner or operator shall reinstall the required landscaping again to achieve compliance with these Regulations.

SECTION 16.5: OUTDOOR LIGHTING

All outdoor lighting shall be shielded in such a manner that no direct glare from the light source can be seen from a major highway or from above.

SECTION 16.6: LANDSCAPING AT DRIVEWAY AND ROAD INTERSECTIONS

To ensure that landscape materials do not constitute a driving hazard, a horizontal and vertical sight distance easement, as defined in Article 2, will be observed at all intersections of driveways with roads. Sight distance easements shall meet the requirements of these Regulations or that of the North Carolina Department of Transportation, whichever is more stringent.

SECTION 16.7: LOT COVERAGE

The maximum lot coverage by total impervious surfaces such as rooftops, paving, walkways, etc. shall be 70 percent of the lot area except when stormwater is retained or detained on the site. Any additional runoff resulting from lot coverage in excess of 70 percent must be compensated for by such on-site detention or retention measures.

SECTION 16.8: ROADS AND ACCESS

(A) Each building lot shall be limited to two points of ingress to and two points of egress from the adjacent access or major highway. Points of ingress and egress may be combined into one two-way driveway with appropriate separation of lanes. Additional points of ingress to and egress from an access road or highway shall not be allowed unless necessary to improve traffic movement or safety, increase sight distances, or similar reasons. NCDOT may require that there only be one point of ingress and egress, the Administrator shall ultimately defer to what NCDOT requires for access to a public NCDOT right-of-way.

(B) Ingress to and egress from a corner lot or lots may be limited to the feeder road and shall be prohibited within 175 feet of the intersection with the interchange along the highway for residential uses and 225 feet for industrial and commercial uses.

(C) All points of ingress and egress to access roads or major highways shall be designed according to the applicable standards of the North Carolina Department of Transportation.

(D) If the owners of two or more lots jointly provide a direct point of both ingress and egress to serve their lots, or shared access, adequate provisions shall be made by dedication, covenants, restrictions, easements or other legal instruments for ensuring that such point of ingress and egress on such roads are provided and maintained consistent with the regulations and intent of this Section.

(E) Driveway widths and design shall conform to the applicable standards of the North Carolina Department of Transportation.

(F) All roads, including frontage roads, rear access roads, and cul-de-sac shall be approved by the North Carolina Department of Transportation and dedicated to the public.

SECTION 16.9: SPACING STANDARDS

The spacing standards of this Section are intended to improve the compatibility of roadside uses with adjacent highways by ensuring the separation and proper location of ingress and egress.

(A) The spacing requirements for lots with direct points of ingress and egress to highways shall be a minimum of 150 feet.

(B) The spacing requirements of this Section shall be measured from the centerline of the nearest points of ingress and egress. The spacing of direct points of ingress and egress for different lots shall be spaced as evenly as possible.

(C) Where topography, line of sight distances of motorists, vegetation, geological formations, or other site characteristics are such that strict adherence to spacing dimensions would impose unnecessary hardship upon the permit applicant or undue hazard to the motoring public, the Administrator may authorize a decrease in the spacing dimensions of up to 20 percent, provided that a record of why such decrease is necessary is made a part of the permit. NCDOT must also be in concurrence with the decision of the Administrator if this modification Is granted.

SECTION 16.10: PROHIBITED USES

Outdoor advertising signs (billboards) are prohibited within HCO districts.

ARTICLE 17. FLOOD DAMAGE PREVENTION ORDINANCE, FLOOD HAZARD OVERLAY

SECTION 17.1: FLOOD HAZARD DISTRICT OVERLAY REQUIREMENTS

The Flood Hazard Overlay District (FHO), as established in Article 14, is designed for the purpose of protecting people and property from the hazards of flooding in accordance with the authority provided in NCGS 160D-923.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; and part 121, Article 8 of Chapter 160A; and Article 7, 9, 11 of Chapter 160D (Effective July 1, 2021) of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

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

(A) Findings of Fact.

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

(B) Purpose. It is the purpose of this Article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which 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 other development which may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(C) Objectives. The objectives of this Article are to:

(1). Protect human life 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 interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood prone areas;

(6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and

(7) Ensure that potential home buyers are notified that property is in a Special Flood Hazard Area.

SECTION 17.2: DEFINITIONS

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application. Where definitions located within this Article by name or use closely align with definitions in Article 2 of the Chowan County Land Use Regulations, the definitions listed herein shall take precedence when being used for the purpose of flood related activity, regulation or implementation.

Accessory Structure (Appurtenant Structure). A structure which is 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). An extension or increase in the floor area or height of a building or structure.

Appeal. A request for a review of the Floodplain Administrator's interpretation of any provision of this Article or the Chowan County Land Use Regulations.

Area of Shallow Flooding. A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard. See 'Special Flood Hazard Area (SFHA)'.

Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE). A determination, as published in the Flood Insurance Study, of the water surface elevations of the base flood. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

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

Breakaway Wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Building. See 'Structure'.

CAMA. North Carolina's Coastal Area Management Act. This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environmental Quality (NCDEQ) Division of Coastal Management (DCM).

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

Coastal High Hazard Area. A Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Article 3, Section B of this code, as Zone VE or V1-30.

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

Design Flood. See Regulatory Flood Protection Elevation.

Digital Flood Insurance Rate Map (DFIRM). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium drop zones applicable to the community are delineated.

Disposal. Defined as in NCGS 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.

Elevated Building. A non-basement building which has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Building. Any building and/ or structure for which the "start of construction" commenced before the County entered into the NFIP, July 3, 1985.

Existing Manufactured Home Park or Manufactured Home Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the County, July 3, 1985.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from: (a) The overflow of inland or tidal waters; and, (b) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM). An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

Flood Hazard Boundary Map (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

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

Flood Insurance Rate Map (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and risk premium zones applicable to the community.

Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Floodplain or Flood Prone Area. Any land area susceptible to being inundated by water from any source.

Floodplain Administrator. The individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit. Any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

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

Floodplain Management Regulations. This Article and the Chowan County Land Use Regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

Flood Prone Area. See ' Floodplain'.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Floodways are located within areas of special flood hazard as defined herein.

Flood Zone. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Floor. See 'Lowest Floor'.

Freeboard. The height added to the Base Flood Elevation (BFE) to account for the many unknown factors than could contribute to flood heights greater that the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the "Regulatory Flood Protection Elevation".

Functionally Dependent Facility. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for

the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Hazardous Waste Management Facility. A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

Highest Adjacent Grade (HAG). The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic Structure. Any structure that is:

(a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or

(d) certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program".

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having me the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

(a) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. 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 flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light Duty Truck. Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

(a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(c) Available with special features enabling off-street or off-highway operation and use.

Lowest Adjacent Grade (LAG). The elevation of the ground, sidewalk, patio slab, or deck support immediately next to the building after completion of the building. For Zone A and AO, use the natural grade elevation prior to construction.

Lowest Floor. The subfloor, top of slab or grade 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 Section.

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

Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map Repository. 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 area products carries the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program website houses 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. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (Actual Cash Value) or adjusted assessed values.

New Construction. Structures for which the 'start of construction' commenced on or after the effective date of the original version of this Section and includes any subsequent improvements to such structures.

Nonconforming Building or Development. Any legally existing building or development which fails to comply with the current provisions of this Article or the Chowan County Land Use Regulations.

Non-Conversion Agreement. A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

Non-Encroachment Area. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

Obstruction. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Post-FIRM. Construction or other development which started on or after July 3, 1985 or on or after the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

Pre-FIRM. Construction or other development which started before July 3, 1985 or before the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

Primary Frontal Dune. A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and over-topping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Principally Above Ground. At least 51% of the actual cash value of the structure is above ground.

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

Recreational Vehicle (RV). A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; (e) is fully licensed and ready for highway use.

Reference Level. The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

Regulatory Flood Protection Elevation. The elevation to which all structures and other development located within the Special Flood Hazard Areas must be elevated or floodproofed, if non-residential. Within areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In areas where no BFE has been established, all structures and other development must be elevated or floodproofed, if non-residential, to two feet above the highest adjacent grade.

Remedy a Violation. To bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impact of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this Article or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Repetitive Loss. Flood-related damages sustained by a structure on two separate occasions during any 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Retrofitting. Measures, such as floodproofing, elevation, construction of small levees, and other modifications, taken on an existing building or its yard to protect it from flood damage.

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

Salvage Yard. Property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including but not limited to vehicles, appliances and related machinery.

Special Food Hazard Area (SFHA). The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in subsection E 2. This area shall comprise the Flood Hazard Overlay District established in Section 4.04 B.

Solid Waste Disposal Facility. Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

Solid Waste Disposal Site. Defined as in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

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

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

Substantial Damage. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of 'substantial improvement'. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial Improvement. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period whereby the cost of which equals or exceeds 50 percent of the market value of the structure before the 'start of construction' of the improvement. This term includes structures which have incurred 'substantial damage', regardless of the actual repair work performed. The term does not, however, include either: (a) any correction of existing violations of State or Community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or, (b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Technical Bulletin and Technical Fact Sheet. 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.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

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

Variance. A grant of relief to a person from the requirements of this Article which permits construction in a manner otherwise prohibited by this Article where specific enforcement would result in unnecessary hardship.

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

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

Water Surface Elevation (WSE). The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

SECTION 17.3: GENERAL PROVISIONS

(A) Applicability. The provisions of this Article shall apply to all Special Flood Hazard Areas within the planning and zoning jurisdiction of Chowan County.

(B) Basis for Establishing the Special Flood Hazard Areas. The Special Flood Hazard Areas are those identified by the Federal Emergency Management Agency (FEMA) or produced under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated, December 21, 2018 shown on FIS for Chowan County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto.

SECTION 17.4: ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this Article prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of subsection E (2) of this Article.

SECTION 17.5: COMPLIANCE

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

SECTION 17.6: ABROGATION AND GREATER RESTRICTIONS

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

SECTION 17.7: INTREPRETATION

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

(A) considered as minimum requirements;

(B) liberally construed in favor of Chowan County; and

(C) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION 17.8: WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Actual flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damage. This Article shall not create liability on the part of Chowan County or by any officer or employee thereof for any flood damages that result from reliance on this Article, or any administrative decision lawfully made hereunder.

SECTION 17.9: PENALTIES FOR VIOLATION

Violation of the provisions of this Article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100.00 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 Chowan County from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 17.10: DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Building Inspector, hereinafter referred to as the "Floodplain Administrator," is hereby appointed to administer and implement the provisions of this Article.

SECTION 17.11: PLANS AND APPLICATION REQUIREMENTS

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas which must be presented to the Floodplain Administrator:

(A) Plot plans and sites plans shall include, but shall not be limited to, the following details of the proposed floodplain development:

(1) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, the location of utility systems, proposed grading/pavement areas, fill materials, storage areas, drainage facilities, and other proposed development;

(2) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in subsection E 2. or a statement that the entire lot is within the Special Flood Hazard Area;

(3) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in subsection E 2.;

(4) The boundary of the floodway(s) or non-encroachment area(s) as determined in subsection E 2.;

(5) The Base Flood Elevation (BFE) where provided as set forth in subsection E 2.; subsection P 11. and 12.; subsection U; subsection V; and subsection S 15.;

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

(7) The boundary and effective date of COBRA zone or OPA, if applicable.

(B) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

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

(2) Elevation in relation to NAVD 1988 to which any non-residential structure will be flood-proofed;

(3) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or flood-proofed;

(C) If flood-proofing, a Flood-proofing Certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of flood-proofing measures.

(D) A Foundation Plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this Section met. These details include but are not limited to:

(1) Proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/piers);

(2) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Subsection T 5 C. (i) when solid foundation perimeter walls are used in Zones A, AO, & AE.

(3) In Coastal High Hazard Areas, the following must also be submitted prior to permit issuance. Specific requirements are detailed in subsections Y and T 5 d.

(a) V-zone Certification form with accompanying plans and specifications verifying the engineered structure and breakaway wall designs as set forth in subsection O 4;

(b) Plans for lattice work or decorative screening, if applicable. Plans for any structures that will have lattice work or decorative screening must be submitted to the Administrator for approval prior to permit issuance;

(c) Plans for non-structural fill, if applicable. Plans for placement of any non-structural fill must be submitted to the Administrator for approval prior to permit issuance. Requirements are detailed in subsection Y 8.

(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 permit issuance (i.e., Wetlands, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.)

(H) If permit is issued for placement of Recreational Vehicles and/or Temporary Structures, documentation to ensure subsection T 7 and 8 are met.

(I) If a watercourse is proposed to be altered and/or relocated, a description of the extent of watercourse alteration or relocation; 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.

SECTION 17.12: PERMIT DATA REQUIREMENTS

The following information shall be provided on the approved permit to ensure compliance with this Section:

(A) A description of the development to be permitted under the floodplain development permit.

(B) The Special Flood Hazard Area determination for the proposed development per available data specified in subsection E 2.

(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) State that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, if applicable.

(G) If in an A, AO, AE or A1-30 zone, specify the minimum foundation opening requirements.

(H) State limitations of below 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.

SECTION 17.13: CERTIFICATION REQUIREMENTS

(A) An Elevation Certificate (FEMA Form 81-31) or Floodproofing Certificate (FEMA Form 81-65) is required after the reference level is completed. Within seven (7) calendar days of establishment of the reference level elevation, or flood-proofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, or flood-proofed elevation, whichever is applicable in relation to NAVD 1988. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the seven (7) 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 progressive work being permitted to proceed. Failure to submit the certification or failure to make said corrections required shall be cause to issue a stop-work order for the project.

(B) A Final As-Built Elevation Certificate (FEMA Form 81-31) or Flood-proofing Certificate (FEMA Form 81-65) 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 or flood-proofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized, said 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 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 said corrections required shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(C) Flood-proofing Certificate. If non-residential flood-proofing is used to meet the Regulatory Flood Protection Elevation requirements, a Flood-proofing Certificate (FEMA Form 81-65), 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 flood-proofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Flood-proofing 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.

(D) A V-Zone/Breakaway Wall Certification is required prior to issuance of a permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this Section are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Section. This certification is not a substitute for an Elevation Certificate.

(E) If a manufactured home is placed within an A, AO, AE, or A1-30 zone and the elevation of the chassis is above 36 inches in height, an engineered foundation certification is required per subsection T 4.

(F) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; 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 showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a permit.

(G) Certification Exemptions. The following structures, if located within A, AO, AE or A1-30 zones, are exempt from the elevation/flood-proofing certification requirements specified in items (A) and (B) above:

(1) Recreational Vehicles meeting requirements of subsection T 7 (a);

(2) Temporary Structures meeting requirements of subsection T 8 and;

(3) Accessory Structures less than 150 square feet meeting requirements of subsection T 9.

SECTION 17.14: DUTIES OF THE FLOODPLAIN ADMINISTRATOR

The duties of the Floodplain Administrator as they relate to the administration and enforcement of the provisions of this Section shall include, but not be limited to:

(A) Review all applications and issue permits for all proposed development within flood prone areas to assure that the requirements of this Section have been satisfied.

(B) Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.

(C) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(E) Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of subsection X are met.

(F) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) of all attendant utilities of all new or substantially improved structures, in accordance with subsection O.

(G) Obtain the actual elevation (in relation to NAVD 1988) to which the new or substantially improved structures and all utilities have been flood-proofed, in accordance with subsection O.

(H) Obtain actual elevation (in relation to NAVD 1988) of all public utilities, in accordance with subsection O.

(I) When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with subsection O and subsection T 2.

(J) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard 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 Section.

(K) When Base Flood Elevation (BFE) data has not been provided in accordance with subsection E 2, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data and/or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to subsection U 4, in order to administer the provisions of this Section.

(L) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with subsection E 2, obtain, review, and reasonably utilize any floodway data, and/or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Section.

(M) When the exact location of boundaries of the Special Flood Hazard Areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the Floodplain Administrator in the permit file.

(N) Permanently maintain all records that pertain to the administration of this Article and make these records available for public inspection recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(O) Make on-site inspections of work in progress. As the work pursuant to a permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this Section

and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(P) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Section, 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 the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(Q) Revocation of permits as required. The Floodplain Administrator may revoke and require the return of the 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, or 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 permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(R) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of Chowan County. The Floodplain Administrator and each member of the Department of Planning and Inspections shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of Chowan County at any reasonable hour for the purposes of inspection or other enforcement action.

(S) Follow through with corrective procedures of subsection Q.

(T) Review, provide input, and make recommendations for variance requests.

(U) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Subsection E of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(V) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION 17.15: CORRECTIVE PROCEDURES

Violations of the provisions of this Section shall be subject to the enforcement procedures, remedies, and penalties delineated in Article XI, Enforcement and Judicial Review.

SECTION 17.16: VARIANCE PROCEDURES

Requests for variances from the provisions of this Article shall be reviewed by the Board of Adjustment in accordance with the procedures delineated in Article 7;

(A) The Board of Adjustment as established by Chowan County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this Article.

(B) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(C) Variances may be issued for:

(1) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

(2) functionally dependent facilities if determined to meet the definition as stated in subsection D of this ordinance, provided provisions of subsection R 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

(3) any other type of development, provided it meets the requirements of this Section.

(D) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Article, and:

(1) the danger that materials may be swept onto other lands to the injury of others;

(2) the danger to life and property due to flooding or erosion damage;

(3) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) the importance of the services provided by the proposed facility to the community;

(5) the necessity to the facility of a waterfront location as defined under subsection D of this Article as a functionally dependent facility, where applicable;

(6) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) the compatibility of the proposed use with existing and anticipated development;

(8) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(I) Conditions for Variances:

(1) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

(2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

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

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) a showing of good and sufficient cause;

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

(c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with the Chowan County Land Use Regulations or any other regulation adopted by the Chowan County Board of Commissioners, or state or local law.

(J) 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.

(1) The use serves a critical need in the community.

(2) No feasible location exists for the use outside the Special Flood Hazard Area.

(3) The reference level of any structure is elevated or flood-proofed to at least the Regulatory Flood Protection Elevation.

(4) The use complies with all other applicable Federal, State and local laws.

(5) The County has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

SECTION 17.17: GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION

In all Special Flood Hazard Areas, the following provisions are required:

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(C) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.

(D) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the

base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/ kitchen fixtures, ductwork, electric/ gas meter panels/ boxes, utility/ cable boxes, water heaters, and electric outlets/ switches.

(1) Replacements that are part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

(2) 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.

(D) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(E) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(F) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(G) Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this Article, shall meet the requirements of 'new construction' as contained in this Article.

(H) Non-conforming structures or other development may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this Section. Provided, however, nothing in this Section shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section.

(I) New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in Special Flood Hazard Areas. 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 flood-proofed to at least the regulatory flood protection elevation and certified according to subsection N.

(J) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage; No more than 10% of the total number of lots in a new subdivision shall be platted within the SFHA.

(K) 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.

(L) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(M) 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.

(N) 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.

(O) 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.

SECTION 17.18: SPECIFIC STANDARDS FOR FLOOD HAZARD REDUCTION

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in subsection E 2. or subsection P 11 and 12, the following provisions are required:

(A) Residential Construction. New construction or 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.

(B) Non-Residential Construction. New construction or 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. Structures located in A, AO, AE and A1-30 Zones may be flood-proofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure below the required 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. A NC Licensed & registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in subsection O along with the operational plan and the inspection and maintenance plan.

(C) Property owners shall be required to execute and record a non- conversion agreement prior to issuance of a building permit declaring the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space. This agreement shall be recorded with the Chowan County Register of Deeds and shall transfer with the property in perpetuity.

(D) Manufactured Homes.

(1) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement in accordance with the State of North Carolina Regulations for Manufactured/Mobile Homes, 2004 Edition, and any revision thereto adopted by the Commissioner of Insurance pursuant to NCGS §143-143.15 or a certified engineered foundation. 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 other foundation elements of at least equivalent strength. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

(3) All foundation enclosures or skirting shall be in accordance with subsection T 5.

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Administrator and the local Emergency Management coordinator.

(E) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

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

(2) New construction or substantial improvements of elevated buildings that include fully enclosed areas that are below the regulatory flood protection elevation shall not be designed to be used for human habitation, but shall be designed to be used only

for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises, be constructed entirely of flood resistant materials below the regulatory flood protection level and meet the following design criteria:

(3) In A, AO, AE, and A1-30 zones, measures for complying with this requirement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. To meet this requirement, the foundation must either be certified by a professional engineer or architect or meet the following minimum design criteria:

(a) Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

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

(c) If a building has more than one enclosed area, each area must have openings on exterior walls to allow floodwater to directly enter;

(d) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade; and,

(e) Openings may be equipped with screens, louvers, or other opening coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(f) Foundation enclosures: 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.

(4) In Coastal High Hazard Areas (Zone VE), breakaway walls, lattice work or decorative screening shall be allowed below the regulatory flood protection elevation provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used and provided the following design specifications are met:

(a) Material shall consist of open wood lattice or mesh insect screening; or

(b) Breakaway walls meeting the following design specifications:

(i) Design safe loading resistance of each wall shall be not less than 10 nor more than 20 pounds per square foot; or

(ii) If more than 20 pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

(F) Additions/Improvements.

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

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

(b) are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(2) Additions to post-FIRM structures with no modifications to the existing structure shall require only the addition to comply with the standards for new construction.

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

(a) are not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

(b) are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(5) Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(G) Recreational Vehicles. Recreational vehicles placed on sites within a Special Flood Hazard Area shall either:

(1) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions); or

(2) meet all the requirements for new construction, including anchoring and elevation requirements of subsection M, subsection S and subsection T 4.

(H) Temporary Structures. Prior to the issuance of a permit for a temporary structure, the following requirements must be met:

(1) Applicants must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:

(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 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(d) a copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and

(e) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area to which the temporary structure will be moved.

(2) The above information shall be submitted in writing to the Administrator for review and written approval

(I) 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:

(1) Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas); unless permitted and built as an Accessory Dwelling Unit, in which the ADU would be required to comply with all applicable components of this Article.

(2) Accessory Structures shall not be temperature-controlled;

(3) Accessory structures shall be designed to have low flood damage potential;

(4) Accessory structures are encouraged to be located outside of the SFHA when possible;

(5) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(6) Accessory structures shall be firmly anchored in accordance with subsection S 1.

(7) All service facilities such as electrical and heating equipment shall be installed in accordance with subsection S 4. and

(8) Openings to relieve hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance with subsection T 5 (c).

(9) An accessory structure with a footprint less than 150 square feet does not require an elevation or flood-proofing certificate. Elevation or flood-proofing certifications are required for all other accessory structures in accordance with subsection O.

(J) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(1) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(2) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during

conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(3) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of subsection T 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.

(4) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(a) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

SECTION 17.19: SUBDIVISIONS, MANUFACTURED HOME PARKS, AND MAJOR DEVELOPMENTS

All subdivision, manufactured home park and major development proposals located within Special Flood Hazard Areas shall:

(A) Be consistent with the need to minimize flood damage;

(B) Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(C) Have adequate drainage provided to reduce exposure to flood hazards; and,

(D) Have Base Flood Elevation (BFE) data provided if development is greater than the lesser of five (5) acres or fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per subsection E 2. to be utilized in implementing this Section.

SECTION 17.20: STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the Special Flood Hazard Areas established in subsection E 2., where no Base Flood Elevation (BFE) data has been provided, the following provisions shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty feet each side from top of bank or five times the width of the stream whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

(1) When 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 ordinance and shall be elevated or flood-proofed in accordance with standards in subsection O 3.

(2) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of subsections R and W.

(3) 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 fifty (50) lots/manufactured home sites. Such base Flood Elevation (BFE) data shall be adopted by reference in accordance with subsection D and utilized in implementing this ordinance.

(4) 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 flood-proofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in subsection C. All other applicable provisions of subsection S shall also apply.

SECTION 17.21: STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLOISHED 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:

(A) Standards of subsections S and T; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be

permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

SECTION 17.22: FLOODWAYS AND NON-ENCROACHMENT AREAS

Located within the Special Flood Hazard Areas established in subsection E 2. are areas designated as floodways or non-encroachment areas. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions shall apply to all development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the Floodplain Administrator prior to issuance of permit.

A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(B) If subsection X is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Article.

(C) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision provided the following provisions are met:

(1) The anchoring and the elevation standards of subsection T 4; and

(2) The no encroachment standards of subsection X 1. are met.

SECTION 17.23: STANDARDS FOR COASTAL HIGH HAZARD AREAS (ZONE VE)

Coastal High Hazard Areas are Special Flood Hazard Areas established in subsection E 2. and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this Article, the following provisions shall apply to all new construction, substantial improvements and all other development:

(A) All development shall:

(1) Be located landward of the reach of mean high tide;

(2) Be located landward of the first line of stable natural vegetation, and

(3) Comply with all applicable CAMA setback requirements.

(B) All development shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than the regulatory flood protection elevation. Flood-proofing may not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.

(C) All space below the regulatory flood protection elevation shall be open so as not to impede the flow of water.

(D) Open wood lattice work or mesh insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with subsection T 5 d. Design plans shall be submitted in accordance with subsection M 4 c.

(E) All development shall be securely anchored on pilings or columns.

(F) All pilings and columns and the attached structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

(G) A NC licensed & registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in subsection M and subsection Y 4, 6, and 8.

(H) There shall be no fill used as structural support. Non-compacted fill may be used around the perimeter of a building for landscaping/ aesthetic purposes provided the fill will wash out from storm surge, thereby rendering the building free of obstruction prior to generating excessive loading forces, ramping effects, or wave deflection. Design plans shall be submitted in accordance with subsection M 4. (c). The Floodplain Administrator may approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist which demonstrates that the following factors have been fully considered:

(1) Particle composition of fill material does not have a tendency for excessive natural compaction;

(2) Volume and distribution of fill will not cause wave deflection to adjacent properties; and,

(3) Slope of fill will not cause wave run-up or ramping.

(I) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing

manufactured home park or subdivision provided the anchoring and elevation standards are in compliance with this section of code.

(J) Recreational vehicles shall be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of subsection T 7. (a) and the Temporary Structure provisions of subsection T 8.

(K) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:

(1) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and

(2) Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and

(3) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and

(4) Pad thickness shall not exceed 4 inches; or

(5) Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.

(L) For swimming pools and spas, the following is required:

(1) Be designed to withstand all flood-related loads and load combinations

(2) Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or

(3) Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or

(4) Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.

(5) Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.

(6) Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.

(M) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under subsection O 4.

(N) A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

(O) All elevators, vertical platform lifts, chair lifts, etc., the following is required:

(1) Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.

(2) Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.

(3) The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.

(4) Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.

(5) Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.

(6) If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.

(P) Fill/Grading.

(1) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

(2) The fill material must be similar and consistent with the natural soils in the area.

(3) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

(4) Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

SECTION 17.24: STANDARDS FOR COASTAL A ZONES (ZONE CAZ) LiMWA

Structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see the Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.

(A) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal A Zones to satisfy the regulatory flood protection elevation requirements.

(B) All new construction and substantial improvements shall have the space below the lowest horizontal structural member free of obstruction so as not to impede the flow of flood waters, with the following exceptions:

(1) Open wood latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact and in accordance with the provisions of T 5 (d). Design plans shall be submitted in accordance with the provisions of M 4 (c) ii; or

(2) Breakaway walls may be permitted provided they meet the criteria set forth in T 5 c.

(C) All new construction and substantial improvements shall include, in Zones CAZ, 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 be either certified by a professional engineer or architect or meet or exceed the design criteria in T 5 (c).

(D) Concrete pads, including patios, decks, parking pads, walkways, driveways, etc. must meet the provisions of Y 12.

(E) All new construction and substantial improvements shall meet the provisions of Y 3 and 4.

(F) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of subsection M and subsections Y 3,4,5, and 6, on the current version of the North Carolina V-Zone Certification form.

(G) Recreational vehicles may be permitted in Coastal A Zones provided they meet the Recreational Vehicle criteria of T 7.

(H) Decks and patios must meet the provisions of Y 14 and 15.

(I) In coastal high hazard areas, development activities other than buildings and structures must meet the provisions of Y 16.

SECTION 17.25: STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)

Located within the Special Flood Hazard Areas established in E 2, are areas designated as shallow flooding areas. These have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to subsections S and T, all new construction and substantial improvements shall meet the following requirements.

(A) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet above the highest adjacent grade if no depth number is specified.

(B) Non-residential structures may, in lieu of elevation, be flood proofed to the same level as required in subsection AA (1), so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with O and T 2.

(C) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION 17.26: STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH)

Located within the Special Flood Hazard Areas established in E 2, are areas designated as shallow flooding areas. These areas are subject to inundation by 1–percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses shown in this zone. In addition to S and T, all new construction and substantial improvements shall meet the following requirements:

(A) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION 17.27: LEGAL STATUS PROVISIONS

(A) Effect on Rights and Liabilities under the Former Flood Damage Prevention Ordinance. This Section in part comes forward by re-enactment of some of the provisions of the Food Damage Prevention Ordinance enacted July 3, 1985, 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 Section shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Chowan County enacted on July 3, 1985, as amended, which are not reenacted herein are repealed.

The date of the initial flood damage prevention ordinance for each municipal jurisdiction within Chowan County is as follows:

Town of Edenton; September 15, 1977.

(B) Effect upon Outstanding Building 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 permit has been granted by the Floodplain Administrator or his authorized agents before the time of passage of this Section; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to passage of this Article or any revision thereto, construction or use shall be in conformity with the provisions of this Article.

(C) Severability. If any section, clause, sentence, or phrase of this Article 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 Article.

ARTICLE 18. WIRELESS TELECOMMUNICATION STANDARDS

SECTION 18.1: GENERAL REQUIREMENTS

It is the intent of Chowan County to allow telecommunication providers the opportunity to locate wireless telecommunications antenna and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety, and welfare of its citizens, and the aesthetics of the community.

Applicant's Responsibilities and Conformance: (1) It shall be the responsibility of all applicants and operators of the telecommunications equipment described herein to make all possible efforts to maintain consistency with the characteristics of Chowan County, and (2) No WTA, WTSS, or small wireless facility shall be constructed or modified from and after the effective date of these Regulations except in conformance to the provisions stated herein.

SECTION 18.2: SAFETY STANDARDS

All proposed telecommunications towers, new wireless support structures or substantial modification of wireless support structures and wireless facilities shall comply with all applicable federal, state and local laws including specifically the following:

(A) Federal Communications Commission standards, rules and regulations;

(B) Federal Aviation Administration standards, rules and regulations;

(C) G.S. 160D-930, 931, 932, 933 & 934 et seq.;

(D) The North Carolina Building Code;

(E) Accepted industry standards for wind loading, base stabilization and other critical engineering characteristics as defined by American National Standards Institute (ANSI), Telecommunications Industry Association (TIA) and Electronic Industry Alliance (EIA) 222-G or its successors.

SECTION 18.3: DEFINITIONS

The definitions listed within this Article shall take precedence over similar or like definitions found in Article 2 of these Regulations when related to the enforcement of the contents of this Article.

Alternative Antenna Support Structures (AASS). Structures which are functionally and legally capable of supporting wireless communication antennae, including, but not limited to buildings, water towers, and utility poles as an ancillary use of the primary structure.

Antenna. Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communication services.

American Mobile Telecommunications Association (AMTA). A Washington, D.C. based industry trade group which serves to support its specialized mobile radio (SMR) operator members through lobbying and networking efforts.

American National Standards Institute (ANSI). A private sector federation for voluntary standardization of measurements.

Applicable Codes. The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Application. A request submitted by an applicant to Chowan County for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, city utility pole, or a wireless support structure.

Base Station. 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.

Camouflaged Tower. A tower which is designed to blend into the surrounding environment, such as a tower designed to resemble a tree or, if erected on an existing structure, an integral part of the building.

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

Communications Facility. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications Service. Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

Communications Service Provider. A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

Cellular Telecommunications Industry Association (CTIA). A family of representative companies that support the cellular, PCS, and enhanced SMR carriers' industry through lobbying, research and policy efforts.

Eligible Facilities Request. A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Environmental Assessment (EA). An assessment of a project's environmental impact as defined in the National Environmental Policy Act of 1969.

Equipment Compound. An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

Federal Aviation Administration (FAA). The Federal Agency responsible for regulating aviation in the United States.

Fall Zone. The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Federal Communications Commission (FCC). The Federal Agency responsible for regulating telecommunications in the United States.

High-Definition Television (HDTV). Digital television signals transmitted in the very high frequency band by national and local television stations.

Lattice-Type Structure. A self-supporting, three- or four-sided open steel frame structure used to support telecommunications equipment.

Local and State Government Advisory Committee (LSGAC). An FCC-established group which works with both carriers and communities on antenna siting solutions.

Micro Wireless Facility. A small wireless facility that is no larger in dimension than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and that has an exterior antenna, if any, no longer than eleven (11) inches.

Monopole Towers. A slender, open telescoping, self-supporting tower used to support telecommunications equipment.

NEPA. The National Environmental Policy Act of 1969.

Personal Communications Industry Association (PCIA). A trade group which represents PCS, SMR, private radio and other wireless users and carriers.

Search Ring. The area within which a wireless support facility 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.

Small Wireless Facility. A wireless facility that meets both of the following qualifications:

(a) Each antenna is located inside an enclosure of no more than six (6) cubic feet volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six (6) cubic feet.

(b) All other wireless equipment associated with the facility has a cumulative volume of no more than twenty-eight (28) cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, communications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, and other support services.

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

Telecommunications Act of 1996. A broad-scoped federal act which regulates the placement of wireless communications antennae and their facilities, and which provides certain mandates on local authorities while preserving considerable local zoning authority.

TOW AIR. Landing facility slope calculations designed to avoid obstruction by towers to aircraft.

Utility Pole. A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

Water Tower. A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

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

Wireless Infrastructure Provider. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless Provider. A wireless infrastructure provider or a wireless services provider.

Wireless Services Provider. A person who provides wireless services.

Wireless Telecommunications Support Structure (WTSS). 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 or a city utility pole is not a wireless support structure.

Wireless Telecommunications Attachments (WTA) (Not Small Wireless Facility). Devices mounted onto a support structure, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and accessory equipment related to broadcast services, including but not limited to private radio services, cellular or digital telephone services, pagers, beepers, wireless data repeaters and common carriers (as regulated by the FCC), including AM, FM, two-way radio, fixed point microwave dishes, commercial satellite, HDTV, cellular and PCS communication systems. The term WTA does not include electrical or telephone transmission lines or supporting distribution structures, antennae of amateur radio (ham) operators, and amateur club services licensed by the FCC.

SECTION 18.4: CERTIFICATIONS

(A) Certification of Attempt to Co-locate. Any applicants requesting a new WTA or WTSS shall provide a report that evaluates the reasonable feasibility of collocating new antennas and equipment on existing wireless support structures or structures within the applicant's search ring. Collocation is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value.

(B) Certification of No Existing Tower is Satisfactory. Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no

existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure that residential, historic, and designated scenic areas cannot be served from outside the area or that the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure or replacement wireless support structure is necessary to provide the applicant's designed service.

(C) Federal Certification. Any new WTA or WTSS, or any modification to an existing structure, which would affect an increase in height shall require certification in writing by the FAA that such addition or modification constitutes 'No Hazard' to air navigation both by its physical structure and by its potential for radio frequency interference with aviation communication signals. The proposed structure shall also satisfy all TOW AIR requirements. If operator(s) of the proposed structure can reasonably show that the FAA cannot produce such certification, then certification of 'No Hazard' to air navigation from a certified private agency shall suffice.

(D) Certification of Compliance with FCC's Implementation of NEPA of 1969. The applicant(s) for any new WTA or WTSS or modification to any existing WTA or WTSS are required to file with the FCC if the structure location is within any definition provided in Section 1.1307 of the NEPA. If the structure is located in any area defined by this Act, full compliance with the Act's requirements for environmental assessments shall be required.

SECTION 18.5: CO-LOCATION

(A) Co-location of new antennas, wireless facilities and other equipment on an existing wireless support structure or structure within the applicant's search ring shall be required whenever reasonably feasible. Co-location is not reasonably feasible if an applicant can show it is technically or commercially impractical for the applicant to co-locate or if the owners of all of the telecommunication towers within the applicant's search ring where co-location would be technically practical are unwilling to enter into a contract for such use at a fair market value.

(B) Minor telecommunication towers including the structure and fenced compound shall be designed to accommodate the wireless facilities of at least one provider plus space for emergency communication antennas used by the County's emergency services.

(C) Major telecommunication towers including the structure and fenced compound shall be designed to accommodate collocation of the wireless facilities of at least three providers plus space for emergency communication antennas used by the County's emergency services.

SECTION 18.6: NEW CONSTRUCTION PROVISION FOR CO-LOCATION(S)

All new WTSS shall be constructed to permit a minimum of three (3) new WTA. The owner(s) of the new WTSS shall submit a notarized letter to the County declaring that these additional sites shall be available to new tenants. They shall further state that as a condition of sale or transfer of the proposed structure to any new owner(s), operator(s), or agent(s) that a statement of intent to provide for shared use of tower shall be required of any new owner(s), operator(s), or agent(s) and shall be delivered to the County prior to closing.

SECTION 18.7: RADIO FREQUENCY

Radio frequency exposure levels shall not exceed the lesser of FCC and ANSI exposure standards at any potential point of exposure to the general public. The owner(s) and operator(s) of all WTA shall make all reasonable attempts by design, fencing, signage, and the like to limit the public's exposure. An engineer-prepared and sealed document attesting to the fact that the calculated and proposed radio frequency levels shall remain at the lesser of the FCC and ANSI standards is required. This letter shall be required following completion of the structure's construction, and before a certificate of occupancy is issued.

SECTION 18.8: STRUCTURAL INTEGRITY

An engineer's prepared and sealed complete site plan document which denotes compliance with all technical specifications provided in federal and state regulations and this Ordinance, and a certification that the proposed structure and all proposed and potential occupant structures are stable and capable of withstanding a fifty-year hurricane is required.

SECTION 18.9: INSURANCE REQUIREMENTS

New WTSS shall require a minimum of two million dollars ($2,000,000.00) general liability insurance with a letter from the insurer attesting to this fact shall be required prior to receipt of a certificate of occupancy. This same letter shall acknowledge that the insurer shall notify the County thirty days prior to cancellation of this insurance.

SECTION 18.10: STATEMENT OF FINANCIAL RESPONSIBILITY

The owner(s) and their representative(s) shall be required to provide proof of financial responsibility for all wireless telecommunication structures constructed or maintained within the County. This statement shall be completed upon initial application and renewed each year. If full financial responsibility cannot clearly be demonstrated to the full satisfaction of the County, a surety bond for one hundred ten (110) percent of the total cost of all structure(s) removal and associated cleanup may be required by the County. The owner(s) and their representative(s) shall be fully responsible for all maintenance, and continued assurance that the structure(s) continually remain in compliance with this Ordinance.

SECTION 18.11: NEW CONSTRUCTION OR MODIFICATION OF WIRELESS TELECOMMUNICATION SUPPORT STRUCTURES (WTSS)

18.11.1 New Construction

(A) Monopole type structures not exceeding 300 feet may be permitted provided they are painted a neutral gray or brown. Lattice and guy tower structures are not permitted.

(B) Monopole wireless communication towers that are located closer than 1,000 feet to any primary highway or secondary road must be engineered and designed to fall within a fall zone that does not place the tower falling within 300 feet of a primary highway or secondary road.

(C) Notwithstanding subsections (A), (B), above, lattice and guy tower structures no taller than 500 feet may be permitted no closer than 1000 feet to the right-of-way of any US Highway if the WTSS is owned by a local, state, or federal government agency and operated primarily for public safety purposes. Privately owned WTAs may be co-located on the structure as long as the WTSS's primary purpose is to serve public safety purposes.

(D) After demonstration of exhaustion of all co-location opportunities as described in subsection (3) and after showing through substantial, clear, and convincing evidence that in order to provide continuous and non-interruptive cellular or digital telephone, pager, or beeper service in all areas of Chowan County, an owner may locate a lattice and guy tower structure not exceeding 500 feet and meeting all separation and setback requirements outlined in this ordinance.

(E) Expedited Approval. When new wireless support structures or wireless facilities are being placed upon property that is under the ownership of Chowan County and if there are not any residentially occupied structures within 3,000 feet and all other requirements of this Article have been met, such uses shall be permitted by right and not have to undergo the Special Use Permit process.

18.11.2 Demonstration of Need

(A) New WTSS shall be permitted only after clear demonstration that all potential opportunities for co-location have been exhausted, and that no suitable existing support structures exist within the coverage area which may be used, including all WTSS and AASS. The applicant(s) shall identify and assess all potential opportunities for co-location within a 3-mile radius around the proposed point of construction for the new WTSS.

(B) An engineer's prepared and sealed letter shall be required, attesting to the fact that it is technically impossible to co-locate on any existing WTSS and all other AASS within the search area, with a map showing all potential sites, and stating why each is technically unfeasible.

(C) A detailed feasibility study from the applicant(s) demonstrating all technically feasible sites, noting for each site that the applicant(s) attempted, in good faith, to negotiate terms of co-location with the owner(s) of the potential site, and negotiation has failed. The feasibility shall also demonstrate that the applicant is unable to co-locate on existing WTSS and provide functioning service for Chowan County.

18.11.3 Minimum Lot Area

Parcels used for placement of new or modified WTSS shall be a size to accommodate for the required setbacks and designed fall zones as defined below.

18.11.4 Minimum Setbacks

The proposed structure shall be located no closer than one foot per one foot in height of the tower feet from the nearest residential property line, a Primary Highway, or any other adjacent development, an engineered designed and certified fall zone may permit the tower to be no closer than 200 feet to a property line. The proposed wireless communications tower shall be located not closer than 1,000 feet to another wireless communications tower, unless otherwise shown through 18.11.2, Demonstration of Need.

18.11.5 Support Structure Type

Except as provided in subsection 18.11.1 (C) and (D) above, only 'stealth' WTSS or monopole support structures shall be used. Structures involving the use of guy wires for either internal or external bracing and support, or lattice type structures, or any other type of support structure shall be prohibited.

18.11.6 Height

Except as provided in subsection 18.11.1 (C) and (D) above, the WTSS may not exceed the maximum height of three hundred (300) feet.

18.11.7 Illumination

No WTSS or WTA shall be illuminated unless specifically directed by the FAA or other federal agency. If required, lighting must be to the minimum specified by a federal agency. Strobe lights shall be prohibited unless specifically required. When strobe lights are required by the specifying agency, they shall be dual strobes, with white strobes for daytime use, and red strobes for nighttime use. All lighting shall be directed toward the structure, and upward and outward from any public areas. A copy of the FAA lighting requirements letter shall be submitted with the application.

18.11.8 Color

Unless otherwise specified by a federal agency, all WTSS shall be painted a flat gray color. Small Wireless Facility colors are addressed under that specific section.

SECTION 18.12: APPLICANT REQUIREMENTS – NEW CONSTRUCTION OR SUBSTANTIAL MODIFICATION OF WIRELESS TELECOMMUNICATION SUPPORT STRUCTURES (WTSS)

18.12.1 Transferable Special Use Permit

Every special use permit for freestanding WTSS shall be transferable in the event that the property changes ownership and the use of such WTSS remains the same in nature of its original approval.

18.12.2 Complete Application

The requirements for a complete application for a WTSS are provided below:

(A) Application Fee.

(B) Complete application for WTSS.

(C) Copy of FCC license.

(D) Copy of all applications filed with federal and state agencies.

(E) FAA letter ascertaining 'No Hazard' to air navigation.

(F) Statement of financial responsibility or surety bond.

(G) Engineer's letter describing lack of technically feasible co-location opportunities within a three-thousand-foot radius of the proposed site location.

(H) Owner(s) detailed feasibility satisfactory to the Administrator describing inability to negotiate in good faith co-location on all possible sites which are technically feasible.

(I) Owner(s) detailed feasibility satisfactory to the Administrator describing and the availability and opportunity for co-location sites on the proposed structure.

(J) Engineer's site plan for the proposed WTSS depicting the location parcel, its size, zoning, adjacent zoning, and fall radius.

(K) FAA or other federal agency letter describing minimal lighting and color requirements for the proposed WTSS.

(L) Engineer's letter denoting structural integrity of the proposed WTSS and all potential tenants, and certification of its integrity in a fifty-year storm.

(M) Engineer's letter attesting to the fact that exposures to the public of any radio frequency levels will at or below the lesser of the FCC and ANSI standards.

(N) Letter from insurer that the owner(s) will have a minimum two million dollars ($2,000,000.00) general liability policy, and that the insurer will notify the County thirty days prior to cancellation of this insurance.

(O) Engineer's scaled site plan including elevations, visual analysis, rendering, or photo simulation of the proposed WTSS from varying distances as viewed by the public.

(P) Engineer's site plan, including elevations, and showing total heights of the proposed WTA and its support structure, and the WTA proposed color(s) and illumination scheme.

(Q) Landscaping and buffering plan which shows security fencing and screening of ground level equipment.

SECTION 18.13: ADMINISTRATIVE APPROVAL PROCESS

The following types of applications are subject to an Administrative Review and Approvals. This includes facilities used for providing unlicensed spread spectrum technologies (ex.-Bluetooth and WIFI) where no new tower is required:

(A) Any modification not considered Substantial under the terms of this ordinance.

(B) Co-location on Existing Structures.

(1) Height Limitation. WTA located on an existing WTSS, AASS or utility pole shall not exceed ten (10) feet above the structure’s apex.

(2) Color. The color of all WTAs shall match the color of the supporting WTSS or AASS.

(3) Illumination. Illumination requirements for new WTA co-located on existing structures shall be subject to the same requirements for freestanding WTSS.

(4) Complete Application. The checklist of requirements for New or Major Modifications for Telecommunication Antenna (WTA) on Existing Structures are listed below:

(a) Application fee.

(b) Complete application for WTA.

(c) Copy of FCC license or other appropriate documentation satisfactory to the Administrator.

(d) Copy of all applications filed with federal and state agencies.

(e) FAA letter ascertaining ‘No Hazard’ to air navigation.

(f) FAA or other federal agency letter describing minimal lighting and color requirements for the proposed WTA.

(g) Engineer's letter denoting structural integrity of the proposed WTA and all potential tenants, and certification of its integrity in a fifty-year storm.

(h) Engineer's letter attesting to the fact that exposures to the public of any radio frequency levels will at or below the lesser of the FCC and ANSI standards.

(i) Engineer's depiction of the minimal size and other requirement for equipment housing structures.

(j) Engineer's site plan, including elevations, and showing total heights of the proposed WTA and its support structure, and the WTA proposed color(s) and illumination scheme.

SECTION 18.14: EXEMPTIONS TO ADMINISTRATIVE APPROVALS AND PROCESS

The following are exempt from Chowan County's plan approval process and requirements per NCGS 160D-934:

(A) Removal of equipment on an existing tower or wireless communications facility.

(B) Ordinary maintenance of existing wireless communication facilities and wireless support structures.

(C) Facilities owned or leased by Chowan County or County Agencies/ Authorities.

(D) Facilities used exclusively for state and local emergency management systems.

SECTION 18.15: EQUIPMENT HOUSING STRUCTURES

18.15.1 Visibility

The base of the support structure to a minimum height of six (6) feet shall not be visible from any public right-of-way or area of public congregation and must be hidden from view either by natural vegetation or by vegetative screening. All equipment necessary for the functional operation of the technology employed shall be located in either a lawfully pre-existing structure, or in an equipment housing structure. The colors and external characteristics of the equipment housing structures shall be harmonious with, and blend with, the natural features, buildings, and structures surrounding it.

18.15.2 Access Drives

Roads and drives used to gain access from public right-of-way to the equipment housing structures shall be designed to minimize, as much as possible, viewing of the equipment housing structures by the public.

18.15.3 Size

Equipment housing structures shall be the minimum size necessary to accommodate the closed storage of all ground-based equipment, and necessary materials for the primary occupant's technical needs, and for the technical needs of all potential tenants. Depiction of the minimum size necessary to accomplish these technical objectives shall be included in the engineer's site plan details.

18.15.4 Fencing and Screening

The accessory building and its fencing shall be fully surrounded (excepting a single point of access) by a planted vegetative screening, as described below, or by a minimum of ten (10) feet buffer of natural or planted vegetation. Whether natural or planted, the vegetative buffer shall have the effect of fully obscuring the structure and its fencing from public view. All planted buffers shall be at least eight (8) feet tall within 3 years of planting and shall be a combination of evergreen trees and shrubs. Continued maintenance and replacement of the vegetative buffer, as needed, shall be required for the permitted life of the structure. A security fence shall be installed along the full perimeter of the support structure and shall be no less than six (6) feet and no more than eight (8) feet high unless a greater height is required to screen the necessary accessory equipment. The fencing shall incorporate designs for structure security and for making all possible efforts to minimize public exposure to radio frequency radiation. Any and all accessories and all materials relating to the use of the WTA or WTSS shall be installed within the building, unless technically impractical. All road or drive, gate, fence, and vegetative screening details shall be noted within the engineer's site plan. All fencing and gates shall be secured from entry with measures for access being provided to Chowan County Emergency Services and other necessary departments of Chowan County Government. Chowan County shall notify the owner 24 hours in advance before entering upon fenced and secured areas unless an emergency situation exists.

18.15.5 Signage

No advertising signs are permitted on the support structure, the fence, building, or at any location on the site, with the exception of one sign which is attached to the gate, and one sign which is attached to the gate-face of the building for the purposes of safety and information. These two signs shall clearly identify the dangers, and shall provide the names of emergency contact persons and their phone numbers. The sign regulations in this section do not apply to signs required by local, state, or federal agencies.

18.15.6 Two-way and Microwave Antennae

Two-way and microwave antennae shall be located within accessory buildings whenever technically feasible.

18.16.7 Outdoor Storage

Storage of any equipment or materials on the accessory building site or support structure site is prohibited.

18.16.8 Noise Producing Equipment

Noise producing equipment shall be sited and/or insulated to minimize to the maximum practicable extent any increase in noise above ambient levels as measured at the property line.

18.16.9 Electrical and Phone Connections

Electrical connections and land phone lines to and from the accessory building shall be installed underground.

SECTION 18.16: APPLICATION AND REVIEW PROCESS

18.16.1 General

A collocation or eligible facilities request application is deemed complete unless Chowan County provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. Chowan County may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. Chowan County may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

18.16.2 Fees

Fees for the review process for each WTSS or co-located WTA shall be one-hundred dollars ($100.00) for the initial application. Irrevocable payment of all fees shall be due with each appropriate application or annual renewal. Except that, as needed, the County may require remuneration for fees charged by outside technical consultants to assist the County in their review of an application.

18.16.3 Review and Approval Process

Applications for new facilities or substantial modifications, unless exempted, shall be reviewed in accordance with the special use permit review and approval procedures delineated in Article 7 of these Regulations and in accordance with any applicable General Statute in effect. Should there be a conflict between the review procedure set forth herein these Regulations and the applicable General Statute, the review procedure in the General Statutes shall control.

In determining whether a WTSS application should be approved or denied, the Board of Adjustment shall take into account the structure's harmony with the surrounding area, its compatibility with adjacent properties, and the availability, or lack thereof of more suitable sites. The aesthetic effects of the WTSS, as well as any mitigating factors concerning aesthetics, may be used to evaluate the application. In reaching a decision, the Board of Adjustment may request modification of the height, design, screening, placement, or other characteristics of the WTSS to produce a more harmonious situation.

18.16.4 Notice

Notice of approval or disapproval will be provided in writing to the applicant by the Administrator following the Board of Adjustments decision. All discussion and review notes from the Board of Adjustment meeting shall be maintained in writing as part of the public record, and shall be available for review by all interested parties.

18.6.5 Building Permits

Following approval by the Board of Adjustment, the Planning & Inspections Department shall issue a building permit. Construction of the WTA or WTSS shall commence within one (1) year from the date of issue of the building permit. Entire construction of the tower and all its supporting structures shall be completed within one (1) year and six (6) months of the issuance of the building permit, if the construction is not more than 75% completed, the building permit shall be considered null and void. Completion shall be determined based off of total cost to construct and the amount of hours expended, money spent, and visible progress that is observable. An application for a one-time extension of six (6) months may be made by petition to the Board of Adjustment. If the construction has not commenced by the end of this extension period, then the permit shall be considered null and void and a new application shall be required to begin the review process again. The Planning & Inspections Department shall issue a certificate of occupancy following satisfactory completion of the structure and all other site improvements according to design and stated intent. Any unapproved changes to the structure shall prohibit issue of a certificate of occupancy, and shall require a new application and fees to reinitiate the entire review process.

SECTION 18.17: INFORMAL DISPUTE RESOLUTION PROCESS AND APPEALS

All parties shall attempt to adhere to the agreement adopting an informal dispute resolution process as described in the 1998 meeting between the LSGAC, the CTIA, the PCIA, and the AMTA. This process is designed to arrive at a mutual agreement while avoiding lengthy and costly court proceedings. Both parties retain their full legal rights should this remediation process fail. Decisions of the Board of Adjustment regarding special use permit requests shall be subject to review by the Superior Court of Chowan County by proceedings in the nature of certiorari see Article 7.

SECTION 18.18: SMALL WIRELESS FACILITIES

18.18.1 Standards

Small wireless facilities and utility poles installed to support small wireless facilities shall comply with the following requirements:

(A) Small wireless facilities shall be permitted uses in all rights-of-way and on properties containing uses other than single-family dwellings. Small wireless facilities shall be a Special Use on properties developed as single-family dwellings.

(B) Height of New Small Wireless Facilities. New small wireless facilities in the ROW may not extend (i) more than ten feet (10') above an existing utility pole in place or (ii) for small wireless facilities on a new utility pole, above the height permitted for a new utility pole under this Article. A new small wireless facility on private property may not exceed the applicable height limit for the district in which it is located.

(C) Height of New or Modified Utility Poles Installed to Support Small Wireless Facilities. Each new or modified utility pole installed in the ROW shall not exceed the greater of: (i) ten feet (10') above an existing utility pole; or (ii) fifty feet (50') above ground level. In the Single-Family Residential (R5, R15, R25, RMH25, R40) zoning districts, where the existing utilities are installed underground, a utility pole or wireless support structure cannot exceed forty feet (40') above ground level. (Wireless communications towers under 50 feet in height are allowed by right in B-1, B-2, B3, I-1 and I-2 zoning districts and in R-5, R-15, R-25, RMH-25, R-40, and A-1 zoning districts provided that the development standards outlined in Article 19 are met. Wireless communications towers over 50 feet in height are allowed as a special use in A-1, B-1, B-2, I-1, and I-2 zoning districts.

(D) Maximum Size. Poles, utility poles, and/or ground mounted equipment supporting and/or necessary for the operation of a small wireless facility must conform to the size and height limitations for a small wireless facility, poles or utility poles as contained in this section.

(E) Spacing and Setbacks. To minimize the adverse visual impacts associated with the proliferation of above-ground small wireless facilities, no utility pole located in the right-of-way supporting a small wireless facility shall be located within six hundred (600) feet of any other utility pole located in the right-of-way supporting a small wireless facility or utility pole supporting a small wireless facility that is NOT within a right-of-way. On private property, poles supporting small wireless facilities shall meet the applicable building setback requirements for the district in which it is located.

(F) Color. Small wireless facilities shall be the color for the antenna and related equipment that is consistent with or most blends into the wireless support structure on which they are installed, unless a different color is needed for public safety.

(G) Grounding**.** The small wireless facility, including any ground-mounted equipment, shall be grounded in accordance with the requirements of the most current edition of the National Electrical Code adopted by the County regarding grounding of wireless facilities.

(H) Access. Wireless providers and their employees, agents, and contractors shall have the right of access to utility poles, wireless support structures and small wireless facilities in the right-of-way at all times for purposes consistent with this section.

18.18.2 Other Requirements

(A) Small wireless facilities shall be located such that they do not interfere with a public health or safety facility, such as, but not limited to, a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility. New utility poles and small wireless facilities shall not be installed directly over any water, sewer, or reuse main or service line or within an area that would impair the installation of planned sidewalk improvements.

(B) Small wireless facilities and utility poles or wireless support structures on which they are collocated shall not be lighted or marked by artificial means, except when small wireless facilities are collocated on a light pole or where illumination is specifically required by the Federal Aviation Administration or other federal, state, or local regulations.

(C) Wireless providers shall repair all damage to a County's rights-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, utility poles, and to return the rights-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the County within a reasonable time after written notice, the County may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The County may maintain an action to recover the costs of the repairs.

(D) Consent Required for Use of Private Property**.** No person may place, maintain, modify, operate, or replace a privately-owned utility pole or wireless support structure or collocate small wireless facilities on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.

(E) Approval Under this Section Relates Only to Small Wireless Facility**.** The approval of the installation, placement, maintenance, or operation of a small wireless facility does not authorize the provision of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the rights-of-way.

18.18.3 Application Process for Small Wireless Facilities Located Within Public Rights-of-Way or On Properties Containing Uses Other than Single-Family Dwellings.

(A) An applicant seeking to locate small wireless facilities at multiple locations in the County shall be allowed, at the applicant's discretion, to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. The County may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The County may issue a separate permit for each collocation that is approved.

(B) An application must include an attestation that the small wireless facilities shall be collocated on a utility pole, Town utility pole, or wireless support structure and that the small wireless facilities will be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the County and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(C) A permit application shall be deemed complete unless the County provides notice otherwise in writing to the applicant within thirty (30) days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

(D) The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the County fails to approve or deny the application within forty-five (45) days from the time the application is deemed complete or a mutually agreed upon time frame between the County and the applicant.

(E) An application may only be denied on the basis that the proposed activity is inconsistent with any of the following:

(1) Interferes with the safe operation of traffic control equipment;

(2) Interferes with sight line or visibility at intersections;

(3) Interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;

(4) Fails to comply with reasonable and nondiscriminatory spacing requirements that apply to other communications service providers and electric utilities in the right-of-way and that concern the location of ground-mounted equipment and new utility poles. Such spacing requirements shall not prevent a small wireless facility from serving any location; and

(5) Fails to comply with the requirements and design standards outlined in this Article and other applicable codes, including screening of ground-mounted equipment.

(F) If an application is denied, the County must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the County denies an application. The applicant may cure the deficiencies identified by the County and resubmit the application within thirty (30) days of the denial without paying an additional application fee. The County shall approve or deny the revised application within thirty (30) days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

(G) The permit may specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the County and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(H) A wireless provider may apply to the County to place, replace, or modify utility poles in public rights-of-way to support the collocation of small wireless facilities.

(I) The County may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities; (ii) the amount charged by the County for permitting of any similar activity; or (iii) $100.00 per facility for the first five small wireless facilities addressed in an application, plus $50.00 for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the County has the burden of proving that the fee meets the requirements of this subsection.

18.18.4 Applications for Small Wireless Facilities Located on Property Developed with Single-Family Dwellings.

Applicants shall submit all relevant information as required in R. 1. c. above.

18.18.5 Removal, Relocation, or Modification of a Small Wireless Facility.

(A) Notice**.** Within ninety (90) days following written notice from the County, the wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities or utility pole for which it has a permit hereunder whenever the County has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any County improvement in or upon, or the operations of the County in or upon, the public right-of-way.

(B) Emergency Removal or Relocation of Facilities**.** The County retains the right to cut or move any small wireless facilities or utility poles located within the public right-of-way, as the

County may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the County shall notify the wireless provider and provide it an opportunity to move its small wireless facilities or utility poles prior to cutting or removing them and shall notify the wireless provider after cutting or removing a small wireless facility or utility pole.

SECTION 18.19: ABANDONMENT

A wireless services provider shall remove an abandoned wireless facility within one hundred eighty (180) days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the County may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For the purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is one hundred eighty (180) days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the County reasonable evidence that it is diligently working to place such wireless facility back in service.

ARTICLE 19. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES

SECTION 19.1: APPLICATION OF DEVELOPMENT STANDARDS

The development standards listed herein are additional to other requirements in these Regulations. These development standards are use-specific and apply to those uses designated with a 'DS' in Table of Permitted Uses. Uses requiring approval of a special use (designated with an 'S' or 'C') shall also be subject to these standards as well as any additional standards or conditions required by the permit-issuing board. Permit applications and site plans for these uses shall demonstrate how compliance with the applicable development standards will be achieved. Should there be a discrepancy between the Table of Permitted Uses and any other section of these Regulations as to a use being permissible, the Table of Permitted Uses shall prevail.

SECTION 19.2 GENERAL STANDARDS FOR ALL USES

The following rules apply to all development standards and uses listed below.

19.2.1 Property Separation

All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed use is to be located to the lot line of the closest use (or zoned property) from which the proposed use is to be separated.

19.2.2 Use Separation

All measurements shall be made by drawing straight lines from the nearest point on the wall of a proposed or existing principal building or edge of a proposed use to the nearest point on the wall of the principal building from which the subject building is to be separated, unless otherwise specified. For certain uses that operate outside of a structure or on separate areas of the parcel that is the site of the use, the Administrator may determine where the measurement shall begin based on the nature and activity of the use, the Administrator shall make this judgement with the adjacent property owners interest and the intent to mitigate potential impacts as a factor.

19.2.3 Outdoor Lighting

Outdoor lighting structures shall be located, angled, shielded, or limited in intensity so as to cast no direct light upon adjacent property and to avoid the creation of a visual safety hazard to passing motorists. If safety concerns exist due to a lack of provided lighting or insufficient lighting, the Administrator may require that lighting be provided.

19.2.4 Noise Levels

Unless otherwise specified herein, noncompliance with the noise level limits established by these Regulations shall mean exceeding the specified noise limit for 5 or more of any 25 consecutive readings taken at 10-second intervals when measured at any point beyond the property line of the property from which the noise originates. If any requirement in these Regulations exceeds those of the Noise Control Ordinance for Chowan County, the more restrictive standard shall apply.

19.2.5 Use Discrepancy

If discrepancy exists between uses allowed in this Article where uses may have failed to have been included in the Table of Uses, the listed use in the Table of Uses shall prevail.

SECTION 19.3 ACCESSORY DWELLING UNITS (ON SINGLE-FAMILY LOTS)

19.3.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.3.2 General Requirements

(A) The accessory dwelling unit is permitted on the same lot as a principal dwelling unit.

(B) No more than one accessory dwelling unit is permitted on the same lot with a principal dwelling unit.

(C) No accessory dwelling unit shall be permitted on the same buildable lot with a two-family or multi-family dwelling or family care home.

(D) The accessory dwelling unit shall be owned by the same person who owns the principal dwelling unit.

(E) Accessory dwelling units may be utilized as short-term rentals.

19.3.3 Accessory Dwelling Unit within a Detached Accessory Structure

(A) The lot proposed for a detached accessory dwelling unit must have an additional 5,000 square feet for the accessory dwelling and must have an adequate area upon the property to accommodate for a septic system if the accessory dwelling is not permitted to utilize the septic system for the primary structure. The parcel must be of a size conforming with these regulations for the primary structure. For example, a 27,000 square foot lot in the R-25 zoning district would not meet the additional 5,000 square foot requirement to allow for an accessory dwelling unit, a 30,000 square foot lot would be of sufficient size to allow for the accessory dwelling unit.

(B) Detached accessory dwelling units with a gross floor area of less than 600 square feet shall be located at least 10 feet from side and rear property lines. Accessory dwelling units with a

gross floor area of 600 square feet or greater shall meet the setback requirements of the principal building.

(C) Detached accessory dwelling units shall be located behind the front building line of the principal structure and at least 20 feet from the principal dwelling.

(D) A detached accessory dwelling unit may be a manufactured home in zoning districts that permit manufactured homes to be located on individual lots, in these instances the lot is required to be one and a half times the minimum lot area required for the zoning district in which it is located, if the accessory dwelling manufactured home is not under the ownership of the parcel owner, the property must be subdivided.

(E) A detached accessory dwelling unit may be a dwelling unit that is part of an accessory garage or a freestanding dwelling unit meeting the NC Building Code.

(F) The total floor area of a detached accessory dwelling unit, other than a manufactured home, shall be no greater than 50 percent of the heated floor area of the principal building.

19.3.4 Accessory Dwelling Unit within a Principal Single-Family Dwelling

(A) The principal building shall not be altered in any way so as to appear from a public or private road to be multi-family housing. Prohibited alterations include, but are not limited to, multiple mailboxes. Separate individual entrances which may include stairways or doorways are allowed for accessory dwelling units provided they are not visible from a public or private right-of-way.

(B) An accessory dwelling unit shall occupy no more than 40 percent of the heated floor area of the principal building. The sum of all accessory uses (including home occupations) in a principal building shall not exceed 60 percent of the total floor area.

SECTION 19.4: AGRICULTURAL CHEMICALS, PESTICIDES OR FERTILIZERS (WHOLESALE TRADE OF), AGRICULTURAL PRODUCTS, OTHER INCLUDING TOBACCO AUCTION WAREHOUSING (WHOLESALE TRADE OF), AND ANIMAL & ANIMAL PRODUCTS, OTHER (WHOLESALE TRADE OF)

19.4.1 Where Development Standards are Required

A-1 district.

19.4.2 Property Separation

All structures, buildings or enclosed areas used for the operation shall be a minimum of 150 feet from all property lines.

19.4.3 Noise

Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.4.4 Dust

All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.4.5 Fencing

Security fencing at a height of 8 feet shall be provided around all outside storage areas.

19.4.6 Access

A truck route plan shall be submitted showing routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools or other land uses which would be negatively impacted by truck traffic. Traffic routes should take into consideration school traffic, and peak travel hours and coordinate to mitigate impacts.

19.4.7 Odors

The use shall not generate fumes or odors beyond what normally occurs in the zoning district in which it is located. Fumes and odors are expected but mitigation efforts shall be made.

SECTION 19.5: AIRPORT OR AIR TRANSPORTATION FACILITY

19.5.1 Where Development Standards are Required

A-1 and I-2 districts.

19.5.2 Minimum Area

Fifty acres for Basic Utility Stage 1 airport with 2,000-foot runway. More area is required for larger airports. Airport size and layout shall conform to *FAA Advisory Circular 150/5300-4B*.

19.5.3 Use Separation

There shall be a minimum of 300-foot distance between the airport property and the nearest residence.

19.5.4 Fencing

Security fencing shall be provided sufficient to control access to runways and taxiways. The fencing shall be a minimum of 10 feet in height.

SECTION 19.6: AMMUNITION, SMALL ARMS (MANUFACTURE OF)

19.6.1 Where Development Standards are Required

I-2 district.

19.6.2 Use Separation

No such facility shall be located within a 500-foot radius of any residentially zoned or use property.

19.6.3 Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of such a facility.

19.6.4 Operation

The facility and its operation shall observe all county and state regulations regarding fire prevention and protection requirements.

19.6.5 Discharge

There shall be no outdoor discharge of ammunition or live firing outside of the structure used for manufacturing.

SECTION 19.7: AMUSEMENT OR WATER PARKS, FAIRGROUNDS

19.7.1 Where Development Standards are Required

A-1, B-1, B-2, I-1 & I-2 districts.

19.7.2 Minimum Area

The minimum lot area shall be 5 acres.

19.7.3 Property Separation

No buildings or structures, temporary or otherwise, shall be located within 50 feet of any property line.

19.7.4 Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of the park activities.

19.7.5 Use Separation

No amusement equipment, machinery or mechanical device of any kind may be operated within 200 feet of any residentially used or zoned property.

SECTION 19.8: ANIMAL SHELTERS

19.8.1 Where Development Standards are Required

A-1 district.

19.8.2 Minimum Area

The minimum lot area shall be 2 acres.

19.8.3 Outside Storage

Outside areas for animals may be provided, however no animals are to permanently be kept or penned outdoors, all animals must be housed indoors and are only allowed to utilize the outside area on a temporary basis. All outdoor areas must be fenced with a 10-foot fence and outdoor areas shall be a minimum of 200 feet from the property line. Outdoor areas shall be maintained in a sanitary manner.

19.8.4 Use Separation

Fifty feet minimum from any property line; 300 feet minimum from any residentially zoned or used property.

19.8.5 Hours of Operation

The hours of operation shall be compatible with the land uses adjacent to the animal shelter. No public hours of operation shall be between 11 PM or 7 AM, due to the fact live animals are being kept, staff members may periodically access the shelter on a 24-hour basis to ensure the well-being of the animals are being met.

19.8.6 Access

Animal shelters shall have direct access to a collector or higher capacity road that is a public NCDOT right-of-way.

SECTION 19.9: ANIMAL SLAUGHTER OR RENDERING

19.9.1 Where Development Standards are Required

I-2 district.

19.9.2 Property Separation

All structures, buildings or enclosed areas used for the operation shall be a minimum of 150 feet from all property lines.

19.9.3 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.9.4 Dust

All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.9.5 Fencing

Security fencing a minimum height of 8 feet shall be provided around all outside storage areas.

19.9.6 Access

A truck route plan shall be submitted showing routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools or other land uses which would be negatively impacted by truck traffic. Traffic routes should take into consideration school traffic, and peak travel hours and coordinate to mitigate impacts.

19.9.7 Odors

The use shall not generate fumes or odors beyond what normally occurs in the zoning district in which it is located. Fumes and odors are expected but mitigation efforts shall be made.

SECTION 19.10: AUTOMOBILE REPAIR SERVICES; BOAT BUILDING AND REPAIR

19.10.1 Where Development Standards are Required

A-1 district.

19.10.2 Property Separation

All structures, buildings or enclosed areas used for the operation shall be a minimum of 150 feet from all adjoining residentially zoned or used property lines.

19.10.3 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.10.4 Fencing and Screening

Security fencing a minimum of 6 feet in height shall be provided around all outside storage areas. All outside storage areas shall be screened from adjoining residential land uses in accordance with the standards of Article 20.

19.10.5 Access

The street of access shall be from a road which is capable of accommodating the traffic expected to be generated by the proposed use. The Administrator shall make this determination and may require that the applicant provide a traffic impact analysis, study, or a certified letter from the NCDOT.

19.10.6 Odors

The use shall not generate fumes or odors that adversely impact the activities of the adjacent land uses. Fumes and odors are expected but mitigation efforts shall be made.

19.10.7 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 9 pm and 8 am.

SECTION 19.11: BATTING CAGES (INDOOR & OUTDOOR)

19.11.1 Where Development Standards are Required

B-1 district, and A-1 district. A-1 district required to have a minimum parcel size of 3 acres and only indoor batting cages are permitted.

19.11.2 Security Fencing

Fencing, netting or other control measures shall be provided around all sides of the batting area to prevent balls from leaving the designated area (outdoor).

19.11.3 Minimum Property Setbacks

All buildings and structures shall be a minimum of 50 feet from any residentially zoned or used lot.

19.11.4 Screening

All off-street parking lots shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.11.5 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 9 pm and 8 am.

19.11.6 Noise

The amount of noise generated shall not disrupt the activities of the adjacent land uses. Some noise is expected but mitigation measures are encouraged to be made. Noise mitigation may be required by the Administrator after the commencement of the use if repeated noise nuisance is observed by the Administrator.

SECTION 19.12: BED AND BREAKFAST INN & HOME

19.12.1 Where Development Standards are Required

R-15, R25, RMH25, R40, and A-1 districts.

19.12.2 Operation

(A) The use must be the permanent residence of the owner or manager of the business. A Bed & Breakfast Home must be in single private ownership.

(B) The use shall be located in a structure that or the applicable NC Building Code for the nature of the use as determined by Chowan County Building Inspections.

(C) Meals served on the premises shall be only for guests of the facility.

(D) The Bed & Breakfast Home shall have no more than 8 guest rooms for rent and guests shall not rent a room for more than 30 days within a calendar year. Guests shall not consecutively stay for more than 7 days. The operator is to keep an accurate log of guests and number of days they have resided at the Bed & Breakfast and it is to be readily available for the Administrators review within a 24 hour notice period.

(E) The Bed & Breakfast Inn shall have no less than 9 but no more than 12 guest rooms for rent and guests shall not rent a room for more than 30 days within a calendar year. Guests shall not consecutively stay for more than 7 days. The operator is to keep an accurate log of guests and number of days they have resided at the Bed & Breakfast and it is to be readily available for the Administrators review within a 24 hour notice period.

19.12.3 Signs

There shall be no exterior advertising except that which is permitted for a home occupation.

19.12.4 Screening

Parking lots shall be screened from adjoining residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.13: BOARDING AND ROOMING HOUSE

19.13.1 Where Development Standards are Required

R-5, B-1, and B-3 districts.

19.13.2 Operation

(A) The use must be owned and operated by a resident owner.

(B) The use shall be located in a structure that meets NC Building code to be a residence or the applicable NC Building Code for the nature of the use as determined by Chowan County Building Inspections.

(C) The quarters utilized by boarders and occupants of the premises shall be in the principal residential structure.

(D) There shall be adequate water closet, bathroom, and lavatory facilities for each two rooms on the floor that serves them.

(E) Each room shall be a minimum of 100 sq feet of floor space with an additional 70 feet of floor space for each room that has more than 2 sleeping occupants.

(F) Sanitary maintenance of the rooms and facilities is required.

(G) Meals served on the premises shall be only for residents of the facility.

(H) Residents of the home shall stay a minimum of one week but no more than one year.

19.13.3 Signs

There shall be no exterior advertising except that which is permitted for a home occupation.

19.13.4 Screening

Parking lots shall be screened from adjoining residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.14: BREWERY

19.14.1 Where Development Standards are Required

B-1 district, and A-1 district.

19.14.2 Use Separation

There shall be no breweries within 1,000 feet of any church, school, library, park, recreation area, or place of worship.

19.14.3 Security Fencing

Outside congregation areas or consumption areas shall be enclosed by a fence a minimum of 6 feet in height.

19.14.5 Minimum Property Setbacks

All buildings and structures shall be a minimum of 50 feet from any residentially zoned or used lot.

19.14.6 Screening

Shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.10.2.

19.14.7 Hours of Operation

The hours of operation shall be from 10AM-10PM. A maximum of 6 employees may work during non-permitted business hours for the purpose of maintenance and necessary activity to brew beer.

19.14.8 Noise

The amount of noise generated shall not disrupt the activities of the adjacent land uses. Some noise is expected but mitigation measures are encouraged to be made. Noise mitigation may be required by the Administrator after the commencement of the use if repeated noise nuisance is observed by the Administrator.

SECTION 19.15: BUILDING SUPPLY SALES

19.15.1 Where Development Standards are Required

A-1 district.

19.15.2 Use Separation

Fifty feet minimum from any property line; three hundred feet minimum from any residentially zoned or use lot.

19.15.3 Dust

All unpaved areas shall be maintained in a manner that prevents dust from leaving the property. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.15.4 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.15.5 Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided around all outside storage areas.

19.15.6 Screening

Parking lots, loading areas, and any outdoor storage areas shall be screened from an abutting residentially used or zoned lot by a buffer yard which complies with the requirements of Article 20.

19.15.7 Access

Access to the use shall be from a collector or higher capacity road that is a public NCDOT right-of-way.

SECTION 19.16: CARETAKER DWELLING (TEMPORARY HEALTHCARE STRUCTURE)

19.16.1 Where Development Standards are Required

All districts. These shall be permitted provided all development standards are met.

19.16.2 Operation

Caretaker dwellings or temporary healthcare structures are allowed to operate for the purpose of providing support in activities of daily living to mentally or physically impaired persons, these persons shall require support for two or more activities of daily living which include bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, or eating.

No more than one caretaker dwelling unit shall be permitted per lot.

19.16.3 General Requirements

A caretaker dwelling shall:

(A) Have an approved sewage disposal connection or system, and water system.

(B) Meet all setbacks applicable to the principal building or use.

(C) Be no more than 300 square feet.

(D) Be assembled at a site other than where it will be located.

(E) Be a transportable residential structure.

(F) Pay a $100 fee to establish the caretaker dwelling and an annual renewal fee of $50.

(G) Provide annual documentation and certification from a licensed medical physician that determines the caretaker is still needed.

(H) Caretaker dwellings shall be removed within 60 days in which the physically or mentally disabled person no longer needs assistance.

SECTION 19.17: CARNIVALS AND FAIRS

19.17.1 Where Development Standards are Required

A-1, B-1, B-2, B-3, I-1, and I-2 districts.

19.17.2 Minimum Lot Area

The minimum lot area shall be 5 acres.

19.17.3 Hours of Operation

The hours of operation allowed shall be between the hours of 11 AM and 11 PM.

19.17.4 Noise

The amount of noise generated shall not disrupt the activities of the adjacent land uses. Some noise is expected but mitigation measures are encouraged to be made. Noise mitigation may be required by the Administrator after the commencement of the use if repeated noise nuisance is observed by the Administrator.

19.17.5 Parking

The Administrator shall not approve the permit unless he/she finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners. The Administrator may require that the applicant provide a traffic impact analysis or study or a certified letter from NCDOT that addresses anticipated traffic impacts. A traffic plan may also be requested by the Administrator that includes anticipated flow and mitigation strategies.

SECTION 19.18: CEMETERY OR MAUSOLEUM NOT ON SAME PROPERTY AS CHURCH

19.18.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, B-1, B-2, and B-3 districts.

19.18.2 Minimum Lot Area

The minimum lot area shall be 5 acres.

19.18.3 General Requirements

(A) All applicable requirements of the North Carolina General Statutes and Chowan County concerning the interment of human dead shall be met.

(B) No interment shall take place within 100 feet of any property line or public road right-of-way.

(C) Buildings for the maintenance, management, rent and/or sale of cemetery lots must be located at least 100 feet from any lot line that adjoins a residential zoning district. Otherwise, such buildings shall conform to the requirements of the principal use for the district in which located.

19.18.4 Access

Access to the use shall be from a collector or higher capacity road that is a public NCDOT right-of-way.

SECTION 19.19: CHURCH OR OTHER PLACE OF WORSHIP

19.19.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, and R-40 districts.

19.19.2 Minimum Property Setbacks

The minimum front setback shall be at least 75 feet. The minimum side and rear setbacks shall be at least 50 feet.

19.19.3 Screening

Parking lots shall be screened from adjoining residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.19.4 Access

Church facilities located on site of 3 acres or more shall have direct access to a collector or higher capacity road that is a public NCDOT right-of-way.

SECTION 19.20: CIVIC, SOCIAL, AND FRATERNAL ASSOCIATIONS

19.20.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.20.2 Location

Clubs shall have direct access to a collector or higher capacity road that is a public NCDOT right-of-way. However, if the use is intended to serve only a membership that is limited to a residential development, access may be provided from a residential road or an interior road within the residential development. The Administrator may also determine that sufficient access is provided.

19.20.3 Screening

All parking lots shall be screened from all adjoining residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.20.4 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10 pm and 8 am.

SECTION 19.21: COLLEGE, UNIVERSITY, OR TECHNICAL INSTITUTE

19.21.1 Where Development Standards are Required

A-1 district.

19.21.2 Permissible Uses

There are locations in which educational and support land uses that are physically removed from a main campus environment may be an appropriate and compatible land use in the A-1 zoning district. In such cases, allowable uses may include, in addition to the principal college, university or technical institute use, the following residential land uses:

- Single-family Detached Dwellings
- Two-family Dwellings
- Townhouse Dwellings
- Multifamily Residences

19.21.3 Development Standards

Residential uses shall comply with the dimensional standards of the underlying zoning district except that such residential uses may be developed as a Planned Unit Development, in which case the applicable development standards delineated in this Article shall be followed. Nonresidential uses may be developed as allowable in PUDs per this Article.

SECTION 19.22: CONCERTS, STAGE STOWS

19.22.1 Where Development Standards are Required

A-1 district.

19.22.2 Minimum Lot Area

The minimum lot size shall be 3 acres.

19.22.3 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the concert or stage show. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10 pm and 8 am.

19.22.4 Noise

The amount of noise generated shall not disrupt the activities of the adjacent land uses. Some noise is expected but mitigation measures are encouraged to be made. Noise mitigation may be required by the Administrator after the commencement of the use if repeated noise nuisance is observed by the Administrator.

19.22.5 Parking

The Administrator shall not approve the permit unless he/she finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners. The Administrator may require that the applicant provide a traffic impact analysis or study or a certified letter from NCDOT that addresses anticipated traffic impacts. A traffic plan may also be requested by the Administrator that includes anticipated flow and mitigation strategies.

19.22.6 Access

Principal access must be from a collector or higher capacity road that is a public NCDOT right-of-way.

SECTION 19.23: CONTRACTORS, GENERAL BUILDING AND CONTRACTORS, SPECIAL TRADES

19.23.1 Where Development Standards are Required

A-1, B-1, and B-2 districts.

19.23.2 Use Separation

Fifty feet minimum from any property line; three hundred feet minimum from any residentially-zoned or used lot.

19.23.3 Dust

All unpaved areas shall be maintained in a manner that prevents dust from leaving the property. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.23.4 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.23.5 Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided around all outside storage areas.

19.23.6 Screening

Any outdoor storage area shall be screened from an abutting residentially used or zoned lot by a buffer yard which complies with the requirements Article 20.

SECTION 19.24: CONVENIENCE STORE

19.24.1 Where Development Standards are Required

A-1 district.

19.24.2 Maximum Floor Area

A maximum of 6,000 square feet of gross floor area shall be permitted per establishment.

19.24.3 Screening

Any outdoor storage area shall be screened from an abutting residentially used or zoned lot by a buffer yard which complies with the requirements of Article 20.

SECTION 19.25: CORRECTIONAL INSTITUTION

19.25.1 Where Development Standards are Required

I-2 district.

19.25.2 Minimum Setbacks

The use shall be set back 100 feet from all property lines and public road rights-of-way.

19.25.3 Use Separation

All structures, enclosed areas, and fenced areas shall be located at least 200 feet from any residentially zoned or used lot.

19.25.4 Access

Principal access shall be from a collector or higher capacity road that is a public NCDOT right-of-way.

SECTION 19.26: COUNTRY CLUB WITH GOLF COURSE

19.26.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.26.2 Minimum Area

The minimum area shall be 10 acres.

19.26.3 Use Separation

Fifty-foot minimum distance between clubhouse, swimming pool, lighted tennis court, tees, greens, or fairways and any adjacent residentially zoned or used property.

19.26.4 Security Fencing

Outdoor swimming pools shall be protected by a fence in accordance with the Albemarle Regional Health Department's public swimming pool regulations.

SECTION 19.27: DAY CARE CENTER, CHILD OR ADULT

19.27.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.27.2 Security Fencing

Outdoor activity area(s) for children shall be enclosed by a security fence at least 6 feet in height and shall be located outside of the front setback.

19.27.3 Location

Day care centers on a site greater than 3 acres shall have access to a collector or thoroughfare road that is a public NCDOT right-of-way.

19.27.4 Hours of Operation

In residential districts, the use shall not be operated between the hours of 9 p.m. and 7 a.m.

SECTION 19.28: DOPPLER RADAR TOWERS

19.28.1 Where Development Standards are Required

A-1 District.

19.28.2 Minimum Area

A parcel size of at least 5 acres is needed to establish a Doppler Radar Tower.

19.28.3 Maximum Height

The radar tower height shall not exceed 200 feet.

19.28.4 Use Separation

Doppler Radar towers must be at least 3 miles away from a wind turbine facility, wireless communication towers, water towers, airports, and solar farms.

19.28.5 Screening & Security

All doppler radar towers are required to be provided with an 8 foot security fence and any ground level equipment associated with the doppler radar shall be screened by the use of opaque fencing or vegetative screening consisting of plantings that encompass the entire perimeter of the security fencing which includes a series of small trees not to exceed 10 feet in height and vegetative shrubs. The screening is only necessary when the equipment or fencing is visible from a public right-of-way or an occupied adjacent parcel.

19.28.6 Design Standards & Setbacks

The tower shall be engineered and designed to fall within a designated fall zone. The tower shall be setback a minimum of 1,000 feet from all adjacent property lines.

SECTION 19.29: ELEMENTARY OR SECONDARY SCHOOL

19.29.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.29.2 Minimum Area

Minimum lot size shall be 5 acres.

19.29.3 Access

Principal access shall be from a collector or higher capacity road that is a public NCDOT right-of-way.

19.29.4 Screening

All parking lots shall be screened from all adjoining residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.30: EXPLOSIVES MANUFACTURE & STORAGE

19.30.1 Where Development Standards are Required

I-2 district.

19.30.2 Property Separation

No facility shall locate within 500 feet of any residentially, office, or institutionally used property.

19.30.3 Minimum Property Setbacks

Buildings, including any accessory buildings for storage of explosive raw materials and/or final products, shall be not less than 150 feet from all property lines.

19.30.4 Security Fencing

Security fencing, a minimum of 10 feet in height, shall be provided along the entire boundary of the facility. Fencing shall contain informative signing related to emergency scenarios and the nature of the use.

19.30.5 Operation

Building(s) shall meet the requirements for Hazardous Occupancy under the NC Building Code. There shall be no outside storage of any materials used for the manufacture of an explosive.

SECTION 19.31: FAMILY CARE HOME

19.31.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, A-1, B-1, B-2, and B-3 districts.

19.31.2 Separation Requirement

In accordance with the provisions of NCGS 168-22(a), no family care home may be located within a one-half mile radius of an existing family care home.

SECTION 19.32: FARM PRODUCT WAREHOUSING AND STORAGE; FARM SUPPLIES AND EQUIPMENT (RETAIL TRADE OF); AND FARM SUPPLIES, OTHER (WHOLESALE TRADE OF)

19.32.1 Where Development Standards are Required

A-1 district.

19.32.2 Use Separation

All structures, buildings or enclosed areas used for the operation shall be a minimum of 100 feet from all property lines.

19.32.3 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.32.4 Dust

All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

SECTION 19.33: FIRE STATION/EMERGENCY MEDICAL SERVICES

19.33.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.33.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially zoned or used structure.

19.33.3 Access

Principal access shall be from a collector or higher capacity road that is a public NCDOT right-of-way.

19.33.4 Screening

All parking lots shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.34: FISH AND SEAFOODS (WHOLESALE TRADE OF); FISH AND SEAFOODS (MANUFACTURING OF PREPARED FRESH OR FROZEN, CANNED OR CURED)

19.34.1 Where Development Standards are Required

A-1 district.

19.34.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 150 feet from any residentially zoned or used structure.

19.34.3 Access

Principal access shall be from a road that is capable of accommodating the traffic, including truck traffic, expected to be generated by the proposed use. The Administrator may require that the applicant provide a traffic impact analysis or study or a certified letter from NCDOT that addresses anticipated traffic impacts. A traffic plan may also be requested by the Administrator that includes anticipated flow and mitigation strategies.

19.34.4 Screening

All parking lots shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20. All outside storage areas shall be screened from adjoining residential uses or residentially zoned lots in accordance with the standards of Article 20.

19.34.5 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.34.6 Dust

All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.34.7 Odors

The use shall not generate fumes or odors that adversely impact the activities of the adjacent land uses. Fumes and odors are expected but mitigation efforts shall be made.

SECTION 19.35: FLOWERS, NURSERY STOCK, AND FLORIST SUPPLIES; FOREST PRODUCTS (WHOLESALE TRADE OF)

19.35.1 Where Development Standards are Required

A-1 district.

19.35.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

19.35.3 Access

Principal access shall be from a collector or higher capacity road that is a public NCDOT right-of-way.

19.35.4 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.35.5 Dust

All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.35.6 Screening

All off-street parking lots and outside storage areas shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Sections 16.02 and 16.04, B.

SECTION 19.36: FOOD STORES

19.36.1 Where Development Standards are Required

A-1 district.

19.36.2 Minimum Property Setbacks

All buildings and structures shall be a minimum of 50 feet from any residentially zoned or used lot.

19.36.3 Screening

All off-street parking lots and outside storage areas shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required parking lot buffer yard shall comply with the requirements of Article 20. Any outdoor storage area shall be screened in accordance with the requirements of Article 20.

19.36.4 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 11 pm and 7 am.

SECTION 19.37: GO-CART RACEWAY

19.37.1 Where Development Standards are Required

B-1 district.

19.37.2 Property Separation

No raceway shall be located within 500 feet of any residential, office, or institutional use or zoning district.

19.37.3 Noise

The facility shall be sited and operated so as to not produce noise or sound that would adversely impact adjoining and surrounding properties. Some noise is expected but mitigation measures are encouraged to be made. Noise mitigation may be required by the Administrator after the commencement of the use if repeated noise nuisance is observed by the Administrator.

19.37.4 Dust

All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjoining properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.37.5 Fencing

Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of the raceway.

19.37.6 Hours of Operation

No such facility that adjoins residentially used or zoned property shall conduct business between the hours of 10 pm. and 8 am.

SECTION 19.38: GOLF COURSE

19.38.1 Where Development Standards are Required

R5, R-15, R-25, RMH-25, and R-40 districts.

19.38.2 Use Separation

Fifty-foot minimum distance between clubhouse, tees, greens, or fairways and any adjacent residentially-zoned or used property.

19.38.3 Minimum Lot Size

A minimum of 10 acres is required.

SECTION 19.39: GOLF DRIVING RANGE

19.39.1 Where Development Standards are Required

B-1 and B-2 districts.

19.39.2 Minimum Lot Depth

The minimum lot depth from the tees to the end of the driving area shall be 1,000 feet or the end shall be controlled with netting and/or berms to prevent golf balls from leaving the property.

19.39.3 Security Fencing

Fencing, netting, trees, berms, or other control measures shall be provided around the perimeter of the driving area so as to prevent golf balls from leaving the driving area.

19.39.4 Screening

All parking lots shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Section 16.02.

19.39.5 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10 pm and 8 am.

19.39.6 Noise

The amount of noise generated shall not disrupt the activities of the adjacent land uses. Some noise is expected but mitigation measures are encouraged to be made. Noise mitigation may be required by the Administrator after the commencement of the use if repeated noise nuisance is observed by the Administrator.

SECTION 19.40: GRAIN AND FIELD BEANS (WHOLESALE TRADE OF); GRAIN MILL PRODUCTS (MANUFACTURE OF)

19.40.1 Where Development Standards are Required

A-1 district.

19.40.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

19.40.3 Access

Principal access shall be from a collector or higher capacity road that is a public NCDOT right-of-way.

19.40.4 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.40.5 Dust

All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.40.6 Screening

All parking lots and outside storage areas shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.41: GROUP CARE FACILITY

19.41.1 Where Development Standards are Required

R-5 and B-1 districts.

19.41.2 Property Separation

No such facility shall be located within one-half mile of an existing group care facility, halfway home or family care home.

19.41.3 Operation

The facility shall be limited to not more than 12 persons and three resident support personnel and manager.

19.41.4 Screening

All parking lots shall be screened from all adjoining residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.41.5 Parking

Parking spaces shall be located on-site and located in the rear or to the side of the principal structure behind the building line.

19.41.6 Location

The use shall be located and sited so as to mitigate adverse impacts on adjoining residential properties.

SECTION 19.42: HALFWAY HOUSE

19.42.1 Where Development Standards are Required

R-5 and B-1 districts.

19.42.2 Property Separation

No such facility shall be located within a 2,000-foot radius (measured by a straight line and not street distance) of another halfway house, family care home or group care facility.

19.42.3 Operation

The facility shall be limited to not more than 9 persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in NCGS 35-17(30), or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

19.42.4 Screening

All parking lots shall be screened from all adjoining residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.42.5 Parking

Parking spaces shall be located on-site and located in the rear or to the side of the principal structure behind the building line.

19.42.6 Location

The use shall be located and sited so as to mitigate adverse impacts on adjoining residential properties.

SECTION 19.43: HARDWARE STORE

19.43.1 Where Development Standards are Required

A-1 district.

19.43.2 Minimum Property Setbacks

All buildings and structures shall be a minimum of 50 feet from any residentially zoned or used lot.

19.43.3 Screening

All parking lots and outside storage areas shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.43.4 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10 pm and 7 am.

19.43.5 Noise

The amount of noise generated shall not disrupt the activities of the adjacent land uses. Some noise is expected but mitigation measures are encouraged to be made. Noise mitigation may be required by the Administrator after the commencement of the use if repeated noise nuisance is observed by the Administrator.

SECTION 19.44: HAZARDOUS AND RADIOACTIVE WASTE (TRANSPORTATION, STORAGE, AND DISPOSAL)

19.44.1. Where Development Standards are Required

I-2 district.

19.44.2 Operation

The use shall comply with the Federal Resource Conservation and Recovery Act of 1976, as amended (PL 94-580) and the North Carolina Solid Waste Management Act, as amended (Article 13B. NCGS 130-166.16) for design, siting, and materials to be stored and treated.

19.44.3 Property Separation

All storage, treatment, and loading facilities handling hazardous materials will be located at least 200 feet from any property line and at least 1,250 feet from any lot not located in an industrial district. The required separation area shall contain a sufficient amount of natural or planted vegetation so that such facilities are screened visually from an adjoining property not located in an industrial district.

19.44.4 Fencing

A security fence at least 7 feet in height with a minimum of 9-gauge fabric and 3 strands of barbed wire shall surround all facilities for the storage and handling of hazardous materials.

19.44.5 Access

Vehicular access to the operation will be provided only by way of a US or NC numbered highway or an industrial area access road.

19.44.6 Water Protection

All surface water and groundwater on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials.

All sanitary sewer and stormwater management systems on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials. A stormwater management plan shall be prepared by the applicant and submitted to the County for review by the County and the Environmental Management Division of the NC Department of Environment, Health, and Natural Resources. A NPDES Permit for stormwater discharge shall also be obtained, if applicable.

SECTION 19.45: HOMELESS SHELTER

19.45.1 Where Development Standards are Required

R-5 and B-1 districts.

19.45.2 Property Separation

No such facility shall be located within a 2,000-foot radius (measured by a straight line and not street distance) of another homeless house.

19.45.3 Operation

(A) The use must be operated by a resident owner or manager.

(B) The use shall be owned and managed by a charitable or benevolent operation qualifying for tax exemption under Section 501 of the Internal Revenue Code as amended.

(C) There shall be no compensation required for occupancy in the shelter.

(D) There shall be a minimum of fifty square feet of sleeping space per person.

19.45.4 Permit Renewal

The special use permit authorizing such use shall be renewed annually (every 12 months) by the Board of Adjustment. Failure to apply for renewal within the specified time period shall render the special use permit null and void. The special use permit may be revoked by the Board of Adjustment at any time upon a finding that the use has caused a habitual nuisance to adjacent properties.

19.45.5 Signs

There may be one unlighted sign erected, not to exceed three feet in height and three feet in sign area.

19.45.6 Location

The use shall be located and sited so as to mitigate adverse impacts on adjoining residential properties.

SECTION 19.46: HUNTING OR GAME PRESERVE

19.46.1 Where Development Standards are Required

A-1 district.

19.46.2 Use Separation

All hunting and dog training activities shall not be conducted within 500 feet of any adjoining residentially used or zoned property, school, hospital, nursing or convalescent home, day care center, church, or park or other public recreational use.

19.46.3 Noise

Notwithstanding any other county ordinance, hunting and dog training activities shall not create noise or sound in excess of 60 decibels within 500 feet of the nearest adjoining residentially used or zoned property, school, hospital, nursing or convalescent home, day care center, church, or park or other public recreational use.

19.46.4 Fencing

The applicant shall provide evidence that fencing at the site is of a material and density to adequately prevent the escape of dogs and hunted prey.

19.46.5 Permit Renewal

The special use permit authorizing such use shall be renewed annually (every 12 months) by the Board of Adjustment. Failure to apply for renewal within the specified time period shall render the special use permit null and void. The special use permit may be revoked by the Board of Adjustment at any time upon a finding that the use has caused a habitual nuisance to adjacent properties.

19.46.6 Operation

The use shall be one that is permitted by and in compliance with the rules and regulations of the NC Wildlife Resources Commission (WRC). Notwithstanding the WRC permit or any other state or federal law or permit, the owner(s) shall not handle, possess, receive, maintain, or control coyotes in the operation of the use.

SECTION 19.47: KENNELS OR PET GROOMING

19.47.1 Where Development Standards are Required

A-1 district.

19.47.2 Outside Pens and Runs

Pens and runs located outdoors shall be located a minimum of 100 feet from any residentially zoned or used lot and shall be screened in accordance with the standards of Article 20.

19.47.3 Noise

The amount of noise generated shall not disrupt the activities of the adjacent land uses. Some noise is expected but mitigation measures are encouraged to be made. Noise mitigation may be required

by the Administrator after the commencement of the use if repeated noise nuisance is observed by the Administrator.

SECTION 19.48: LANDING STRIP, FLYING FIELD

19.48.1 Where Development Standards are Required

A-1, I-1, and I-2 districts.

19.48.2 Use Separation

There shall be a minimum distance of 200 feet between the use and the nearest residence or residentially zoned lot.

19.48.3 Minimum Area

The size and layout shall conform to applicable Federal Aviation Administration requirements.

SECTION 19.49: LEATHER AND LEATHER PRODUCTS (TANNING) (MANUFACTURE OF)

19.49.1 Where Development Standards are Required

I-2 district.

19.49.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

19.49.3 Noise

The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

SECTION 19.50: LIBRARY

19.50.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.50.2 Location

Libraries shall have direct access to a collector or higher classified road that is a public NCDOT right-of-way.

19.50.3 Screening

All parking lots shall be screened from all adjoining residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.51: LIVE/WORK COMBINATION DWELLING AND NONRESIDENTIAL UNITS

19.51.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.51.2 Operation

(A) The occupant of the residence shall be the owner or manager of the nonresidential activity.

(B) No more than 2 persons shall be employed other than those residing on the premises.

(C) The development shall be organized as a condominium project.

(D) A property owners' association shall be established in accordance with Article 22 to ensure continual maintenance of common areas.

(E) The number of dwelling units per acre shall not exceed the density for the zoning district in which located as shown in Article 14.

19.51.3 Nonresidential Uses

Permissible nonresidential uses shall include offices and the following Business, Professional, and Personal Services uses:

Accounting, Auditing or Bookkeeping
Administrative or Management Services
Bank, Savings and Loan, or Credit Union
Barber Shop
Beauty Shop
Building Maintenance Services, No Outside Storage
Clothing Alteration or Repair
Computer Maintenance and Repair
Computer Services
Employment Agency, Personnel Agency
Engineering, Architect or Survey Service
Finance or Loan Office
Furniture Repair Shop
Insurance Agency

Law Office
Medical, Dental or Related Office
Photocopying and Duplicating Services
Photography, Commercial Art Studio
Real Estate Office
Shoe Repair
Television, Radio or Electronics Repair

The nonresidential use shall be compatible with residential occupancy. The nonresidential activity shall be conducted wholly within the structure.

19.51.4 Access

The use shall have direct access to a collector or higher classified road. The use shall be located and sited so as to mitigate adverse impacts on adjoining residential properties. The residential unit shall have a separate point of access from the nonresidential use.

19.51.5 Parking

Parking spaces, as required in Article 20, shall be provided for the residence, the nonresidential activity, and any non-resident employees. Employee and customer parking may be consolidated into common parking areas located at strategic locations throughout the development.

19.51.6 Screening

All parking lots located on the perimeter of the development shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.51.6 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10 pm and 7 am.

19.51.7 Noise

The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

19.51.8 Outside Storage

No outside storage or display of items associated with the use shall be permitted.

19.51.9 Signs

One identification sign, not to exceed six feet in height and twelve feet in sign area, is allowed for the development. There may also be one unlighted wall sign erected for each unit, not to exceed three feet in sign area.

SECTION 19.52: LIVESTOCK (WHOLESALE TRADE OF); LUMBER & OTHER CONSTRUCTION MATERIALS (WHOLESALE TRADE OF); MACHINERY, FARM & GARDEN (WHOLESALE TRADE OF)

19.52.1 Where Development Standards are Required

A-1 district.

19.52.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

19.52.3 Access

Principal access shall be from a collector or higher capacity road that is a public NCDOT right-of-way.

19.52.4 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.52.5 Dust

All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.52.6 Screening

All parking lots, loading areas, and outside storage areas shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.53: MANUFACTURED HOME OR RECREATIONAL VEHICLE, HARDSHIP EXCEPTION

19.53.1 Where Development Standards are Required

R-15, R-25, R-40, and A-1 districts.

19.53.2 Qualifications

Manufactured Home or Recreational Vehicle for hardship exceptions are only able to be utilized by the residents of the primary dwelling. For example, a family member may not locate upon your own property if their primary dwelling on a separate piece of property suffered a catastrophe or disaster, they would be required to locate the Manufactured Home or RV upon their piece of property. To qualify for a permit to temporarily locate a manufactured home or recreational vehicle (RV) on the same lot with an existing residential structure, the applicant must demonstrate the following:

That due to an act of God uncontrollable by the occupant that a disaster or catastrophe has occurred and caused the existing home to be uninhabitable or not in a safe condition for habitation. Disasters and catastrophes include but are not limited to fire, flood, earthquake, explosion, toxic gas, or chemical leak within the structure. The occupant's failure to maintain the home in a sanitary condition is not grounds for a manufactured home or RV to be utilized as a temporary residence.

19.53.3 Location

The manufactured home or RV shall be located to the side or rear of the existing residential structure and shall comply with the principal building side and rear setbacks of the zoning district in which located. The proposed location of the manufactured home or RV and the location of the existing residential structure shall be shown on a plot plan submitted with the permit application.

19.53.4 Minimum Size of Manufactured Home

The manufactured home shall contain at least 200 square feet of gross floor area.

19.53.5 Water Supply and Sewage Disposal

The manufactured home or RV shall be connected to a public water supply system and to a sewage disposal system approved by the Albemarle Regional Health Department.

19.53.6 Duration

Permits for a hardship exception manufactured home shall expire within 6 months after the date of issuance, the Administrator may grant one 6 month extension If evidence can be shown that the primary dwelling is actively undergoing repairs to be a habitable structure and that all of the requirements of this subsection are met. Any further extensions must be granted by the Board of Adjustment after undergoing quasi-judicial review. Upon completion of repairs to the primary structure, the Certificate of Occupancy shall not be issued until the Administrator visibly observes

that the manufactured home or RV has been disconnected from utilities and other services and has been removed from the property or the Administrator is provided with documentation from third party who is contracted for the removal of the manufactured home or RV.

19.53.7 Installation and Appearance Requirements

Hardship exception manufactured homes shall comply with the installation and appearance criteria delineated in Article 19.

SECTION 19.54: MANUFACTURED HOME, ON INDIVIDUAL LOT

19.54.1 Where Development Standards are Required

RMH-25, R-40, and A-1 districts.

19.54.2 Installation and Appearance Requirements

Manufactured homes located on individual lots shall comply with the installation and appearance criteria delineated in Article 19.

SECTION 19.55: MANUFACTURED HOME PARK

19.55.1 Where Development Standards are Required

RMH-25 and A-1 districts.

19.55.2 General Requirements

(A) No person shall construct a manufactured home park or make any addition to an existing manufactured home park that either alters the number of sites for manufactured homes within the park or affects the facilities required therein until he/she first secures a permit authorizing such construction or additions. The construction of or addition to a manufactured home park shall be in accordance with the provisions of this Section.

(B) Prefabricated structures specifically designed by the manufacturer for manufactured dwelling extensions and any other addition meeting the NC Building Code may be added to any manufactured dwelling provided that building setback within the manufactured home space can be met and a building permit is issued by the County.

(C) Within a manufactured home park, one manufactured home may be used as an administrative office provided it complies with the requirements of Chowan County Building Inspections to be used as such.

(D) Convenience establishments of a commercial nature may be provided within a manufactured home park and shall be limited to food stores, coin-operated Laundromats,

beauty parlors, and barber shops. These may be permitted in manufactured home parks subject to the following restrictions:

(1) Such establishments shall be subordinate to the residential use and character of the park.

(2) Such establishment shall present no visible evidence of their commercial character from any portion of any residential district Outside the park.

(3) Such establishment shall be designed to serve the trade and service needs of the park residents only.

(E) Every manufactured home park owner or operator shall maintain an accurate register containing a record of all occupants and owners of manufactured homes in the park. The register shall be available for the inspection at all times, with reasonable notice given by the Administrator. The register shall contain the following information:

(1) Name of owner or occupant;

(2) Manufactured home space address;

(3) Make, model, and registration of manufactured home and any vehicles of residents residing in the home;

(4) Date when occupancy within the manufactured home park begins and date when occupancy within the manufactured home park ceases.

(F) The person to whom an operating permit for a manufactured home park is issued shall operate the park in compliance with this Section and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair, and in a clean and sanitary condition.

(G) The area beneath a manufactured home must be fully enclosed with durable skirting within 90 days of placement in the manufactured home park. Skirting shall comply with the requirements of Article 19, as applicable.

(H) Site plans for manufactured home parks shall comply with the requirements of Appendix A.

19.55.3 Manufactured Home Space Requirements

(A) All manufactured homes shall be located on individual manufactured home spaces. Spaces served by public water and sewer systems or approved community water and sewer systems shall have at least 7,500 square feet of lot area and a minimum lot width of 60 feet at the setback line.

Spaces not served by either a public or community sewer system, shall have at least 20,000 square feet of lot area per manufactured home unit, allowing no more than one

manufactured home per septic tank. However, a greater lot area may be required by the District Health Department in those cases where public sewer is not available. Spaces shall not be less than 100 feet in width at the setback line. An individual manufactured home with neither public or community water service nor public or community sewer service shall not be permitted within a manufactured home park.

(B) Each manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all corners and each space shall clearly display the manufactured home lot number.

(C) Each manufactured home space shall be located so as not to be susceptible to flooding, meaning manufactured home spaces shall not be located within the SFHA and shall be graded so as to prevent any water from ponding or accumulating on the premises.

(D) The manufactured home park shall provide the following minimum building setbacks along its external boundary: 50 feet from a public road right-of-way, 15 feet side property line, and 40 feet rear property line.

(E) Each individual manufactured home space shall have the following minimum building setbacks: 20 feet from the edge of the right-of-way of any private interior road right-of-way; 10 feet from a side space line, and 15 feet from a rear space line. Each manufactured home shall be located at least 20 feet from any other manufactured home or any building within the manufactured home park.

19.55.4 Access, Road, and Parking Requirements

(A) At least one entrance from a public road shall be provided to the manufactured home park for each 50 manufactured home spaces or fraction thereof.

(B) No manufactured home space shall have direct vehicular access to a public road. All manufactured home spaces shall directly abut an interior, private road contained within the park.

(C) New road names shall not duplicate or be similar to existing road names and shall be subject to approval by the County.

(D) Proper sight lines shall be maintained at all public road intersections in accordance with the current NCDOT requirements for sight clearances.

(E) Each manufactured home space shall have vehicular access to a private, interior road that has a minimum pavement width of 15 feet for one-way roads and 25 feet for two-way roads. A minimum right-of-way of 50 feet shall be reserved for two-way roads and 45 feet for one-way roads.

(F) Private roads shall be paved and constructed in accordance with the private road design requirements of Article 22.

(G) A minimum of two automobile parking spaces shall be provided within each manufactured home space. Parking spaces shall not be located within any road or road right-of-way in the park or be upon any grass or unimproved surface. Guest and overflow parking shall be provided so as to be readily accessible to all manufactured home spaces. Parking spaces shall be designed in accordance with the requirements of Article 20.

19.55.5 Utility Requirements

(A) Water System.

(1) An accessible, adequate, and potable supply of water shall be provided in each manufactured home park. Where a public water supply is available within 1,000 feet of the proposed manufactured home park parcel, connection shall be made thereto and its supply used exclusively. The water system shall be designed and constructed to the standards and specifications of the public water system provider. Fire hydrants shall be provided throughout the manufactured home park in accordance with the policies of the public water system provider and as requested by the Chowan County Fire Marshal.

(2) When a public water supply is not available, a community water supply shall be developed, and its supply used exclusively in accordance with the standards of the NC Division of Health Services. Placement of water improvements to manufactured home spaces shall comply with the NC Building Code for Plumbing. Private water systems shall conform to the following:

(a) Water main trunk lines shall be a minimum of 2 inches in diameter and shall be constructed of material approved by the Division of Health Services.

(b) The water supply shall have a minimum of 30 psi (gauge) when operating at peak demand.

(c) Every well or suction line of the water supply system shall be located in such a manner that neither underground nor surface contamination will reach the water supply from any source.

(d) No well casings, pumping machinery or suction pipes shall be placed in any pit, room or space extending below ground level. Such installation shall not be permitted in any room or space above ground, which is walled in or otherwise enclosed. Such installation may be allowed where free drainage by gravity to the surface of the ground is provided.

(3) Individual water and riser pipes shall be provided and located within the confined area of the mobile home stand at a point where the connections will approximate a manufactured home position.

(4) Water riser pipes shall extend at least 10 inches above ground elevation and the pipe shall be at least three-quarter inches in diameter. The water outlet shall be capped at all times when a manufactured home does not occupy the lot or when the supply is not in use.

(5) Adequate provisions shall be made to prevent freezing of service lines, valves, and riser pipes and to protect risers from heaving and thawing actions during freezing weather. Surface drainage shall be satisfactorily diverted from the location of the riser pipes.

(B) Sewage Disposal.

(1) Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Where a public sewage system is available, connection shall be made thereto and its system used exclusively. Where a public sewage system is not available, collection systems and sewage treatment plants complying with the requirements of the NC Division of Environmental Management shall be provided. Plans for sewage collection systems and treatment facilities shall be submitted to the NC Division of Environmental Management. Placement of sewer improvements to manufactured home spaces shall comply with the NC Building Code for Plumbing. Individual septic tank systems can be considered, if soil, topography, and ground water conditions are favorable and approval from the District Health Department is obtained.

(2) Provision shall be made for capping the sewer pipe when a manufactured home does not occupy a space. Surface drainage shall be diverted away from the riser. Sewer riser pipes should be at least 6 inches above the ground level.

(C) Solid Waste Disposal and Sanitation Requirements.

(1) The storage, collection, and disposal of solid waste in the manufactured home park shall be in compliance with the requirements of the District Health Department.

(2) Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation.

(D) Street Lighting Requirements. All roads in the manufactured home park shall be adequately illuminated from sunset to sunrise. The minimum size streetlight shall be a 175 watt mercury-vapor (approximately 7,000 lumen class), or its equivalent, spaced at intervals of not more than 300 feet.

(E) Electrical Service Requirements. Minimum electrical service of 200 ampere, 120/240 volt single-phase shall be provided to each manufactured home space. The service panel and location as well as all wiring shall be in accordance with the National Electrical Code.

19.55.6 Recreational Space Requirements

(A) In all manufactured home parks accommodating or designed to accommodate 10 or more manufactured homes, there shall be one or more recreation areas which shall be easily accessible to all park residents. The amount of recreation area shall be based upon a minimum of 200 square feet for each manufactured home space.

(B) Twenty or more manufactured home spaces will require 250 square feet of recreation area for each manufactured home space.

(C) No single outdoor recreation area shall contain less than 2,000 square feet. Recreation areas shall be so located so as to be free of traffic hazards and should, where topography permits, be centrally located and shall be usable for recreation.

19.55.7 Screening Requirements

A manufactured home park shall provide screening along its external boundaries in accordance with the requirements of Article 20.

19.55.8 Signs

Signs for identification of manufactured home parks shall not exceed four feet by eight feet and shall be located at the entrance of the park signs shall be maintained and text shall be in a comprehensible manner for emergency services purposes.

19.55.9 Installation and Appearance Requirements

Manufactured homes located in manufactured home parks shall comply with the requirements of Article 19.

SECTION 19.56: MANUFACTURED HOME SALES

19.56.1 Where Development Standards are Required

B-1 and B-2 districts.

19.56.2 Minimum Property Setbacks

Individual manufactured homes located on a sales lot shall be set back a minimum of 20 feet from road rights-of-way and property lines.

19.56.3 Access

Principal access shall be from a collector or higher capacity road that is a public NCDOT right-of-way.

SECTION 19.57: MARINAS

19.57.1 Marinas (Commercial); Boat Yard

(A) *Where Development Standards are Required*. R-40 and A-1 districts.

(B) *Access*. The use shall have access to a collector or higher classified road that is a public NCDOT right-of-way.

(C) *Use Separation*. There shall be a minimum 50 feet distance between any buildings, structures, or outdoor use areas associated with the marina and any adjacent residentially-used or zoned lot.

(D) *Dust*. Any unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

(E) *Noise*. Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(F) *Screening*. Parking lots and outdoor storage areas shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

(G) *Permissible Accessory Uses*. Permissible accessory marine services may include the retail sales of fuel, convenient food stuffs, boats, and accessory equipment; coffee shop, grill, or restaurant; boat storage; and boat repair services.

(H) *Construction Standards*. Marinas shall be constructed in accordance with the provisions of 15A NCAC 07H.0208(b)(5).

19.57.2 Marina (Accessory to a Residential Use)

(A) *Where Development Standards are Required*. R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

(B) *Boat Slips*. The number of boat slips shall not exceed 110 percent of the number of dwelling units in the residential development which the marina serves.

(C) *Operation*. No sale of goods or services or other commercial activities shall occur at the marina.

(D) *Dust*. Any unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

(E) *Noise*. Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(F) *Screening*. Parking lots and outdoor storage areas shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.58: METAL COATING AND ENGRAVING MANUFACTURE

19.58.1 Where Development Standards are Required

I-2 district.

19.58.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

19.58.3 Impacts

The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

SECTION 19.59: MINERALS (WHOLESALE TRADE OF)

19.59.1 Where Development Standards are Required

A-1 district.

19.59.2 Use Separation

Outdoor storage areas shall be no closer than 50 feet to any adjoining residentially or office and institutionally used or zoned property.

19.59.3 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.59.4 Dust

All non-paved storage areas shall be maintained in a manner so as to limit dust from leaving the storage area. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.59.5 Access

(A) Access roads leading to any part of the operation shall be constructed with a gravel or crushed stone surface and maintained in a dust-free manner.

(B) No part of such roads shall be located closer than 15 feet to an external property line other than a limited access highway or railroad right-of-way line.

(C) A truck route plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses which will be negatively affected by truck traffic.

SECTION 19.60: MINING, QUARRYING, SAND PITS, AND MINERAL EXTRACTION

19.60.1 Where Development Standards are Required

A-1 and I-2 districts.

19.60.2 Use Separation

(A) The edges of any pit where a mining operation is taking place and any equipment used in the processing of rock and gravel, any asphalt plant, or other industrial uses operated in conjunction with the mine or quarry shall be located at least 200 feet from any property line. The distance can be reduced to 100 feet provided that a landscaped buffer is provided in association with the required berm. The applicant must also provide evidence that at full operation the mining operation will not exceed 80 decibels and less than 40 decibels between 8PM and 8AM.

(B) Where the mining operation site is bounded by a railroad right-of-way currently being used for rail service to the mining operation, no setback shall be required between the railroad right-of-way and such operation.

19.60.3 Hours of Operation

All operations involving blasting discernible beyond the external property line on a quarry shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m.

19.60.4 Mining Permit

A valid state-issued mining permit must be obtained.

19.60.5 Screening

Screening shall be provided in accordance with the requirements of Article 20, However, if a berm is determined to be an adequate alternative screening method as provided for in Article 20, minimum height of the berm shall be six feet.

SECTION 19.61: MOTOR VEHICLE SALES (NEW & USED); BOAT SALES/MARINE SUPPLY DEALERS

19.61.1 Where Development Standards are Required

A-1 district.

19.61.2 Access

The use shall have direct access to a collector or higher classified road that is a public NCDOT right-of-way.

19.61.3 Screening

All sales lots and parking lots shall be screened from all adjoining residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.61.4 Minimum Property Setbacks

All sales lots, buildings and structures shall be a minimum of 50 feet from any residentially-zoned or used lot.

19.61.5 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10 pm and 8 am.

SECTION 19.62: MULTI-FAMILY DWELLINGS

19.62.1 Where Development Standards are Required

R-5, RMH-25, B-1, B-2, and B-3 districts.

19.62.2 Minimum Lot Area

The use shall provide the minimum lot area as delineated in Article 14.

19.62.3 Minimum Spacing

The minimum spacing between multi-family residential structures shall be 20 feet.

19.62.4 Screening

Screening shall be provided in accordance with the requirements of Article 20. However, if a berm is determined to be an adequate alternative screening method as provided for in Article 20, minimum height of the berm shall be six feet.

19.62.5 Signs

There may be one freestanding sign erected per public road frontage. The sign(s) shall not exceed three feet in height and 25 square feet in sign area.

19.62.6 Private Drives

Private drives are allowed to connect parking areas and groups of multifamily units to public streets. These drives shall be constructed to the same standards as public streets and shall have a minimum pavement width of sixteen feet, these private drives are encouraged to be designated as public rights-of-way and dedicated to NDOT but are not required to be. Parking shall not be allowed on private drives except where parking bays are provided. A T-turnaround shall be provided for drives of less than 100 feet in length; a 70-foot diameter cul-de-sac is required for longer drives.

19.62.7 Vehicular Access

There shall be no direct vehicular access from an individual dwelling unit to a collector or higher capacity public street. The Administrator may require that the applicant provide a traffic impact analysis or study or a certified letter from NCDOT that addresses anticipated traffic impacts. A traffic plan may also be requested by the Administrator that includes anticipated flow and mitigation strategies.

19.62.8 Area Lighting

All private drives and parking areas shall be illuminated from sunset to sunrise with a minimum light of approximately 7,000 lumens (175 watts), spaced 350 feet apart.

19.62.9 Utility Requirements

Water supply, sewage disposal, solid waste disposal, and general maintenance shall meet the requirements of the health department's regulations governing the sanitary design, construction, alteration, maintenance, operation, and use of multifamily dwellings.

19.62.10 Fire Safety

All water mains shall be six inches or larger with fire hydrants located not greater than 800 feet apart. All hydrants shall be standard type with one four and one-half inch and 2 two and one-half inch

openings, and all threads shall be national standard. The lowest opening of the hydrants shall be 12 inches above the ground level of the final grade.

SECTION 19.63: NURSING AND CONVALESCENT HOME

19.63.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.63.2 Dimensional Requirements

The following minimum dimensional requirements shall apply to nursing and convalescent homes:

(A) Front Building Setback: 50'

(B) Side Property Line Building Setback: 50'

(C) Rear Property Line Building Setback: 50'

(D) Minimum Lot Width: 100'

(E) Minimum Building Separation: 20'

(F) Minimum Lot Area: 2 acres

19.63.3 Screening

All parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.64: ORPHANAGE

19.64.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.64.2 Minimum Lot Area

8,000 square feet for the first 9 client beds or rooms plus 1,000 square feet for each additional client bed or room or the minimum lot area requirement for the zoning district, whichever is greater.

19.64.3 Screening

Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.65: OUTDOOR FLEA MARKET (TEMPORARY)

19.65.1 Where Development Standards are Required

A-1 district.

19.65.2 Minimum Lot Area

A minimum lot area of 2 acres shall be required.

19.65.3 Noise

The amount of noise generated shall not disrupt the activities of the adjacent land uses.

19.65.4 Parking

The Administrator shall not grant the permit unless he/she finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

19.65.5 Access

Principal access must be from a collector or higher capacity road that is a public NCDOT right-of-way.

19.65.6 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the outdoor flea market but shall not be between the hours of 9 PM and 8 AM.

19.65.7 Duration

The permit shall be valid for a period not to exceed 7 days, a permit holder may not have more than 30 days of operation within a calendar year.

SECTION 19.66: OUTDOOR FRUIT AND VEGETABLE MARKET (SEASONAL)

19.66.1 Where Development Standards are Required

R-40 district.

19.66.2 Location

No building or structure shall be located within 40 feet of a public road right-of-way.

19.66.3 Parking

Sufficient room for customer parking shall be provided on the lot and must be located such that parking is completely off of the public road right-of-way. The Administrator shall not grant the permit unless he/she finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

19.66.4 Access

Principal access must be from a collector or higher capacity road that is a public NCDOT right-of-way.

19.66.5 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the market. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 9 pm and 7 am.

19.66.6 Duration

The permit shall be valid for a period not to exceed 180 days. A permit holder may not be permitted for sales for more than 180 days In a calendar year.

SECTION 19.67: PETROLEUM AND PETROLEUM PRODUCTS (WHOLESALE TRADE OF); PETROLEUM AND RELATED INDUSTRIES MANUFACTURE

19.67.1 Where Development Standards are Required

I-2 district.

19.67.2 Property Separation

All storage tanks and loading facilities shall be located at least 200 feet from any property line. Storage tanks and loading facilities shall be located a minimum of 50 feet from any residentially used or zoned property.

19.67.3 Access

Vehicle access to the use shall be provided only by way of a US or NC numbered highway or an industrial area access road.

19.67.4 Operation

The use must meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and

Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

19.67.5 Dikes

(A) Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways, or drainageways. The volumetric capacity of the diked area shall not be less than the capacity of the largest tank within the diked area.

(B) Dikes or retaining walls shall be of earth, steel, concrete or solid masonry designed and constructed to be liquid tight and to withstand a full hydraulic head. Earthen dikes 3 feet or more in height shall have a flat section at the top not less than 2 feet in width. The slope shall be consistent with the angle or repose of the material of which the dikes are constructed. Dikes shall be restricted to an average height of not more than 6 feet above the exterior grade unless means are available for extinguishing a fire in any tank. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks. No loose combustible material, empty or full drums or barrels, shall be permitted within the diked area.

(C) Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed that when in use they will not permit flammable liquids to enter natural watercourses, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.

19.67.6 Security Fencing

Security fencing, a minimum of 8 feet in height, shall be provided along the entire boundary of such facilities.

SECTION 19.68: PLANNED UNIT DEVELOPMENT

19.68.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, A-1, B-1, B-2, and B-3 districts.

19.68.2 Minimum Development Area

A minimum of 10 acres shall be required for a PUD.

19.68.3 Minimum Lot Area

Individual lot sizes may be reduced below the minimum specified in Article 14, Table of Density and Dimensional Requirements for the district in which the PUD is located. However, the overall residential density of a PUD shall not exceed that normally permitted in the underlying zoning district.

19.68.4 Dimensional Requirements

Minimum building setback and lot width requirements are waived except that lots and structures within 150 feet of the perimeter of the planned unit development shall be compatible with the minimum setback requirements on adjacent lands.

19.68.5 Recreational and Open Space

At least one-half of the land area saved by reducing the individual lot sizes as authorized in subsection C. shall be reserved for recreational or open space use. This requirement shall be in addition to the minimum recreation and open space requirements for residential subdivision lots delineated in Article 22 and for unsubdivided residential components as delineated in Article 20.

The location, extent, and purpose of land proposed for recreational or open space shall be reviewed and approved by the Administrator. A private recreational use, such as a golf course or swimming pool, whose use is limited to the owners or occupants of the lots within the PUD may be approved. Other uses or sites that may qualify include historic buildings or sites, parks, extensive areas with tree cover, and low land along streams or areas of rough terrain where such areas are extensive and have features worthy of preservation provided that adequate access is available to these areas.

19.68.6 Permissible Residential Uses within a PUD

Permissible residential uses within a PUD include single-family detached dwellings, two-family dwellings, townhouse dwellings, multi-family dwellings, and live/work units (residential above commercial). Manufactured homes are not permissible residential uses.

19.68.7 Permissible Nonresidential Uses within a PUD

Nonresidential uses allowed within a PUD shall be the same as those specified for the underlying zoning district in the Table of Permitted Uses. In addition, in R-5, R-15, R-25, RMH-25, R-40, and A-1 zoning districts, the following commercial uses are permitted provided that no more than 15 percent of the total land area of a PUD shall be used for such commercial uses:

(A) Business, Professional and Personal Services:

- Accounting, Auditing or Bookkeeping
- Administrative or Management Services
- Bank, Savings and Loan, or Credit Union
- Barber Shop

- Beauty Shop
- Clothing Alteration or Repair
- Computer Maintenance and Repair
- Employment Agency, Personnel Agency
- Engineering, Architect or Survey Service
- Finance or Loan Office
- Insurance Agency
- Laundromat, Coin-Operated
- Law Office
- Medical, Dental or Related Office
- Photography, Commercial Art Studio
- Real Estate Office
- Shoe Repair or Shoeshine Shop

(B) Retail Trade:

- ABC Store (liquor)
- Antique Store
- Arts and Crafts
- Bakery
- Bar, Night Club, Tavern
- Bookstore, except Adult Bookstore
- Computer Sales
- Convenience Store
- Drugstore
- Florist
- Food Store
- Hardware Store
- Newsstand
- Optical Goods Sales
- Pet Store
- Record and Tape Store
- Restaurant (without drive-thru)
- Service Station, Gasoline Sales
- Video Tape Rental and Sales, except Adult Video Store

No nonresidential use shall be permitted within 150 feet of the perimeter of the planned unit development unless the same or a similar use exists adjacent to the perimeter at the time of approval of the planned unit development or is a use permitted by zoning on the adjoining property.

Building permits for commercial uses in PUDs located in R-5, R-15, R-25, RMH-25, R-40, and A-1 zoning districts shall not be approved until building permits authorizing the construction of at least 30 percent of the total residential units have been issued. This restriction shall not apply, however, to a commercial use that is otherwise allowed in these zoning districts.

19.68.8 Access

The Administrator may require that the applicant provide a traffic impact analysis or study or a certified letter from NCDOT that addresses anticipated traffic impacts. A traffic plan may also be requested by the Administrator that includes anticipated flow and mitigation strategies.

For PUD's that are located near bodies of navigable water, ponds, lakes, or other natural wetland areas, access should be provided to these areas so that residents of the PUD may enjoy and utilize these natural features. The Administrator may determine when this access is feasible to be provided.

SECTION 19.69: PRIVATE CAMPGROUND/RV PARK

19.69.1 Where Development Standards are Required

A-1, B-1, and B-2 districts.

19.69.2 General Requirements

(A) Site plans for private campgrounds/RV parks shall comply with the requirements of Appendix A.

(B) Any action toward removal of wheels of a travel trailer except for temporary purposes of repair or to attach the trailer to the ground for stabilizing purposes shall be prohibited.

(C) Accessory uses shall be so designed and developed so as to blend with the park's design and natural setting. Such uses shall be clearly accessory to the principal use as a campground/recreational vehicle park. Accessory uses shall include management headquarters, recreational facilities, toilets, trash collection areas, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to the operation of the park. In addition, stores, restaurants, beauty parlors, barber shops, and other convenience establishments shall be permitted as accessory uses in zoning districts permitting such uses subject to the following conditions:

(1) Such establishments and the parking areas primarily related to their operation shall not occupy more than 5 percent of the gross area of the park;

(2) Such establishments shall be restricted in their use to occupants of the park and/or related park association members; and

(3) Such establishments shall present no visible evidence from any public road of their commercial character.

(D) Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence, or erosion shall be used for any purpose which would expose persons or property to hazards.

(E) Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with stone screenings, or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust. A soil sedimentation control plan shall be submitted in accordance with Article 19.

(F) Surface drainage plans for the entire tract shall be developed by a licensed NC Engineer and shall be reviewed by the Zoning Administrator to determine whether the proposed plan is compatible with the surrounding existing drainage pattern and relevant drainage plans, prior to issuance of site plan approval and building permits. No permit shall be issued where it is determined that the plan is incompatible with surrounding areas.

(G) For Private Campgrounds and RV Parks that are located near bodies of navigable water, ponds, lakes, or other natural wetland areas, access should be provided to these areas so that residents of the campground or park may enjoy and utilize these natural features. The Administrator may determine when this access is feasible to be provided.

19.69.3 Dimensional Requirements

(A) Maximum density shall be limited to 15 campsites per net acre, excluding public areas, rights-of-way, watercourses, and other areas as may be set forth.

(B) In no case shall any individual campsite contain less than 2,800 square feet. To the greatest extent possible, campsites shall be developed to preserve their natural character. The portion of the campsite intended to accommodate a recreational vehicle or tent shall be level and well drained.

(C) Recreational vehicles shall be separated from each other and from other structures within the campground/RV park by at least 15 feet. Any accessory structures such as attached awnings, carports, or individual storage facilities shall, for the purpose of this separation requirement, be considered part of the recreational vehicle.

(D) Recreational vehicle sites and off-street parking spaces shall not be within the setback areas required for main buildings or principal structures.

(E) Setback areas for recreational vehicle sites shall contain natural vegetation or be landscaped and shall be used for no other purposes.

(F) The minimum setback of any building, structure, or recreational vehicle site from a public road right-of-way shall be the same as that required for a principal building in the zoning district in which the park is located.

(G) The minimum setback from a private, interior road shall be 20 feet from the edge of pavement.

(H) The minimum exterior side property line setback, when abutting residentially used or zoned areas, shall be 50 feet. In all other cases, the exterior side property line setback shall be at least 20 feet.

(I) The minimum exterior rear property line setback, when abutting residentially used or zoned areas, shall be 50 feet. In all other cases, the exterior rear property line setback shall be at least 30 feet.

19.69.4 Access and Road Requirements

(A) No individual campsite shall have direct vehicular access to a public street. All campsites shall directly abut and have access to a private, interior road contained within the campground/RV park.

(B) Entrance driveways shall be located not closer than 150 feet from the intersection of public roads.

(C) Interior access roads shall conform to the construction standards of subdivision roads of NCDOT, roads are encouraged to be built to NCDOT standards and dedicated to NCDOT. However, requirements for minimum rights-of-way and pavement widths shall not apply. Road plans and profiles shall be submitted with the site plan for review and approval. Roads shall be of sufficient width to accommodate the type and volume of anticipated traffic and, in any case, shall meet the following minimum pavement width requirements:

(1) One way with no parking: minimum 12 feet in width.

(2) Two-way with no parking: Minimum 24 feet in width.

(D) Entrances and exits to campgrounds/RV parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic into and out of the park. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended. Radii of curbs and pavements at intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached. No impediment to visibility shall be created or maintained which obscures the view of an approaching driver in the right lane of the road within (a) 100 feet where the speed limit is 45 mph or (b) within 150 feet where the speed limit is over 45 mph or any portion of the approach lane of the access way within 25 feet of its intersection with the right hand of the lane.

(E) The Chowan County Fire Marshal in conjunction with the Administrator shall determine that adequate emergency turnarounds and access have been provided to the Campground or RV Park.

The Administrator may require that the applicant provide a traffic impact analysis or study or a certified letter from NCDOT that addresses anticipated traffic impacts. A traffic plan may also be requested by the Administrator that includes anticipated flow and mitigation strategies.

19.69.5 Parking Requirements

(A) There shall be at least 3 off-road parking spaces designated in a campground/RV park for each 2 campsites. At least 1 space must be provided on each campsite with any residual spaces provided within 100 feet of the site.

(B) Each campsite shall contain a stabilized vehicular parking pad of paving or other suitable material. Vehicles shall not be parked on unimproved areas.

(C) No more than one recreational vehicle may be parked on a individual campsite.

19.69.6 Utility Requirements

(A) No on-site water or sewer facilities shall be permitted on any campsite. Proposals for trash collection areas and common toilets and restrooms, laundries, and baths shall have the approval and be subject to the requirements of the Albemarle Regional Health Department. All community water facility proposals shall be approved and be subject to the requirements of the Albemarle Regional Health Department.

(B) All water supply facilities shall have the approval of the Albemarle Regional Health Department and/or NC Division of Health Services. All sewer facilities improvements shall have the approval of the Albemarle Regional Health Department and the NC Division of Environmental Management.

(C) All water and sewer improvements within the campground/RV park shall comply with the NC Building Code for Plumbing.

19.69.7 Screening Requirements

Where campgrounds/RV parks abut a residential area, a permanent buffer yard of at least 50 feet shall be established with adequate restrictive covenants to prohibit development within the buffer yard. A natural year- round screen shall be planted, which at maturity, shall reach a minimum height of at least 8 feet. Such screening shall complement the adjacent environment.

19.69.8 Recreational Space Requirements

A minimum of 8 percent of the gross site area of the campground/RV park shall be set aside and developed as common use areas for open or enclosed recreation facilities.

SECTION 19.70: PRIVATE CLUB OR RECREATION FACILITY, OTHER; PUBLIC PARK OR RECREATIONAL FACILITY, OTHER

19.70.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.70.2 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the facility but shall not be between 10 PM and 8 AM.

19.70.3 Noise

The amount of noise generated shall not disrupt the activities of the adjacent land uses. Some noise is expected but mitigation measures are encouraged to be made. Noise mitigation may be required by the Administrator after the commencement of the use if repeated noise nuisance is observed by the Administrator.

19.70.4 Parking

The Administrator shall not grant the permit unless he/she finds that the parking generated by the facility can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

19.70.5 Location

Principal access must be from a collector or higher capacity road for any facility greater than 3 acres in size that generates an average daily traffic volume of over 200 or more trips per day. The Administrator may require that a traffic impact study or analysis be done or that NCDOT provide a traffic certification or statement related to anticipated traffic impacts.

19.70.6 Screening

Parking lots and outdoor storage areas shall be screened from adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.70.7 Security Fencing

Outdoor swimming pools shall be protected by a fence in accordance with the Albemarle Regional Health Department's public pool regulations.

SECTION 19.71: PULP AND PAPER MILLS

19.71.1 Where Development Standards are Required

I-2 district.

19.71.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

19.71.3 Impacts

The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

19.71.4 Access

Principal access must be from a collector or higher capacity road that is a NCDOT public right-of-way or an industrial area access road.

SECTION 19.72: RACETRACK OPERATION

19.72.1 Where Development Standards are Required

A-1 district.

19.72.2 Minimum Lot Area

The minimum lot area shall be 40 acres.

19.72.3 Location

The use shall have direct access to an arterial or higher capacity road.

19.72.4 Minimum Property Setbacks

All buildings and structures shall be a minimum of 500 feet from any residentially zoned or used lot.

19.72.5 Screening

All parking lots shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.72.6 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10 pm and 8 am.

19.72.7 Noise

Equipment producing noise or sound including racecars in excess of 100 decibels shall be located no closer than 400 feet to the nearest residence.

19.72.8 Dust

All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjoining properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.72.9 Fencing

Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of the raceway.

SECTION 19.73: RESTAURANT (WITH DRIVE-THRU)

19.73.1 Where Development Standards are Required

A-1 district.

19.73.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

19.73.3 Screening

All parking lots, loading areas, and trash disposal areas shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.74: RETREAT/CONFERENCE CENTER

19.74.1 Where Development Standards are Required

A-1 district.

19.74.2 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the facility but shall not be between the hours of 9 PM and 7 AM.

19.74.3 Parking

The Administrator shall not grant the permit unless he/she finds that the parking generated by the facility can be accommodated without undue disruption or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners. The Administrator may require that the applicant provide a traffic impact analysis or study or a certified letter from NCDOT that addresses anticipated traffic impacts. A traffic plan may also be requested by the Administrator that includes anticipated flow and mitigation strategies.

19.74.4 Location

Principal access must be from a collector or higher capacity road that is a public NCDOT right-of-way.

19.74.5 Screening

All parking lots, loading areas, and trash disposal areas shall be screened from all adjoining residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.75: RECREATIONAL VEHICLE

19.75.1 Where Development Standards are Required

RMH-25, R-40, A-1 district.

19.75.2 Minimum Area Requirements

The parcel size must be a minimum of 2 acres.

19.75.3 Location

Principal access must be from a collector or higher capacity road that is a public NCDOT right-of-way.

19.75.4 General Requirements

(A) The setbacks shall be those that apply to residential dwellings within the respective zoning district.

(B) The Recreational Vehicle shall have underpinning placed upon it and may be placed on a foundation if located outside of a Special Flood Hazard Area.

(C) There shall be no accessory structures or dwellings permitted upon the property. A porch for access to the RV shall be permitted but the porch shall not exceed 12x12 dimensions.

(D) The RV shall be connected to water and septic service as well as other utilities as if it were a single-family residential dwelling.

SECTION 19.76: RIDING ACADEMY, RIDING STABLES, EQUESTRIAN FACILITY

19.76.1 Where Development Standards are Required

R-40 and A-1 districts.

19.76.2 Use Separation

There shall be a minimum of 200-foot distance between manure storage areas, barns or stables and any adjacent residentially zoned property.

19.76.3 Dust

All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjoining properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.76.4 Restroom Facilities

Restroom facilities shall be approved by the Albemarle Regional Health Department.

19.76.5 Minimum Lot Area

Parcels shall contain the following minimum lot area for horses kept on the property: 3 acres of gross lot area for one horse and 1.0 acre for each additional horse.

SECTION 19.77: RUBBER AND PLASTICS, MISCELLAENOUS (MANUFACTURE OF)

19.77.1 Where Development Standards are Required

I-2 district.

19.77.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

19.77.3 Impacts

The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

SECTION 19.78: RURAL FAMILY BUSINESS

19.78.1 Where Development Standards are Required

R-40 and A-1 districts.

19.78.2 Minimum Area

(A) The rural family business must be located on a tract of 2 acres or more.

(B) A portion of the tract containing at least 40,000 square feet with 100 feet of width must be designated and reserved exclusively for residential use.

19.78.3 Maximum Area

The total floor area of all buildings occupied by the nonresidential activity shall not exceed 5,000 square feet. The maximum land area that may be used in conjunction with the nonresidential activity is 20,000 square feet.

19.78.4 Use Separation

All operations of the nonresidential activity shall observe a 50-foot setback from all property lines.

19.78.5 Location

All operations of the nonresidential activity shall be located behind the rear line of the building occupied as the principal residence.

19.78.6 Screening

All operations of the nonresidential activity, including buildings, outside storage areas, and parking shall be treated as a separate use and shall be screened in accordance with the requirements of Article 20.

19.78.7 Impacts

The Albemarle Regional Health Department shall evaluate each rural family business request to determine the nonresidential activity's impact on the surrounding area with respect to excessive noise, dust, air emissions, odors, and surface or groundwater discharge. The applicant of the rural family business request shall mitigate the impact on these and other environmental concerns. A written evaluation of these potential impacts is required by the Albemarle Regional Health Department prior to the consideration of any request for a rural family business.

19.78.8 Operation

(A) The rural family business shall be owned by the landowner who must reside on the property.

(B) No more than 5 persons shall be employed other than those residing on the property.

(C) Outside storage and parking of commercial vehicles is permitted. The applicant shall indicate on the site plan the type and location of outside storage and the location and proposed number of vehicles to be parked on the lot.

(D) The rural family business shall not be operated between the hours of 10 p.m. to 7 a.m.

(E) Permitted nonresidential uses shall be limited to those products assembled or manufactured on-site for resale elsewhere and business, professional, and personal services or stock-in-trade clearly incidental to such services. Commercial retail or wholesale operations that bring to the site goods specifically for the purpose of resale shall be prohibited.

SECTION 19.79: SALVAGE YARDS, AUTO PARTS; SALVAGE YARDS, SCRAP PROCESSING

19.79.1 Where Development Standards are Required

I-2 district.

19.79.2 Minimum Area

The minimum area required to establish a salvage yard shall be 5 acres.

19.79.3 Use Separation

The operations of salvage yards shall not be any closer than 300 feet to any residential property line. Neither should any such operations be closer than 300 feet to the property line of any school, hospital, nursing and convalescent home, or day care facility.

19.79.4 Screening

Salvage yards shall be enclosed by a sight-obstructing screen of at least 8 feet in height adjacent to public roads and 10 feet in height adjacent to properties of a residential, educational or institutional nature. All such screens shall be maintained in a sound and stable manner for the life of the operation. Entrances and exits shall be secured when the salvage yard is closed. If state or federal requirements for screening are more stringent, such requirements shall be applicable.

19.79.5 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 400 feet to the nearest residence. No noisy processing shall be carried on in connection with the business on Sundays, Christmas Day, Thanksgiving Day, New Years Day or at any time between the hours of 6:00 p.m. and 7:00 a.m.

19.79.6 Vibration

No vibration shall be produced which is transmitted through the ground and which is discernable without the aid of instruments at or beyond the lot line; nor will any vibration produce a particle velocity of 2.0 inches per second measured at or beyond the property line.

19.79.7 Dust and Particulates

Emissions of dust and particulates shall be in accordance with the State of North Carolina rules and regulations governing air contamination and air pollution. Particulate matter emission from materials and products subject to becoming windborn will be kept to a minimum by paving, sodding, oiling, wetting, covering or other means such as to render the surface wind resistant. Points of ingress and egress shall be paved/hard-surfaced with either concrete or asphalt.

19.79.8 Smoke and Burning

Emissions of smoke and burning of non-vegetative matter shall not be permitted on the site of a salvage yard.

19.79.9 Trash and Garbage

Disposal of trash and garbage shall be in an approved container and be regularly maintained. Open dumping of trash or garbage shall be prohibited.

19.79.10 Disposal of Toxic/Hazardous Matter

Disposal of toxic/hazardous matter on any salvage yard site shall be expressly forbidden.

19.79.11 Storage of Fuels

Storage of fuels shall be contained in below ground tanks meeting the requirements of the State of North Carolina. No such fuel storage shall be within 1000 feet of any residential, educational, or institutional structure. Location of fuel storage tanks shall be so designed as to prevent leakage or spillage into any stream. Gasoline and oil shall be removed from scrap engines or vehicles on the premises and adequately stored for disposal.

19.79.12 Drainage

Salvage yard sites shall be adequately drained to assure that no standing water shall exist that might provide breeding habitation for insects.

19.79.13 Weeds and Vegetation

Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than 6 inches.

19.79.14 Storage

Salvage materials shall be stored in piles not exceeding 10 feet in height and shall be arranged as to permit easy access to all such salvage for firefighting purposes.

19.79.15 Permit Requirements

The facility shall obtain all applicable state and federal permits and these permits shall be provided to the Administrator on an annual basis for verification of.

SECTION 19.80: SAWMILL OR PLANING MILLS

19.80.1 Where Development Standards are Required

A-1, B-1, and I-2 districts.

19.80.2 Minimum Property Setbacks

All buildings and structures shall be a minimum of 100 feet from any residentially-zoned or used lot.

19.80.3 Screening

All outside storage areas shall be screened from all adjoining residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.80.4 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 9 pm and 8 am.

19.80.5 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.80.6 Dust

All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

SECTION 19.81: SERVICE STATION, GASOLINE SALES

19.81.1 Where Development Standards are Required

A-1 district.

19.81.2 Operation

(A) Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment, auto washing equipment, and similar equipment shall be entirely enclosed within a building.

(B) No outside storage of materials shall be permitted. The number of vehicles stored outdoors shall not exceed the number of service bays at the establishment.

19.81.3 Gasoline Service Islands/Pumps

There shall be no more than 2 gasoline service islands with a maximum of 4 pumps per service island.

19.81.4 Maximum Area

A maximum of 3,000 square feet of gross floor area shall be permitted.

SECTION 19.82: SEWAGE TREATMENT PLANT

19.82.1 Where Development Standards are Required

A-1 district.

19.82.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 300 feet from a residentially used or zoned lot.

19.82.3 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.82.4 Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided around hazardous operations, as determined by Chowan County, involved with the use.

SECTION 19.83: SEXUALLY-ORIENTED BUSINESS

19.83.1 Where Development Standards are Required

B-1 district.

19.83.2 Property Separation

(A) No sexually-oriented business shall be located within 1,000 feet in any direction of any other sexually-oriented business.

(B) No sexually-oriented business shall be located within 1,000 feet in any direction of a church or other place of worship; public or private school; day care center or nursery school; public park, swimming pool, or playground; or residentially zoned or used property.

19.83.3 Prohibition of Sleeping Quarters

No sexually-oriented business shall have sleeping quarters.

19.83.4 Restriction of Uses on the Same Property or in the Same Building

There shall not be more than one sexually-oriented business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any sexually-oriented business.

19.83.5 Signs

Except for a business identification sign permitted in accordance with Article 21, no other exterior advertising, promotional materials, or signage that is visible to the public from a road, sidewalk, or walkway shall be permitted.

19.83.6 Hours and Days of Operation

The hours of operation shall be compatible with the land uses adjacent to the proposed site and shall be limited to the hours of 10 am to midnight, Monday through Saturday.

SECTION 19.84: SHOOTING RANGE, INDOOR

19.84.1 Where Development Standards are Required

B-1, B-2, I-1, and I-2 districts.

19.84.2 Noise

The facility shall, to the maximum extent feasible, be designed to absorb sound and shall be designed to meet the standards for indoor shooting ranges as established by the National Rifle Association.

SECTION 19.85: SHOOTING RANGE, OUTDOOR

19.85.1 Where Development Standards are Required

A-1, I-1, and I-2 districts.

19.85.2 Use Separation

Separation shall be a minimum of 300 feet between the range and the closest external property line and 500 feet from any residential dwelling.

19.85.3 Access

Access shall be controlled to prevent unregulated entrance to the firing area.

19.85.4 Security Fencing

Security fencing 10 feet in height shall be provided to prevent an individual from crossing the property downrange. Fencing shall be posted with signage that gives adequate warning.

19.85.5 Backstops

The design of the backstop downrange shall be as approved by the National Rifle Association. A range plan shall be approved by the NRA.

SECTION 19.86: SHOPPING CENTERS

19.86.1 Where Development Standards are Required

B-1 and B-2 districts.

19.86.3 Minimum Development Area (Regional Only)

The minimum development area for a regional shopping center shall be 5 acres.

19.86.4 Open Space Requirements (Neighborhood, Community, and Regional)

A minimum of 20 percent of the gross site area shall be landscaped open space.

19.86.2 Shopping Center Classifications

Shopping centers, as defined in Article 2, are classified into three categories: Neighborhood, Community, and Regional. The development standards in this subsection are applicable to the particular category of shopping center as indicated. Superstores are defined as freestanding department, variety, or general merchandise stores that are in excess of 25,000 square feet of gross floor space.

19.86.5 Floor Area Ratio (Community and Regional Only)

The maximum floor area ratio shall be 0.30. Floor area ratio is the gross floor area of all buildings or structures on a lot divided by the total lot area.

19.86.6 Setbacks (Community and Regional Only)

Shopping center developments that are adjacent to or across a public road right-of-way from a residential zoning district shall provide a minimum building setback of 60 feet.

19.86.7 Outdoor Storage (Neighborhood, Community, and Regional)

The outdoor area devoted to storage, loading, and display of retail goods shall be limited to a maximum of 15 percent of the net developable lot area and shall provide screening in accordance with the provisions of Article 20. All refuse shall be contained in completely enclosed facilities. Trailers used for the storage of retail goods shall be located at the rear of the principal building and shall be screened from abutting streets and residentially zoned or used parcels.

19.86.8 Screening (Community and Regional Only)

There shall be a minimum landscaped buffer strip of 30 feet in width along all public road right-of-way lines and 15 feet in width along all side and rear property lines. No parking is permitted within the buffer strip. Refuse containers and refuse storage shall be located in a paved area and screened from public view by means of natural vegetation, fences, walls, or berms. Such screening shall be installed, located, or constructed so as to create an effective screen. All outside storage areas shall be screened from all adjoining residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.86.7 Driveways and Curb Cuts (Community and Regional Only)

On a corner tract, no curb cut shall be located closer than 75 feet to the closest right-of-way line extended from the intersecting public or private road. No curb cut shall be located closer than 25 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 125 feet. A freestanding use within the shopping center development shall have no more than 2 curb cuts on any single public right-of-way, and such curb cuts shall have a minimum distance of 125 feet between them.

19.86.8 Coordinated Design Plan (Neighborhood, Community, and Regional)

Exterior building materials, signs, and outdoor lighting used in a shopping center development, including outparcels, shall be planned so as to provide a coordinated design scheme for the entire development. The coordinated design plan shall be submitted for review at the time of site plan submission. The coordinated design plan shall include drawings, specifications, dimensions, and maps.

19.86.9 Access (Community and Regional Only)

Access to the use shall be from a thoroughfare or higher classified street that has the capacity to accommodate the additional traffic projected to be generated by the shopping center.

19.86.10 Traffic Impact Assessment (Community and Regional Only)

A traffic impact assessment shall be provided in accordance with NCDOT standards and specifications for traffic impact assessments.

19.86.11 Building Materials (Neighborhood, Community, and Regional)

New buildings shall be constructed of materials that are consistent with the materials used in the construction of existing buildings within the community. Those portions of buildings visible from a public street right-of-way shall be sheathed in materials such as wood siding, stone, brick, tilt-up concrete panels, and sandstone and tinted/textured concrete masonry units (CMUs) in a low reflective, subtle or neutral color. Building facades that extend greater than 100 linear feet shall incorporate into the design recesses and projections to cover at least 20 percent of the total building frontage. No more than 40 percent of the façade of any principal building facing a public street right-of-way shall be glass or reflective material.

19.86.12 Outdoor Lighting Standards (Neighborhood, Community, and Regional)

Ninety (90) percent cutoff on pole lighting; a maximum height of 30 feet on all pole lighting; colors and elevation details of poles and fixtures are to be standard aluminum gray or black; the intensity of the lighting at the property lines and public streets shall be minimized to a maximum of 3-foot candles; no lighting elements shall be directly visible from any public roadway, sidewalk, or adjacent property; any floodlighting attached to the building walls shall be angled so as to not cast light directly onto adjacent properties and/or road rights-of-way.

19.86.13 Architectural Rendering (Neighborhood, Community, and Regional)

An architectural rendering of the proposed shopping center shall be submitted for review at the time of site plan submission.

SECTION 19.87: SHORT TERM RENTALS

19.87.1 Where Development Standards are Required

R-5, R-15 & R-25, RMH-25 R-40, and A-1 districts.

19.87.2 Operation

(A) The use must be operated by the owner or an appointed property manager by the owner.

(B) The use shall be located in a structure that was originally constructed as a dwelling that is compliant with NC Building Code or in a manufactured home that is permitted under NC

Building Code, or a structure that has been designed and legally permitted under these Regulations and NC Building Code as an Accessory Dwelling Unit.

(C) Short term rentals shall not be utilized for events that attract people who are not legally residing within the rental. For example, a short term rental cannot be utilized for family reunions, weddings, birthday parties, or any other event space.

(D) All parking for the rental shall occur within the driveway that is intended for the residential structure and not within any rights-of-way or unimproved surfaces upon the property such as yards.

SECTION 19.88: SOLID WASTE DISPOSAL, CDLF AND LCID LANDFILLS

19.88.1 Where Development Standards are Required

A-1 district.

19.88.2 Use Separation

Fifty feet minimum from any property line; three hundred feet minimum from any residence.

19.88.3 Access

Access to the landfill site shall be controlled with gates, chains, fences, ditches, and/or vegetation to prevent unregulated dumping.

19.88.4 Dust

All unpaved areas shall be maintained in a manner that prevents dust from leaving the property. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.88.5 Operation

No filling is permitted in the 100-year floodplain of any stream; no filling is permitted in utility easements. The operation of the facility shall be in compliance with the State of North Carolina's operation, maintenance, and monitoring regulations for solid waste disposal facilities.

19.88.6 Closure

Landfills shall be closed with a minimum of 2 feet of clean soil, graded to a maximum slope of 3:1 and stabilized with vegetation or in accordance with current state standards.

19.88.7 Signs

An entrance sign shall be posted and maintained which lists the name and phone number of the current operator, the types of material accepted, the hours of operation, tipping charges and any other pertinent information.

19.88.8 Siting and Design

The siting and design of the facility shall comply with the applicable requirements of the NC *Solid Waste Management Rules*.

SECTION 19.89: SOLID WASTE DISPOSAL, SANITARY LANDFILLE; LAND APPLICATION OF SLUDGE OR PETROLEUM-CONTAMINATED SOIL

19.89.1 Where Development Standards are Required

A-1 district.

19.89.2 Use Separation

All structures, buildings, and landfilling operations shall be a minimum of 300 feet from a residentially zoned or used lot.

19.89.3 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.89.4 Access

(A) Access to the facility shall be by way of a collector or higher classified road.

(B) Entrances shall be controlled to prevent unregulated access to the facility.

(C) Access roads leading to any part of the facility shall be constructed with a gravel or crushed stone surface and maintained in a dust-free manner.

(D) No part of access roads shall be located closer than 15 feet to an external property line other than a limited access highway or railroad right-of-way line.

(E) A truck route plan shall be submitted showing truck routes to and from the facility. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses which will be negatively affected by truck traffic.

19.89.5 Minimum Area

(A) A minimum of 50 acres shall be required to establish a sanitary landfill facility.

(B) All other types of solid waste disposal facilities such as land application sites, collection sites, convenience centers, and transfer sites shall have sufficient land area to adequately accommodate the facility's operations and to sufficiently separate the facility from adjoining land uses.

19.89.6 Siting and Design

The siting and design of the facility shall comply with the applicable requirements of the NC *Solid Waste Management Rules*.

19.89.7 Operation

The operation of the facility shall be in compliance with the State of North Carolina's operation, maintenance, and monitoring regulations for solid waste disposal facilities.

SECTION 19.90: SPECIAL TEMPORARY AND SEASONAL EVENTS

19.90.1 Where Development Standards are Required

All districts.

19.90.2 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the special temporary event.

19.90.3 Noise

The amount of noise generated shall not disrupt the activities of the adjacent land uses.

19.90.4 Parking

The Administrator shall not grant the permit unless he/she finds that the parking generated by the special temporary event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners. The Administrator may require that the applicant provide a traffic impact analysis or study or a certified letter from NCDOT that addresses anticipated traffic impacts. A traffic plan may also be requested by the Administrator that includes anticipated flow and mitigation strategies.

19.90.5 Health Department Requirements

The event shall comply with all applicable health department requirements for sanitation and public health safety.

19.90.6 Duration

The permit shall be valid for a period not to exceed 14 days.

SECTION 19.91: SUPERSTORES

19.91.1 Where Development Standards are Required

B-1 and B-2 districts.

19.91.2 Open Space Requirements

A minimum of 20 percent of the gross site area shall be landscaped open space.

19.91.3 Floor Area Ratio

The maximum floor area ratio shall be 0.30. Floor area ratio is the gross floor area of all buildings or structures on a lot divided by the total lot area.

19.91.4 Setbacks

Superstores that are adjacent to or across a public road right-of-way from a residential zoning district shall provide a minimum building setback of 60 feet.

19.91.5 Outdoor Storage

The outdoor area devoted to storage, loading, and display of retail goods shall be limited to a maximum of 15 percent of the net developable lot area and shall provide screening in accordance with the provisions of Article 20. All refuse shall be contained in completely enclosed facilities. Trailers used for the storage of retail goods shall be located at the rear of the principal building and shall be screened from abutting streets and residentially zoned or used parcels.

19.91.6 Screening

There shall be a minimum landscaped buffer strip of 30 feet in width along all public road right-of-way lines and 15 feet in width along all side and rear property lines. No parking is permitted within the buffer strip. Refuse containers and refuse storage shall be located in a paved area and screened from public view by means of natural vegetation, fences, walls, or berms. Such screening shall be installed, located, or constructed so as to create an effective screen. All outside storage areas shall be screened from all adjoining residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.91.7 Driveways and Curb Cuts

On a corner tract, no curb cut shall be located closer than 75 feet to the closest right-of-way line extended from the intersecting public or private road. No curb cut shall be located closer than 25 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 125 feet.

19.91.8 Access

Access to the use shall be from a thoroughfare or higher classified street that has the capacity to accommodate the additional traffic projected to be generated by the superstore.

19.91.9 Impact Assessments

A traffic impact assessment shall be provided in accordance with NCDOT standards and specifications for traffic impact assessments.

19.91.10 Building Materials

New buildings shall be constructed of materials that are consistent with the materials used in the construction of existing buildings within the community. Those portions of buildings visible from a public street right-of-way shall be sheathed in materials such as wood siding, stone, brick, tilt-up concrete panels, and sandstone and tinted/textured concrete masonry units (CMUs) in a low reflective, subtle or neutral color. Building facades that extend greater than 100 linear feet shall incorporate into the design recesses and projections to cover at least 20 percent of the total building frontage. No more than 40 percent of the façade of any principal building facing a public street right-of-way shall be glass or reflective material.

19.91.11 Outdoor Lighting Standards

Ninety (90) percent cutoff on pole lighting; a maximum height of 30 feet on all pole lighting; colors and elevation details of poles and fixtures are to be standard aluminum gray or black; the intensity of the lighting at the property lines and public streets shall be minimized to a maximum of 3-foot candles; no lighting elements shall be directly visible from any public roadway, sidewalk, or adjacent property; any floodlighting attached to the building walls shall be angled so as to not cast light directly onto adjacent properties and/or road rights-of-way.

19.91.12 Architectural Rendering

An architectural rendering of the proposed superstore development shall be submitted for review at the time of site plan submission.

SECTION 19.92: SWIM AND TENNIS CLUB

19.92.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.92.2 Minimum Area

The minimum area shall be 2 acres.

19.92.3 Use Separation

There shall be a minimum 50-foot distance between clubhouses, swimming pools, and lighted tennis courts and any adjacent residentially used or zoned property.

19.92.4 Operation

(A) The hours of operation allowed shall be compatible with the land uses adjacent to the facility.

(B) The amount of noise operated shall not disrupt the activities of the adjacent land use.

19.92.5 Screening

Parking lots shall be screened from adjoining residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.92.6 Security Fencing

Outdoor swimming pools shall be protected by a fence in accordance with the Albemarle Regional Health Department's public swimming pool regulations.

SECTION 19.93 TEMPORARY EMERGENCY, CONSTRUCTION, AND REPAIR RESIDENCE

19.93.1 Where Development Standards are Required

All districts.

19.93.2 Time Limitation

(A) Temporary security residences and construction offices used on construction sites of nonresidential premises shall be removed within 30 days after the issuance of a final certificate of occupancy.

(B) Permits for temporary residences and offices to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within 12 months after the date of issuance, except that the Administrator may renew such permit if he/she determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

19.93.3 Use of Manufactured Home

The use of manufactured homes as temporary emergency, construction and repair residences is permissible in all zoning districts.

19.93.4 Recreational Vehicle

A RV may not be utilized as a temporary residence when a manufactured home is intended to be or is the primary residence on the property.

SECTION 19.94: TEMPORARY RETAIL MOBILE VENDOR

19.94.1 Where Development Standards are Required

B-1, B-2, and B-3 districts.

19.94.2 Accessory Use Only

(A) A temporary retail mobile vendor shall only be permitted as an accessory use to a principal use.

(B) A temporary retail mobile vendor shall only be located on a lot that contains a permanent, principal structure.

19.94.3 Setback Requirements

(A) Front Setback. A temporary retail mobile vendor structure shall be located no closer than 40 feet from the road right-of-way.

(B) Side Setback. A temporary retail mobile vendor structure shall be located no closer than 10 feet from a side property line.

19.94.4 Time Limitation

Permits for a temporary retail mobile vendor shall expire within 6 months after the date of issuance.

19.94.5 Parking

A temporary retail mobile vendor shall be located on a lot that encompasses sufficient lot area to accommodate the off-road parking needs of both the principal use and the temporary retail mobile vendor.

19.94.6 Public Safety

The Administrator shall not issue a permit for a temporary retail mobile vendor if the Administrator determines that the proposed location of the temporary retail vendor structure or other site conditions would reasonably create a safety hazard to pedestrians and/or the motoring public.

SECTION 19.95: TEMPORARY SHELTER

19.95.1 Where Development Standards are Required

R-5 and B-1 districts.

19.95.2 Time Limitation

The Administrator shall initially establish an automatic expiration date for the permit for such a facility with provisions for a maximum 6-month renewal, if necessary.

19.95.3 Location

The facility shall be contained within the building of and operated by a government agency or nonprofit organization.

19.95.4 Minimum Floor Area

A minimum floor space of 50 square feet shall be provided for each individual sheltered.

19.95.5 Operation

The facility shall provide continuous on-site supervision during the hours of operation.

SECTION 19.96: THEATER (OUTDOOR)

19.96.1 Where Development Standards are Required

B-1 and B-2 districts.

19.96.2 Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the outdoor theater but in no case shall they be between 10 PM and 8 AM.

19.96.3 Noise

The amount of noise generated shall not disrupt the activities of the adjacent land uses. No central loudspeakers or public address system shall be permitted. Some noise is expected but mitigation measures are encouraged to be made. Noise mitigation may be required by the Administrator after the commencement of the use if repeated noise nuisance is observed by the Administrator.

19.96.4 Parking

The Administrator shall not grant the permit unless he/she finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners. Vehicle stacking lanes shall be available outside the theater ticketing booth and shall have sufficient capacity to prevent interference with the flow of traffic on the road providing access to the site. The Administrator may require that the applicant provide a traffic impact analysis or study or a certified letter from NCDOT that addresses anticipated traffic impacts. A traffic plan may also be requested by the Administrator that includes anticipated flow and mitigation strategies.

19.96.5 Access

Principal access must be from a collector or higher capacity road that is a public NCDOT right-of-way.

19.96.6 Location

No part of any theater projection screen, projection booth, or other building shall be located closer than 500 feet to any residentially used or zoned property or any closer than 50 feet to any other property line or public road right-of-way. No parking space shall be located closer than 100 feet to any residentially-used or zoned property. The theater projection screen shall not face a road or highway.

SECTION 19.97: TOBACCO AND TOBACCO PRODUCTS (WHOLESALE TRADE OF)

19.97.1 Where Development Standards are Required

A-1 district.

19.97.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

19.97.3 Access

Principal access shall be from a collector or higher capacity road.

19.97.4 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.97.5 Dust

All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.97.6 Screening

All parking lots and outside storage areas shall be screened from all adjoining residential uses or residentially zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

SECTION 19.98: TOWNHOUSE AND CONDOMINIUM DWELLINGS

19.98.1 Where Development Standards are Required

R-5, B-1, B-2, and B-3 districts.

19.98.2 Lot Area Requirements

Minimum lot area requirements for individual townhouse lots and condominium units are waived. However, the overall development parcel shall not exceed the maximum residential density for multifamily dwellings for the zoning district in which located.

19.98.3 Setbacks

Setbacks for individual townhouse dwelling units and condominium units are waived. However, the minimum setbacks of the district in which located shall be applicable to the external lot boundaries of the townhouse development the principal structure housing the units shall meet the setback requirements.

19.98.4 Lot Access Requirements

Lot access requirements for individual townhouse dwelling units and condominium units are waived. However, individual units shall have right-of-access through common areas containing private streets or drives.

19.98.5 Roads and Drives

Individual parcels, whether leased or sold, shall have shared rights of access along private roads and/or along private drives at least twenty-four feet in width leading to a publicly maintained road. Maintenance of all private roads and private drives shall be a mandatory responsibility, running with the land, exercised by a single entity which shall be composed of one landowner, an owners' association, or all owners acting collectively pursuant to a binding agreement.

19.98.6 Common Areas and Facilities

A homeowners' or property owners' association shall be established and incorporated to accept conveyance and maintenance of all common areas and facilities. Minimum useable open space and recreational space shall be provided in accordance with the requirements of Article 20.

For Townhouse and Condominium Dwellings that are located near bodies of navigable water, ponds, lakes, or other natural wetland areas, access should be provided to these areas so that residents of the townhouse or condominium development may enjoy and utilize these natural features. The Administrator may determine when this access is feasible to be provided.

19.98.7 Screening

All parking lots shall be screened from all adjoining residential uses by a buffer yard. The required buffer yard shall comply with the planting requirements of Article 20.

19.98.8 Minimum Spacing

The minimum spacing between townhouse structures shall be 20 feet.

19.98.9 Plans and Declarations

Plans and declarations for condominium developments shall comply with the requirements of the North Carolina Condominium Act (NCGS Chapter 47C).

SECTION 19.99: TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND)

19.99.3 Development Area Requirements

A minimum of 10 acres shall be required for a TND.

19.99.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, A-1, B-1, B-2, and B-3 districts.

19.99.2 General Design Principles

TNDs shall adhere to the following general principles and design standards:

(A) Neighborhoods have clearly delineated centers and edges and are limited in size to promote pedestrian activity.

(B) The distance from the center to the edge of a neighborhood is generally no greater than ¼ to ½ mile.

(C) TNDs provide a balanced mix of residential, retail, professional and personal service, office, civic, public, and recreational uses.

(D) Residential uses include a diversity of housing types.

(E) Street patterns are interconnected and blocks are short.

(F) TNDs are organized around an activity center consisting of shopping, offices, public, and civic uses.

(G) Public and civic uses, such a schools, libraries, government offices, parks and recreational facilities, plazas, and village greens are prominent features and focal points.

(H) Formal and informal open space is located throughout a TND.

(G) For Traditional Neighborhood Developments that are located near bodies of navigable water, ponds, lakes, or other natural wetland areas, access should be provided to these areas so that residents of the development may enjoy and utilize these natural features. The Administrator may determine when this access is feasible to be provided.

19.99.4 Minimum Lot Area

Individual lot sizes may be reduced below the minimum specified in Article 14 for the district in which the TND is located. However, the overall residential density of a TND shall not exceed that specified in Article 14. Uses utilizing septic systems shall comply with the minimum lot area requirements of the Environmental Health Services Division of the Albemarle Regional Health Department.

19.99.5 Dimensional Requirements

To promote flexibility and creativity, dimensional standards shall be established in accordance with the TND purpose and design principles. The determination of appropriate building setbacks, lot coverage, building heights for proposed uses will be made during the special use permit review process.

Each lot created within a TND shall be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this Ordinance.

19.99.6 Permissible Residential Densities

The permitted density of the residential component of a TND shall be determined during the special use permit review process but in no case shall exceed the maximum density delineated in the following table:

Zoning District	Maximum DU/Gross Residential Acre
R5	15
R15	6
R25	4
RMH25	4
R40	4
A1	4
B1	15
B2	15
B3	15

Factors taken into consideration in determining the permissible density of a specific TND shall include the anticipated vehicular traffic, infrastructure, and environmental impacts of the proposed TND.

19.99.7 Permissible Residential Uses within a TND

Permissible residential uses within a TND include single-family detached dwellings, two-family dwellings, townhouse dwellings, manufactured homes (in zoning districts where manufactured homes are permitted by Article 14, multi-family dwellings, and live/work units.

19.99.8 Permissible Nonresidential Uses within a TND

Nonresidential uses allowed within a TND shall be the same as those specified for the underlying zoning district in the Table of Permitted Uses. In addition, in R-5, R-15, R-25, RMH-25, R-40, and A-1 zoning districts, the following commercial uses are permitted provided that no more than 15 percent of the total land area of a TND shall be used for such commercial uses:

(A) Business, Professional and Personal Services:

- Accounting, Auditing or Bookkeeping
- Administrative or Management Services
- Bank, Savings and Loan, or Credit Union
- Barber Shop
- Beauty Shop
- Clothing Alteration or Repair
- Computer Maintenance and Repair
- Employment Agency, Personnel Agency
- Engineering, Architect or Survey Service
- Finance or Loan Office
- Insurance Agency
- Laundromat, Coin-Operated
- Law Office
- Medical, Dental or Related Office
- Photography, Commercial Art Studio
- Real Estate Office
- Shoe Repair or Shoeshine Shop

(B) Retail Trade:

- ABC Store (liquor)
- Antique Store
- Arts and Crafts
- Bakery

- Bar, Night Club, Tavern
- Bookstore, except Adult Bookstore
- Computer Sales
- Convenience Store
- Drugstore
- Florist
- Food Store
- Hardware Store
- Newsstand
- Optical Goods Sales
- Pet Store
- Record and Tape Store
- Restaurant (without drive-thru)
- Service Station, Gasoline Sales
- Video Tape Rental and Sales, except Adult Video Store

No nonresidential use shall be permitted within 150 feet of the perimeter of the traditional neighborhood development unless the same or a similar use exists adjacent to the perimeter at the time of approval of the TND or is a use permitted by zoning on the adjoining property.

Building permits for commercial uses in TNDs located in R-5, R-15, R-25, RMH-25, R-40, and A-1 zoning districts shall not be approved until building permits authorizing the construction of at least 30 percent of the total residential units have been issued. This restriction shall not apply, however, to a commercial use that is otherwise allowed in these zoning districts.

19.99.9 Land Allocation by Use Type

The minimum and maximum land area devoted to specific land use types shall be determined as follows:

Land Use Type	Minimum	Maximum
Single-family uses	15%	75%
Two-family and multi-family uses	10%	40%
Retail, service, and office uses	2%	30%
Civic Uses	2%	None

19.99.10 Open Space

TNDs shall provide a minimum of 5% of the gross land area as useable open space. This minimum 5% open space requirement shall be in addition to the minimum recreation and open space requirements for residential subdivision lots delineated in Article 22 and for unsubdivided residential components as delineated in Article 19.

19.99.11 Street Design

The design and construction of streets within a traditional neighborhood development shall comply with the NCDOT's *Traditional Neighborhood Development (TND) Guidelines*.

19.99.12 Traffic

The Administrator may require that the applicant provide a traffic impact analysis or study or a certified letter from NCDOT that addresses anticipated traffic impacts. A traffic plan may also be requested by the Administrator that includes anticipated flow and mitigation strategies.

SECTION 19.100: TURKEY SHOOTS (SEASONAL)

19.100.1 Where Development Standards are Required

A-1 and I-2 districts.

19.100.2 Setbacks

(A) No turkey shoot shall be allowed within a required setback.

(B) All turkey shoots shall be established with the line of fire perpendicular to and away from a road right-of-way. The line of fire is a line which passes through the firing point and bisects the target. The backstop or target area shall be located not less than 500 feet from the road right-of-way.

(C) Sites adjacent to more than one road right-of-way must designate the higher classified road as the front and set the line of fire perpendicular thereto. Any resultant line of fire parallel to a road must be a minimum distance of 300 feet from and parallel to the road right-of-way.

(D) All backstops shall be constructed a minimum of 500 feet from a residence located to the rear and/or side of the backstop. The design of the backstop shall be as approved by the National Rifle Association.

19.100.3 Parking

A parking area adequate in size to park 2 cars for every backstop shall be provided.

19.100.4 Operation

(A) Backstops shall be constructed of a material that will allow the shot to penetrate and not pass through. It shall be of a minimum thickness of 2 feet and maintained at a height of 4 feet above the target.

(B) The firearms used in turkey shoots shall be limited to shotguns firing shot no larger than number eight. No firearms may be used which have been altered from manufacturer's specifications.

(C) The operators of the turkey shoot shall be responsible for maintaining adequate fire protection by notifying the local fire department as to the dates and times of the turkey shoot.

(D) Turkey shoots shall be limited to Thursdays, Friday, and Saturdays and be in operation no later than 10:00 pm.

(E) Provisions for sanitation and refuse disposal must be made in accordance with health standards.

(F) Some noise is expected but mitigation measures are encouraged to be made. Noise mitigation may be required by the Administrator after the commencement of the use if repeated noise nuisance is observed by the Administrator.

(G) A Chowan County Deputy Sheriff shall be hired by the person responsible for running the event and be on-site for each Turkey Shoot.

19.100.5 Permit Review

The Administrator shall coordinate the review of a request for a turkey shoot with the Albemarle Regional Health Department and the Sheriff's Department.

19.100.6 Permit Limitation

The Zoning Administrator shall issue a permit not to exceed 90 days in a given year for a qualifying turkey shoot.

SECTION 19.101: UTILITY RELATED APPURTENANCES, SUBSTATIONS

19.101.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.101.2 Dimensional Requirements

All buildings shall be considered accessory buildings or structures.

19.101.3 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.101.4 Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided around hazardous operations, as determined by Chowan County, involved with the use.

19.101.5 Screening

Any outdoor storage area shall be screened from an abutting residentially used or zoned lot by a buffer yard, which complies with the requirements of Article 19.

19.101.6 Dust

All unpaved outdoor use areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

SECTION 19.102: VIDEO GAMING ARCADE

19.102.1 Where Development Standards are Required

B-1 district.

19.102.2 General Requirements

The requirements of this subsection are applicable to a video gaming arcade operated as a principal use, a combination use, or as an accessory or ancillary use to a principal use. These requirements do not apply to coin-operated arcades or businesses that do not include one or more video gaming machines as defined in Article 2. Video gaming arcades shall comply with the requirements of NCGS 14-306.1. If there is conflict between the requirements of NCGS 14-306.1 and the requirements of these Regulations, the more restrictive standard shall apply.

19.102.3 Use Separation

No video gaming arcade shall be located within 500 feet of any other video gaming arcade, a church, elementary or secondary school, public park, or residentially zoned property.

19.102.4 Location

A video gaming arcade shall be operated only within a permanent building.

19.102.5 Signs

No sign advertising the presence or operation of video gaming machines shall be allowed.

SECTION 19.103: WATER TREATMENT PLANT

19.103.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts.

19.103.2 Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from a residentially used or zoned lot.

19.103.3 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.103.4 Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided around hazardous operations, as determined by Chowan County, involved with the use.

SECTION 19.104: WINERIES

19.104.1 Where Development Standards are Required

A-1 district.

19.104.2 General Requirements

Wineries are permitted when located on the same parcel as the vineyard producing the grapes. The principal source of grapes for processing shall be grapes grown on the premises. Shipping grapes to the winery for processing is permissible in order to allow the winery to remain viable during years when the vines do not produce a sufficient supply of grapes.

19.104.3 Location

A setback of all principal buildings of not less than 50’ from a public street and adjacent properties is required to maintain a rural agricultural and residential atmosphere.

19.104.4 Screening

Parking lots, outdoor storage areas, retail operations and the winery shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 19. The site plan shall indicate any outdoor storage areas not associated with the agricultural operation to determine additional screening requirements.

19.104.5 Retail Operations

Retail operations accessory to the winery, such as a gift shop, tasting room, and a restaurant are permitted. The type of merchandise retailed from the premises is limited to products produced on the premises related to the vineyard and winery (wine, jellies, vine crafts, etc.) and products normally associated with such (wine crackers, stemware, cheese, etc.).

19.104.6 Hours of Operation

Facilities that are open to the general public shall not conduct business between the hours of 10 p.m. and 8 a.m.

19.104.7 Dust

All unpaved parking and storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

19.104.8 Vehicular Access

Access to the premises shall be from a road that has the functional capacity to accommodate the anticipated traffic volume of the proposed operation. Generally, access shall be from a collector or higher capacity street.

19.104.9 Signs

There may be one freestanding sign erected per public road frontage. The sign(s) shall not exceed three feet in height and fifteen square feet in sign area when located within ten feet of the right-of-way. When located more than ten feet from the right-of-way, the sign(s) shall not exceed five feet in height and twenty-five square feet in sign area.

SECTION 19.105: WIRELESS COMMUNICATION TOWERS UNDER 50 FEET IN HEIGHT

19.105.1 Where Development Standards are Required

R-5, R-15, R-25, RMH-25, R-40, and A-1 districts, except that communication towers on government facilities and structures are allowed by right in all zoning districts, provided that applicable lease agreements are obtained. Communications towers that are 50 feet or greater in height, except for public safety communications towers, are governed by the provisions of Article 18. Public safety communications towers are allowed in accordance with the requirements of Article 19.

19.105.2 Location

Towers shall not be placed in any front yard or side yard. All supporting cables shall be contained on the property.

SECTION 19.106: WIRELESS COMMUNICATION TOWERS OVER 50 FEET IN HEIGHT

19.106.1 Where Development Standards are Required

A-1, B-1, B-2, I-1, and I-2 districts, except that communication towers on government facilities and structures are allowed by right in all zoning districts, provided that applicable lease agreements are obtained. Public safety communications towers are allowed in all zoning districts by right.

19.106.2 Specific Requirements and Standards

Communications towers that are 50 feet or greater in height, except for public safety communications towers, shall comply with the requirements of Article 18.

SECTION 19.107: WIRELESS COMMUNICATION TOWERS, PUBLIC SAFETY

19.107.1 Where Development Standards are Required

All Districts.

19.107.2 Specific Requirements and Standards

Public safety wireless communications towers shall comply with the requirements of Article 18.

SECTION 19.108: SOLAR PANELS (ACCESSORY)

An application for a proposed solar collector/energy system as an accessory to an existing structure must meet the following standards as a limited accessory use:

19.108.1 Solar Panel (Accessory) Design and Installation Requirements

All solar energy collectors, whether ground mounted or mounted on an existing structure, shall meet the minimum accessory structure zoning setbacks for the zoning district in which located. The height of the structure shall not be taller than the maximum allowed height of a structure in the zoning district in which located. If roof mounted, the panel addition may not make the structure taller than the permitted maximum height for that respective zoning district.

SECTION 19.109: SOLAR ENERGY FACILITY

A Solar Energy Facility developed as a principal use shall require issuance of a special use permit and will be permitted in accordance with the Table of Permitted Uses Table 5-1, subject to the following requirements. For all proposed developments falling within the defined Highway Corridor Overlay District, the standards outlined under Article 16 shall also apply.

19.109.1 Purposes and Objectives

The purposes and objectives for which this chapter is passed are as follows:

(A) To protect and enhance the economic vitality and interests of the citizens and residents of Chowan County.

(B) To facilitate the siting, construction, installation, and operation of solar energy facilities in Chowan County in a manner that promotes economic development and ensures the protection of the health, safety and general welfare of the citizens while also avoiding adverse impacts to adjacent land uses and property owners and that is consistent with the Chowan County & Town of Edenton Joint Land Use Plan.

(C) To preserve the rich history, dignity, view shed, and aesthetic quality of the environment in Chowan County.

19.109.2 Setbacks

All structures, including fences, berms, panel arrays, and non-public utility owned electrical components, associated with any Solar Energy Facility development shall meet the following minimum setbacks:

(A) A minimum of two hundred and fifty feet (250') setback as measured from all non-participating property lines, street right-of-way lines, and CAMA designated navigable water bodies unless further setback is required in this ordinance or through any state or federal permitting process.

(B) A minimum of one thousand feet (1,000') setback from the roadways designated as the Historic Albemarle Tour and the NC Scenic Byway- Edenton- Windsor Loop.

(C) A minimum of one thousand feet (1,000') setback from the property lines of any NC National Register, NC Study List, or NC Determined Eligible structure or site as listed by the North Carolina Natural Heritage Program.

(D) A minimum of one thousand feet (1,000') setback from the property lines of any Rosenwald School as listed by the North Carolina State Historic Preservation Office.

(E) A minimum one thousand five hundred feet (1,500) setback from all structures, including fences, berms, panel arrays, and non-public utility owned electrical components, associated with any adjacent Solar Energy Facility.

19.109.3 Height

15 feet maximum.

19.109.4 Size

The maximum nameplate rating for a single Solar Energy Facility shall be not more than 7.5 Megawatts (MW).

19.109.5 Visibility

(A) Solar Energy Facilities must meet the requirements of the following along all property lines adjacent to properties currently used for residential purposes and public rights-of-way; unless existing mature-growth vegetative screening exists on the subject property.

(B) Existing mature-growth vegetation must be at least one- hundred twenty-five feet (125') in depth and include both canopy and understory trees.

(C) For all other areas, Solar Energy Facility developments shall install a minimum of at least one-hundred twenty-five feet (125') wide vegetative buffer with the following requirements:

(1) In the first 25', 3 rows of fast growing shrubs shall be planted, spaced 10' apart and staggered evenly between the 3 rows. Shrubs shall be a species native to Eastern North Carolina (ex: wax myrtle); and

(2) The next 100', evenly spaced 12' rows of evergreens, planted 8' apart and staggered between rows. Evergreens shall be a species native to Eastern North Carolina (ex: Pine, Red Cedar); and

(3) To facilitate the growth of any installed vegetation buffer, no mechanical maintenance may occur to inhibit or control ground cover; and

(4) These standards will be enforced regardless of the facilities' proximity to adjacent structures, waterways, or roadways.

(D) A performance guarantee in the amount of 115% of the cost of the landscaping used for screening shall be submitted prior to the issuance of a building permit and remain valid until opacity is achieved. Should opacity not be reached within 5 years of building permit issuance, the county will draw upon the performance guarantee and install required supplemental landscaping. In the even the developer does not maintain the initial planting, the County may draw upon the performance guarantee and reinstall.

19.109.6 Development Plan

(A) The Solar Energy Facility shall be developed in accordance with an approved major site plan that includes the following information:

(1) The location of the Solar Energy Facility, including the arrangement of any existing or proposed buildings, structures or panels.

(2) The distance from any proposed Solar Energy Facility building, structure, panels, and fence to the surrounding property lines.

(3) The location of any required buffers as outlined in Section 8.108(E).

(4) Existing or proposed signs, fencing, lighting, construction and permanent parking areas, driveways, landscaping, vegetative screening, or required buffers.

(5) Horizontal and vertical elevation to-scale drawings with dimensions.

(6) Certification that all panels have passed UL 1703 regarding PV module safety.

(7) Approval from access controlling agencies for street access (i.e. NCDOT).

(B) The Solar Energy Facility shall designate 30% of the total land area in one or a combination of the following plans:

(1) Approved plan from the North Carolina Wildlife Resources Commission, Habitat Conservation Division, designating 30% of the total land area of the SEF as an acceptable native pollinator habitat; or,

(2) At least 30% of the total land area of the Solar Energy Facility shall be dedicated for agricultural use.

19.109.7 Environmental Concerns

(A) Except within the required buffers as outlined in this ordinance, appropriate ground cover/grass is required for soil stabilization and shall be maintained in a manner that does not create a fire hazard. Grass and weeds not associated with the pollinator habitat shall not exceed two feet (2') in height at any time.

(B) Ground water monitoring wells.

(1) Shall be a minimum of 20' deep.

(2) Monitoring wells shall be installed prior to construction of any of the Solar Energy Facility components.

(3) Monitoring wells shall be located near the center of the site and along either the north and south or east and west exterior property lines at approximately the lowest ground elevation point on the respective property line.

(4) Testing data prepared by a laboratory certified by the North Carolina Department of Health and Human Services to analyze water subject to the regulations under the North Carolina Drinking Water Act shall be submitted prior to construction of the Solar Energy Facility. If evidence of contaminants (from list in Section 8.108 G.2.e.) is shown, another test shall be performed every year until no contaminants are

detected. If no contaminants are detected, a follow up test will be conducted in two years. If no contaminants are found with the first two tests, a test will be conducted every five (5) years and then at decommissioning. All tests must be submitted to the Planning Department until the Solar Energy Facility is decommissioned.

(5) Testing data shall show compliance with the NC Department of Health and Human Services Private Well Inorganic Chemical Contaminants standards for the following contaminants:

- Arsenic
- Barium
- Cadmium
- Chromium
- Copper
- Iron
- Lead
- Magnesium
- Manganese
- Mercury
- Nitrate/Nitrite
- Selenium
- Silver
- Zinc

(6) The Chowan County Board of Commissioners may require testing for other contaminants.

19.109.8 Solar Energy Facility Impact Analysis

As part of an application, a Solar Energy Facility Impact Analysis shall be submitted and contain the following information:

(A) General project description

(B) Construction Activity Plan:

(1) Amount of land disturbance

(2) Land surface clearing and grading plan

(3) Energy, water, and material needs

(4) Fencing and lighting needs

(5) Protection plans for soil, disturbed areas, and surface water

(C) Operational Plan

(1) Maintenance activities and schedule

(2) Vegetation management plan

(3) Protection plans for soil, disturbed areas, and surface water

(D) Impacts and Resources affected

(1) CAMA jurisdictional areas

(2) USACE designated wetlands

(E) Decommissioning Plan as outlined in this Section

19.109.9 Discontinued Use and Decommissioning

Decommissioning shall include removal of solar collectors, cabling, electrical components, and any other Solar Energy Facility associated facilities, grading, and re-seeding disturbed earth from the project.

(A) A decommissioning plan, certified by a North Carolina licensed professional engineer is required and shall include the following:

(1) A description of any lease or other agreement with all landowners regarding decommissioning.

(2) The identification of the party responsible for decommissioning, if not the property owner.

(3) The type of panels and material specifications used at the Solar Energy Facility.

(4) All costs for the removal of solar panels, buildings, cabling, electrical components, road, fencing, and any other associated facilities below grade.

(5) All costs associated with the grading and re-seeding of disturbed earth from the project.

(B) The decommissioning plan shall be updated with the Planning Department every three years or upon change of ownership of the property or the Solar Energy Facility.

(C) The Solar Energy Facility owner shall have six (6) months to complete decommissioning of the facility if no electricity is generated for a continuous 12-month period. For purposes of this section these periods shall not include delay resulting from force majeure.

(D) Disturbed earth shall be graded and re-seeded unless a written request is submitted by the property owner specifying areas not to be restored.

(E) A Decommissioning Performance Guarantee is required that meets the following standards:

(1) Shall be submitted prior to issuance of a building permit.

(2) Shall equal 115 percent of the estimated decommissioning costs.

(3) Shall not be reduced by salvage value.

(4) Shall be automatically renewable in the form of a bond or cash escrow deposit, in favor of the County, which shall be drawn and paid in full in immediately available funds in the event the owner fails to decommission the Solar Energy Facility pursuant to the requirements of this section. The institution issuing this guarantee shall provide to the County a notice no less than 90 days in advance of any renewal, cancellation, termination or expiration of this guarantee.

(5) Shall be recorded in the County's Registry of Deeds.

(6) Shall be reviewed every three years as part of the decommissioning plan update and adjusted based upon current costs. In the even the decommissioning costs decrease, the performance guarantee shall not be changed to reflect the lower cost.

(7) Shall remain in effect until decommissioning and site restoration is complete.

(F) Should the County become the decommissioning agent and execute the decommissioning bond, the salvage value of the project becomes property of the County.

SECTION 19.110: WIND ENERGY FACILITIES (PRIVATE, COMMERCIAL)

19.110.1 Zoning Districts

Private: A-1; Commercial: A-1

19.110.2 Definitions

Private Wind Energy Facility means the supply of energy, to be used on site, to a single residence or a single private commercial use.

Commercial Wind Energy Facility means industrial scale, for the production of energy to be used offsite and/ or for resale.

19.110.3 Preamble

Wind Energy Facilities may be permitted in districts as designated in the Table of Permitted Uses subject to the following requirements:

(A) A Permit Application for a Wind Energy Facility shall contain the following:

(1) A narrative describing the proposed Wind Energy Facility, including an overview of the project;

(2) The proposed total rated capacity of the Wind Energy Facility;

(3) The proposed number, representative types and height or range of heights of Wind Turbines to be constructed, including their rated capacity, dimensions and respective manufacturers, and a description of ancillary facilities;

(4) Identification and location of the property or properties on which the proposed Wind Energy Facility will be located;

(5) A site plan showing the planned location of all Wind Turbines, property lines, setback lines, access roads, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, building(s), transmission and distribution lines. The site plan must also include the location of all Occupied Buildings, Residences, and other features sufficient to demonstrate compliance with the setbacks required by this Article;

(6) Any Environmental Assessment required by state or Federal law;

(7) A Radio Frequency study, conducted by a third party consultant, modeling and mitigating interference to radio, television, cellular, broadband or other electromagnetic transmission(s);

(8) Decommissioning plans that describe the anticipated life of the Wind Energy Facility, the estimated decommissioning costs in current dollars, and the anticipated manner in which the Wind Energy Facility will be decommissioned and the site restored;

(9) Documentation of agreement between Participating Landowner(s) and the Applicant, Facility Owner, or Operator; and Signature of the Applicant.

(10) The applicant for a Commercial Wind Facility shall establish an escrow account in the name of Chowan County in the amount of $50,000 to be used by the County for all County expenses related to administering the permit or inspections. The escrow account shall be replenished whenever it drops to $20,000 to the original funding amount. Operating permits will be immediately revoked in case of failure to replenish the escrow account;

(B) Throughout the permit process, the Applicant shall promptly notify Chowan County of any proposed changes to the information contained in the permit application that would materially alter the impact of the project.

(C) Changes to the approved application that do not materially alter the initial site plan may be administratively approved by the Administrator. Major modifications that would materially

alter the impact of the project under the approved Special Use Permit will require a new Application and approval by the Planning Board and Board of County Commissioners in the same manner as the original Special Use Permit. Major Modification is defined as an expansion of the project boundary or an increase in the number of turbines or wattage specified in the permit, location of turbines and or transmission/ distribution lines, or substations. A decrease in the number of turbines or the relocation of any turbine on the site plan within the project boundary is not a Major Modification so long as the turbine locations conform to development standards of the ordinance.

(D) Wind Turbine Height and Setback Multipliers and Minimum Lot Sizes: The Setbacks shall be calculated by multiplying the required setback number by the Wind Turbine Height and measured from the center of the Wind Turbine base to the property line where an occupied building or residence is located, or the nearest point on a public road right of way. For a Wind Energy Facility, Commercial, the minimum lot size is the minimum combined acreage of lots that are under lease or agreement with the Applicant or Wind Energy Facility Owner pertaining to the Wind Energy Facility.

Lot Size, Setback and Height Requirements

Facility Type	Minimum Lot Size	Property Lines for Non-Participating Property	Public Roads	Maximum Height
Private Facility	43,000 sq. ft.	5	1.5	120 feet
Commercial Facility	500 acres	6.5	1.5	600 feet

Setback requirements may be waived by a property owner so long as such waiver is in writing and signed by the property owner and the applicant and recorded in the Chowan County Register of Deeds Office.

(E) Sound and Shadow Flicker. This Section shall only apply to Commercial Wind Energy Facilities. Sound and Shadow Flicker issues for Private Wind Energy Facilities are addressed by setbacks.

(1) Audible sound from a Large Wind Energy Facility shall not exceed forty- five (45) dBA for more than 10 consecutive minutes, as measured at the closest property line. Each occurrence shall be a separate violation of this ordinance. Penalties may be established by the county and shall be cumulative. The offending equipment shall be shut down immediately upon notification by County officials and not restarted until the correction is confirmed by an independent licensed engineer.

(2) There shall be no shadow Flicker on any Occupied Building or Residence on a nonparticipating landowner's property caused by a Commercial Wind Energy Facility.

(3) Sound and/or Shadow Flicker provisions may be waived by a property owner so long as such waiver is in writing, signed by the property owner and applicant and recorded in the Chowan County Register of Deeds Office.

(F) Installation and Design.

(1) The installation and design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute, and take into consideration local conditions.

(2) All structural, electrical and mechanical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes.

(3) Radio, television, cellular, broadband or other electromagnetic transmission(s) or reception on other properties shall not be disturbed or diminished.

(4) The visual appearance of a Wind Turbine shall at a minimum:

(a) Be a non-obtrusive color such as white, off-white or gray;

(b) Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; and

(c) Not display advertising (including flags, streamers or decorative items), except for identification of the Wind Turbine manufacturer, Facility Owner and Operator.

(G) Decommissioning.

(1) The Wind Energy Facility Owner shall have twelve (12) months to complete decommissioning of the Wind Energy Facility if no electricity is generated for a continuous period of twelve (12) months. For the purposes of this Section, this twelve (12) month period shall not include delay resulting from Force Majeure.

(2) Decommissioning shall include removal of Wind Turbines, buildings, cabling, electrical components, roads, and any other associated facilities down to thirty-six (36) inches below grade.

(3) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(4) The applicant shall provide a cash bond, payable to Chowan County to cover the cost of decommissioning. The amount shall be established by an independent expert not previously associated with the Project or it's company and shall be reviewed at five-year intervals and revised as applicable. The bond and any other instrument shall remain in full force and effect until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the Special Use Permit, unless otherwise agreed upon by the property owner;

(5) If the applicant or subsequent owner abandons the facility or fails to decommission and remove the facility in accordance with this ordinance, Chowan County will utilize the cash bond to have the decommissioning accomplished.

SECTION 19.111: RECYCLING CENTERS

A recycling center developed as a principal use shall be permitted in accordance with the Table of Permitted Uses, subject to the following:

(A) Recycling centers shall be located five hundred feet or more from any existing residential use. This distance shall be measured from the location of the actual recycling center operation, and not from the property boundaries within which the use is located.

(B) No recycling center operation shall exceed five acres in size.

(C) Any given piece of material collected through operation of the recycling center may not remain on-site for a period exceeding thirty days.

(D) No recycling centers may be developed within a defined Highway Corridor Overlay District.

(E) All new recycling centers must comply with the landscaping screening standards outlined under Article 20. If a newly established recycling center is not subject to these standards then screening shall be provided to shield the operation from the right-of-way or road providing access to the site. The method used for screening may be determined by the applicant but must be approved by the Board of Adjustment in conjunction with the issuance of a special use permit.

SECTION 19.112: WELDING SHOPS

19.112.1 Where Development Standards are Required

A-1, B-1, and I-2 districts.

19.112.2 Minimum Property Setbacks

All buildings and structures shall be a minimum of 100 feet from any residentially zoned or used lot.

19.112.3 Screening

All outside storage areas shall be screened from all adjoining residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of Article 20.

19.112.4 Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

19.112.5 Dust

All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties. Gravel shall be installed upon these areas at least once annually and may be installed at the request of the Administrator if the Administrator observes egregious violations of this requirement.

SECTION 19.113: TEMPORARY PLACEMENT OF RECREATIONAL VEHICLES NOT LOCATED IN A PRIVATE CAMPGROUND/RV PARK FOR CONSTRUCTION OR RECONSTRUCTION PURPOSES

(A) Unoccupied recreational vehicles: Recreational vehicles (RV's) are permitted to be stored unoccupied on any lot as an accessory to the primary use. Such storage of the RV shall not be within any required setback. Unoccupied RV's may not be used for the storage of any materials, items, pets, farm animals, and the like.

(B) Occupied recreational vehicles: Recreational vehicles for temporary occupancy shall not be allowed on individual lots, except for during the construction of a single-family dwelling but not for longer than 12 months, on the same lot. The Administrator may issue 2 permit extensions of 3 months each, if it is determined that the renewal is reasonably necessary to allow the for the necessary work to make the permanent dwelling habitable. The Board of Adjustment may issue further extensions upon evidence of need.

(C) In addition, any occupied recreational vehicle that is not located in an RV park that remains on the property for more than two consecutive weeks shall be anchored to N.C. Building Code wind zone specifications and provide an acceptable plan for disposal of all sewerage and gray water.

(D) In no case shall there be more than one recreational vehicle on a parcel that is not an RV park and must meet all setback requirements for the zoning district at all times.

(E) Recreation vehicles placed on sites within a special flood hazard area:

(1) Shall be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions); or

(2) Shall meet all the requirements for new construction, including anchoring and elevation requirements of the Flood Damage Prevention and Protection Ordinance.

SECTION 19.114: AIRPORT HEIGHT OVERLAY USE SPECIFIC STANDARDS

(A) The Airport Protection Overlay (AP) District, as established in Article 14 is not intended to be utilized as a general use zoning district classification, but as a designation which identifies areas subject to regulations which are supplementary to the regulations of the zoning district to which such designation is attached, appended or overlaid. Regulations which apply to areas designated on the zoning map as being within such appended or overlaid designation must be determined by joint reference to the regulations of both the basic district classification and the overlay classification.

(B) It is the intent of this Section to restrain influences which are adverse to the airport property and safe conduct of aircraft in the vicinity of the Edenton Municipal Airport, to prevent creation of conditions hazardous to aircraft operation, to prevent conflict with land development which may result in loss of life and property, and to encourage development which is compatible with airport use characteristics within the intent and purpose of zoning. To this end, the AP designation, when overlaid to a basic district classification, is intended to coordinate the purpose and intent of this Section with other regulations duly established by the County of Chowan whose primary intent is to further the purposes set out above.

(C) The following definitions shall apply to this Section:

(1) **Airport.** The Edenton Municipal Airport (Northeastern Regional Airport).

(2) **Airport Elevation.** The highest point of the airport's useable landing area measured in feet above mean sea level (19.0’).

(3) **Approach Surface.** A surface longitudinally centered on the extended runway centerline of each runway, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section D.

(4) **Approach Zone**. The inner edge approach zone coincides with the width of the primary surface and begins 200 feet from the runway end and is 500 feet wide for all runways. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface for runway 19. The

approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface for runway 1. For runway 5, the approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface; and, the approach zone for runway 23 expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet. Its centerlines are the continuation of the centerlines of the respective runway.

(5) **Conical Surface.** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

(6) **Conical Zone.** The conical zone is established on the area that commences at the periphery of the horizontal zone and extends outward therefrom for a distance of 4,000 feet, and upward at a slope of 20:1.

(7) **Hazard to Navigation.** An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.

(8) **Height.** For the purpose of determining the height limits in all zones set forth in this Section and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

(9) **Horizontal Surface.** A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincided with the perimeter of the horizontal zone.

(10) **Horizontal Zone.** The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of the end of the primary surface of runways 1 and 19 and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(11) **Obstruction.** Any structures, growth, or other object, including a mobile object, which exceeds a limited height set forth in Section D.

(12) **Primary Surface.** A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of that 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 500 feet for all runways.

(13) **Runway.** A defined area on an airport prepared for landing and takeoff of aircraft along its length.

(14) **Structure.** An object, including a mobile object, constructed or installed by man, including but without limitation, building, towers, cranes, smokestacks, earth formations and overhead transmission lines.

(15) **Transitional Surfaces.** These surfaces extend outward at right angles (90 degree angles) to the runway centerline and extend at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and/or conical surfaces.

(16) **Transitional Zones.** The transitional zones are the areas beneath the transitional surfaces.

(D) Except as otherwise provided in this Section, no structure shall be erected, altered or maintained, and no trees shall be allowed to grow in any zone created by this Section to a height in excess of the applicable height limitations herein established for each zone in question as follows:

(1) **Approach Zones, APA.**

(a) For runway 19, the approach slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance 10,000 feet along the extended runway centerline. The inner dimension is 500 feet and its outer dimension is 3,500 feet.

(b) For runway 1, the approach zone slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. The inner dimension is 500 feet and its outer dimension is 1,500 feet.

(c) For runway 5, the approach zone slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. The inner dimension is 500 feet and its outer dimension is 2,000 feet.

(d) For runway 23 the approach zone slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. The inner dimension is 500 feet and its outer dimension is 1,250 feet.

(2) **Transitional Zones, APT.** Slopes 7 feet outward for each foot upward beginning at the side of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation or 169 feet above mean sea level. In addition to the foregoing there are established height limits sloping 7 feet outward for each foot upward beginning at the sides and at the same

elevation as the approach surface, and extending to where they intersect the horizontal surfaces.

(3) **Horizontal Zone, APH**. Established at 150 feet above the airport or at an elevation of 169 feet above the mean sea level.

(4) **Conical Zone, APC.** Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to an elevation 369 feet above mean sea level.

(E) Use Restrictions. Notwithstanding any other provisions of this Section, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(F) Nonconforming Use.

(1) Regulations not Retroactive. The regulations prescribed by this Section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Section, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Section, and is diligently prosecuted.

(2) Obstruction, Marking and Lighting. Notwithstanding the preceding provision of subsection 1., the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Chowan County Board of County Commissioners and the Edenton Municipal Airport to indicate to the operators of aircraft in the vicinity of the airport and the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Edenton Municipal Airport.

(G) Permits. The Administrator shall not issue a zoning permit within an 'APA', 'APH', 'APT' or 'APC' area until it has been determined that the proposal upon which he/she is requested to act is in compliance with the terms of these regulations.

(1) Future Uses. Except as specifically provided in subsections (a), (b), and (c) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless

a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Section shall be granted unless a variance has been approved in accordance with Article 7.

(a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structures less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(b) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(c) In the areas lying within the limits of the transition zones, no permit shall be required for any tree or structure less than 75 feet above the ground, except when such tree or structure because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions, shall be construed as permitting or intending to permit any construction, alteration of any structure or growth of any tree in excess of any of the height limits established by this Section.

(2) Existing Uses. No permit shall be granted that would allow the establishment or creation of any obstruction or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of these Regulations or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(3) Nonconforming Uses Abandoned or Destroyed. Whenever the Administrator determines that a nonconforming tree or structure has been abandoned or more than 75 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(4) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use of property, not in accordance with the regulations prescribed in this Section, may apply to the Board of Adjustment for a variance from such regulations Article 7.

SECTION 19.115: REGULATIONS FOR LOCATING AND RELOCATING MANUFACTURED HOMES

19.115.1 General Requirements

(A) Any person locating or relocating a manufactured home in Chowan County must secure a building permit. The Building Inspector shall issue a building permit upon receipt of a building permit fee, as set by the Board of County Commissioners, together with an application which shall contain: (i) the name and mailing address of the owner(s) of the manufactured home, (ii) a description of the manufactured home, including the name of the manufacturer and year of construction, and (iii) the proposed location of the manufactured home. Dealers of manufactured homes who place manufactured homes upon their sales lots (when such manufactured homes are not to be occupied for residential use) are exempt from the requirements of this Section. The Building Inspector shall inspect each manufactured home to determine compliance with the following:

(1) All manufactured homes shall be anchored in a manner approved by the *State of North Carolina Regulations for Manufactured Homes*, as from time-to-time amended, published by the North Carolina Department of Insurance. The anchoring requirement herein shall be completed within thirty days after the issuance of a building permit.

(2) All manufactured homes shall be skirted, in accordance with subsection B (1)(e) or B (2)(e) as applicable, with a noncombustible, corrosive resistant material extending from the bottom of the unit to the ground. Such skirting shall contain an access door or removal panel measuring not less than eighteen inches by twenty-four inches.

(3) All manufactured homes shall be installed according to the manufactured home manufacturers' printed instructions designed by a licensed architect or engineer. They shall specify the location and required stabilizing devices (tie-downs, piers, blockings, etc.) on which the design of the fastening devices attached to the homes are based. If such instructions do not exist, standards included in the *State of North Carolina Regulations for Manufactured Homes*, shall apply.

(4) Manufactured homes must have HUD manufactured housing approval constructed prior to January 1, 1977, shall not be permitted (brought in or moved within) in Chowan County for any purpose. In addition, to qualify for relocation, the manufactured home must be listed in the Chowan County Tax Assessor’s Office and

all County Ad Valorem taxes must be current on the home and the appearance criteria of subsection B.

(B) Manufactured homes shall be used for the purpose of residence only. In no case shall a manufactured home be used for storage or any other means other than a principal or approved accessory residential dwelling unit, to be used as an accessory would require a NC licensed engineer to certify the manufactured home no longer being a home and meeting NC Building Code requirements.

(C) After a building permit has been secured and the certificate of completion has been issued by the District Health Department, the manufactured home shall be properly connected to electrical utilities and approved by the Electrical Inspector.

(D) It shall be unlawful for an individual, partnership, firm or corporation to allow any electric current for use in any manufactured home to be turned on or to continue to furnish electricity for use in such manufactured home without having first ascertaining that a label of compliance is permanently attached to said mobile manufactured or a certificate of compliance has been issued.

19.115.2 Appearance Criteria

(A) All double-wide and multi-sectioned manufactured homes shall meet the following appearance criteria:

(1) **Length-width ratio.** The main portion of the building shall have a length not exceeding four times the building width.

(2) **Roof construction and pitch.** The pitch of the main roof of the building shall have a minimum rise of 2 feet for each 12 feet of horizontal run. The roof shall be finished with a type of shingle that is commonly used in standard residential construction.

(3) **Exterior Finish.** The exterior siding shall consist predominately of vinyl or aluminum lap siding (whose reflectively does not exceed that of flat white paint, wood or hardboard, comparable in composition, appearance and durability to exterior siding commonly used in standard residential construction.

(4) **Placement of homes.** All homes shall be placed on the lot in harmony with the existing site-built structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the road providing access to the site. On corner lots the side with the greatest road frontage shall be considered the front. On cul-de-sacs the home shall be sited with the front of the home being parallel to the road access.

(5) **Under skirting and permanent step.** All double wide and multi-sectioned manufactured homes shall be permanently placed on a brick, concrete block or other

masonry foundation. The foundation shall be continuous and unpierced except for access and ventilation as required by the *State of North Carolina Regulations for Manufactured Homes*.

All double wide and multi-sectioned manufactured homes, which are placed on rental lots shall have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with the standards set by the *State of North Carolina Regulations for Manufactured Homes*. Examples of commonly recognized building materials suitable for use as underpinning shall include, but not limited to, the following: brick, masonry, natural or synthetic stone masonry, or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufactured specifications.

All double wide and multi-sectioned manufactured homes shall have either a deck or porch with steps. This structure shall be located in front of the home. The minimum square footage shall measure at least 36 square feet. If the homeowner chooses to construct the deck or porch larger than 36 sq. feet, it must meet Volume VII of the NC Residential Building Code. The foundation shall be constructed of materials compatible with the masonry underpinning on the outer perimeter of the foundation. All steps decks, porches, entrances shall be installed and constructed in accordance with the standards set by the *State of North Carolina Regulations for Manufactured Homes* or when applicable, Volume VII of the NC Residential Building Code.

(6) **Chassis and tongue removal.** The towing tongue shall be removed upon final placement of the unit, under skirted, or screened with shrubbery. Such shrubbery shall be at a height to ensure a total visual barrier of the towing apparatus and maintained so as to continue their effectiveness.

(B) All single-wide manufactured homes shall meet the following appearance criteria:

(1) **Exterior Finish.** The exterior siding shall consist predominately of vinyl or aluminum siding (whose reflectivity does not exceed that of flat white paint), wood or hardboard, compatible in composition, appearance, and durability to the exterior siding commonly used in standard construction.

(2) **Roof construction and pitch.** The pitch of the roof must have a minimum vertical rise of three inches for each twelve inches of horizontal run and the roof shall be of materials that are commonly used in standard residential and/or manufactured home construction.

(3) **Placement of homes.** All homes shall be placed on the lot in harmony with the existing site-built structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the street providing

access to the site. On corner lots the side with the greatest road frontage shall be considered the front. On cul-de-sac roads, the home shall be sited with the front of the home being parallel to the street access.

(4) **Chassis and tongue removal.** The towing tongue shall be removed upon final placement of the unit, under skirted or screened with shrubbery. Such shrubbery shall be at a height to ensure a total visual barrier of the towing apparatus and maintained so as to continue their effectiveness.

(5) **Under skirting, decks and permanent steps.**

(a) All single-wide manufactured homes shall have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with the standards set by the *State of North Carolina Regulations for Manufactured Homes*. Examples of commonly recognized building materials suitable for use as underpinning shall include, but not limited to, the following: brick, masonry, natural or synthetic stone masonry, or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufactured specifications.

(b) The skirting shall be vented and shall allow for access to the crawl space in accordance with the *State of North Carolina Regulations for Manufactured Homes*.

(c) All singlewide manufactured homes shall have either a deck or porch with steps. This structure shall be located in front of the home. The minimum square footage shall measure at least 36 square feet. If the homeowner chooses to construct the deck or porch larger than 36 sq. feet, it must meet Volume VII of the NC Residential Building Code. The foundation shall be constructed of materials compatible with the masonry underpinning on the outer perimeter of the foundation. All steps decks, porches, entrances shall be installed and constructed in accordance with the standards set by the *State of North Carolina Regulations for Manufactured Homes* or when applicable, Volume VII of the NC Residential Building Code.

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ARTICLE 20. PARKING, LANDSCAPING & BUFFERING

SECTION 20.1: PARKING GENERAL REQUIREMENTS

20.1.1 Parking, Stacking, and Loading Space Required

When any building or structure is erected, modified, enlarged or increased in capacity, or any use is established or if there is a change in use that requires more stringent application of this Article, or if the use is modified or enlarged, the requirements of this Article shall be met. For enlargements, modifications, or increase in capacity, the requirements of this Article shall apply only to such enlargements, modifications or increases in capacity.

20.1.2 Required Number

The minimum number of required off-street parking, stacking and loading spaces is indicated in Section 20.3 (Number of Parking and Stacking Spaces Required) and Section 20.4 (Design Standards for Parking Stacking and Loading Areas). In cases of mixed occupancy, the minimum number of off-street parking, stacking and loading spaces shall be the cumulative total of individual use requirements unless otherwise specified.

20.1.3 Handicapped Spaces

Spaces for the physically handicapped shall be provided as required by the NC Building Code, Volume I-C.

20.1.4 Minimum Required

In all instances, except for residential and accessory uses, where less than five off-street parking spaces is required by Table 20-1, a minimum of five parking spaces shall be provided for all uses.

20.1.5 Reduction of Minimum Requirements

Unless there is a change in use requiring fewer spaces, the number of spaces shall not be reduced below the minimum requirements of this Article, for changes in use that require minimum spaces, the use-holder may elect to allow the existing spaces to remain if the excess spaces are not more than 30% of the required spaces needed.

20.1.6 Maintenance

All parking, stacking and loading facilities shall be permanently maintained by the owners or occupants as long as the use they serve exists.

20.1.7 Access

All parking, stacking and loading facilities shall have vehicular access to a public street or approved private street.

20.1.8 Use for No Other Purpose

Land used to provide required parking, stacking, and loading shall not be used for any other purposes, except for temporary events. If such land is devoted to any other purpose, the Certificate of Occupancy of the affected principal use shall immediately become void.

20.1.9 Compliance with Air Quality Standards

The construction of or modification to (i) open parking lots containing 1,500 or more spaces or (ii) parking decks and garages containing 750 or more spaces shall comply with the concentrated air emissions standards of the NC Division of Environmental Management.

SECTION 20.2: PARKING REQUIREMENTS FOR CHANGE IN USE

If a change in use causes an increase in the required number of off-street parking, stacking or loading spaces, such additional spaces shall be provided in accordance with the requirements of this Article; except that if the change in use would require an increase of less than five percent in the required number of parking spaces, no additional off-street parking shall be required.

SECTION 20.3: NUMBER OF PARKING AND STACKING SPACES REQUIRED

(A) The minimum number of required off-street parking and stacking spaces is indicated in Table 20-1.

(B) Whenever the number of parking spaces required by Table 20-1 results in a requirement of a fractional space, any fraction of one-half or less may be disregarded while a fraction in excess of one-half shall be counted as one parking space.

(C) For any use not specifically listed in Table 20-1, the parking and stacking requirements shall be those of the most similar listed use, as determined by the Administrator.

(D) All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.

(E) The Board of Commissioners recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in Table 20-1 may result in a development either with inadequate parking space or parking space far in excess of its needs. Therefore, the permit-issuing authority may permit deviations from the requirements of Table 20-1 and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the general standard delineated in subsection D. The permit-issuing authority may allow deviations, for example, when it finds that a residential development is irrevocably oriented toward the elderly, disabled or other population that demonstrates a lesser parking need or when it finds that a business or service is primarily oriented to walk-in trade. Whenever the permit-issuing authority allows or

requires a deviation from the requirements of Table 20-1, It shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation. Administrative deviations may not exceed 20% of the required amount of spaces.

Table 20-1: Off-Street Parking and Stacking Requirements

USE	SPACES REQUIRED
Residential Uses	
1) Boarding and rooming house; bed & breakfast	1/bedroom plus 2/3 employees on the largest shift
2) Congregate care, family care, or group care facilities	1/4 beds plus 1/employee and visiting specialist plus 1/vehicle used in the operation
3) Multi-family dwellings (including condominiums)	
0 to 1 bedroom units	1.50/unit
2 bedroom units	1.75/unit
3 or more bedroom units	2.00/unit plus 0.5 per bedroom over 3 bedrooms
4) Homeless shelter	1/resident staff member, plus 2/3 nonresidential staff members and/or volunteers on the largest shift, plus 1/each vehicle used in the operation
5) Single-family detached & two-family dwellings; manufactured homes; townhouse dwellings; manufactured home parks; residential use in a nonresidential building	2/dwelling unit plus 0.5 per bedroom over 2 bedrooms
Accessory Uses	
1) Accessory dwelling unit	1/attached unit, 2/detached unit
2) Caretaker dwelling	2/unit
3) Home & rural family business	1/each non-resident employee
Recreational Uses	
1) Amusement parks; fairgrounds; skating rinks	1/200 square feet of activity area
2) Athletic fields	25/field
3) Auditorium; assembly hall; convention center; stadium	1/5 persons based upon the design capacity of the building
4) Batting cages, golf driving ranges; miniature golf; shooting ranges	1/cage, tee, or firing point
5) Billiard parlors; tennis courts	3/table or court

USE	SPACES REQUIRED
6) Bowling centers	4/lane
7) Clubs; coin-operated amusement; physical fitness centers and similar indoor recreation	1/200 square feet of gross floor area
8) Riding academy	1/2 stalls
9) Go-cart raceways	1/go-cart plus 1/employee on the largest shift
10) Recreational vehicle park or campground	See Section 8.56
11) Swimming pools, swim clubs	1/100 square feet of water and deck space
Educational and Institutional Uses	
1) Ambulance services; fire stations; law enforcement stations	1/employee on the largest shift
2) Churches	1/4 seats in main chapel
3) Colleges and universities	7/classroom plus 1/4 beds in main campus dorms plus 1/250 square feet of office space plus 1/5 fixed seats in assembly halls and stadiums
4) Correctional institutions	1/10 inmates plus 2/3 employees on largest shift plus 1/vehicle used in the operation
5) Day care centers	1/employee plus 1/10 clients plus stacking for 4 vehicles
6) Elementary and middle schools	3/room used for offices plus 3/classroom
7) Government offices; post offices	1/150 square feet of public service area plus 2/3 employees on largest shift
8) Hospitals	1/4 in-patient or out-patient beds plus 2/3 employees on largest shift plus 1/staff doctor
9) Libraries; museums and art galleries	1/450 square feet of gross floor area for public use plus 2/3 employees on the largest shift
10) Nursing and convalescent homes	1/4 beds plus 1/employee and visiting specialist plus 1/vehicle used in the operation
11) Senior high schools	3/room used for offices plus 7/classroom
Business, Professional and Personal Services	
1) Automobile repair services	3/service bay plus 1/wrecker or service vehicle plus 2/3 employees on the largest shift

USE	SPACES REQUIRED
2) Banks and financial institutions	*1/200 square feet gross floor area plus stacking for 4 vehicles at each drive-through window or automatic teller machine
3) Barber and beauty shops	3/operator
4) Car washes	
a) Full-service	*stacking for 30 vehicles or 10/approach lane, whichever is greater plus 3 spaces in the manual drying area plus 2/3 employees on the largest shift
b) Self-service	*3 stacking spaces/approach lane plus 2 drying spaces/stall
5) Delivery services	2/3 employees on largest shift plus 1/vehicle used in the operation
6) Equipment rental and leasing	1/200 square feet gross floor area
7) Funeral homes or crematoria	1/4 seats in main chapel plus 2/3 employees on the largest shift plus 1/vehicle used in the largest operation
8) Hotels and motels containing…	
a) 5,000 square feet or less ancillary space, i.e. restaurant, meeting rooms, lounge or lobby or a restaurant/lounge containing 3,000 square feet or less	1.1/rental unit
b) more than 5,000 square feet of ancillary space, i.e. restaurant, meeting rooms, lounge or lobby or a restaurant/lounge containing over 3,000 square feet	1.25/rental unit
9) Kennels or pet grooming	1/300 square feet of sales, grooming or customer waiting area plus 2/3 employees on the largest shift
10) Laundromat (coin operated)	1/4 pieces of rental equipment
11) Laundry and dry-cleaning plants or substation	*2/3 employees on the largest shift plus 1/vehicle used in the operation plus stacking for 4 vehicles/pickup station
12) Laboratories	*2/3 employees on the largest shift plus 1/250 square feet of office space
13) Medical, dental, or related offices	3/examining room plus 1/employee including doctors
14) Motion picture production	1/1000 square feet of gross floor area

USE	SPACES REQUIRED
15) Offices not otherwise classified	1/250 square feet of gross floor area
16) Repair of bulky items (appliances, furniture, boats, etc.)	2/3 employees on largest shift plus 1/vehicle used in operation
17) Theaters (indoor)	1/4 seats
18) Truck wash	*3 stacking spaces/stall
19) Veterinary service (other)	4/doctor plus 1/employee including doctors
20) Vocational, business, or secretarial schools	1/100 square feet of classroom space plus 1/250 square feet of office space
21) Services and repairs not otherwise classified	1/250 square feet gross floor area plus 1/vehicle used in the operation
Drive-throughs not otherwise classified	*Stacking for 4 vehicles at each bay, window, lane, ordering station or machine in addition to the use requirement
Retail Trade	
1) Bars, night clubs, taverns	1/3 persons based upon the design capacity of building plus 2/3 employees on the largest shift, located on the same zone lot
2) Convenience stores	*1/200 square feet gross floor area plus 4 stacking spaces at pump islands
3) Department stores, food stores	1/200 square feet gross floor area
4) Fuel oil sales	2/3 employees on largest shift plus 1/vehicle used in the operation
5) Furniture; floor covering sales	1/1,000 square feet gross floor area
6) Motor vehicle, motorcycle, or recreational vehicle sales or rental; manufactured homes sales	5 spaces plus 1/10,000 square feet of display area plus 2/3 employees on the largest shift
7) Restaurants	*1/4 seats plus 2/3 employees on the largest shift & 11 total stacking spaces with minimum 5 spaces at or before ordering station
8) Retail sales not otherwise classified	1/200 square feet gross floor area
9) Retail sales of bulky items (appliances, building materials, etc.)	1/500 square feet of gross floor area

USE	SPACES REQUIRED
10) Service stations, gasoline sales	*3/service bay plus 1/wrecker or service vehicle plus 2/3 employees on largest shift plus 4 stacking spaces at pump islands
Wholesale Trade	
1) Market showroom	1/1,000 square feet gross floor area
2) Wholesale uses	2/3 employees on the largest shift plus 1/200 square feet of retail sales or customer service area plus 1/vehicle used in the operation
Transportation, Warehousing and Utilities	
1) Airport, bus and railroad terminals	1/4 seats plus 2/3 employees on the largest shift
2) Communications towers; demolition debris landfills; heliports; utility lines or substations	No required parking
3) Self-storage warehouses	1 space/5,000 square feet devoted to storage
4) Marinas; dry stack storage	1 space/slip; 1 space/2 dry storage spaces
5) Transportation, warehousing and utility uses not otherwise classified	2/3 employees on the largest shift plus 1/vehicle used in the operation
Manufacturing and Industrial Uses	2/3 employees on the largest shift plus 1/200 square feet of retail sales or customer service area plus 1/vehicle used in the operation

Other Uses	
Flea markets; other open air sales	1/1,000 square feet of lot area used for storage, sales, and display
Shopping Centers	
a) < 250,000 square feet gross floor area	1/200 square feet gross floor area in main building(s) (excluding theaters) plus parking as required for outparcels or theaters
b) > 250,000 square feet gross floor area	1,250 spaces plus 1/225 square feet gross floor area above 250,000 square feet

/ = Per

* = NCDOT may require additional stacking spaces on state or federal highways.

SECTION 20.4: DESIGN STANDARDS FOR PARKING, STACKING, AND LOADING AREAS

(A) Parking facilities shall be designed and constructed so as to:

(1) Allow unobstructed movement into and out of each parking space without interfering with fixed objects or vehicles;

(2) Minimize delay and interference with traffic on public roads and access drives;

(3) Maximize sight distances from parking lot exits and access drives; and

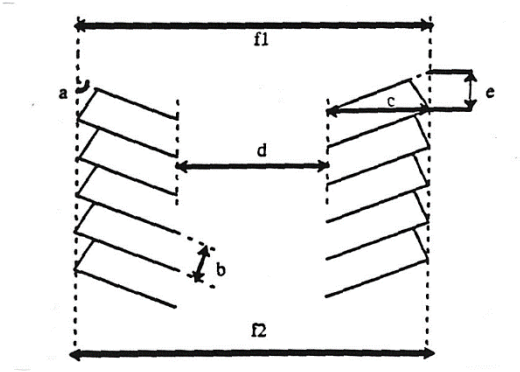
(4) Allow off-street parking spaces in parking lots to have access from parking lot driveways and not directly from roads.

(B) Dimensional Requirements. Parking facilities shall be designed and constructed to meet the minimum parking space dimensions, aisle dimensions and other standards found in Table 20-2.

Table 20-2: Parking Space Geometric Design Standards

a	b	c	d	e	f1	f2
PARKING ANGLE (degrees)	STALL WIDTH (*)	STALL TO CURB (ft.)	AISLE WIDTH (ft.)	CURB LENGTH (ft.)	CENTER-TO-CENTER WIDTH OF TWO ROW BIN WITH ACCESS ROAD BETWEEN (ft)	
					CURB-TO-CURB	OVERLAP C-C
0	7'-6"	7.5	12.0	23.0	27.0	
	8'-6"	8.5	12.0	23.0	29.0	-
	9'-0"	9.0	12.0	23.0	30.0	-
	9'-6"	9.5	12.0	23.0	31.0	-
	10'-0"	10.0	12.0	23.0	32.0	-
30	7'-6"	16.5	11.0	17.5	44.0	41.0
	8'-6"	16.9	11.0	17.0	44.8	37.4
	9'-0"	17.3	11.0	18.0	45.6	37.8
	9'-6"	17.8	11.0	19.0	46.6	38.4
	10'-0"	18.2	11.0	20.0	47.8	38.7
45	7'-6"	17.0	11.0	10.5	43.0	48.1
	8'-6"	19.4	13.5	12.0	52.3	46.3
	9'-0"	19.8	13.0	12.7	52.6	46.2
	9'-6"	20.1	13.0	13.4	53.2	46.5
	10'-0"	20.5	13.0	14.1	54.0	46.9

a	b	c	d	e	f1	f2
PARKING ANGLE (degrees)	STALL WIDTH (*)	STALL TO CURB (ft.)	AISLE WIDTH (ft.)	CURB LENGTH (ft.)	CENTER-TO-CENTER WIDTH OF TWO ROW BIN WITH ACCESS ROAD BETWEEN (ft)	
					CURB-TO-CURB	OVERLAP C-C
60	7'-6"	17.7	14.0	8.7	47.4	44.0
	8'-6"	20.7	18.5	9.8	59.9	55.6
	9'-0"	21.0	18.0	10.4	60.0	55.6
	9'-6"	21.2	18.0	11.0	60.4	55.6
	10'-0"	21.2	18.0	11.5	61.0	56.0
90	7'-6"	17.0	20.0	7.5	54.0	
	8'-6"	19.0	25.0	8.5	63.0	-
	9'-0"	19.0	24.0	9.0	62.0	-
	9'-6"	19.0	24.0	9.5	62.0	-
	10'-0"	19.0	24.0	10.0	62.0	-
(*) 9'-0" Recommended (*) 8'-6" Minimum (*) 7'-6" Compact Cars Only, for non-required spaces only.						
Stacking Space Geometric Design Standards Stacking Spaces shall be twelve feet (12) by twenty (20) feet.						



(C) Improvements.

(1) Except as provided for in subsection 3., required parking spaces, access drives, and loading areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights.

(2) Access drives shall be paved and maintained from the curb line or edge of pavement to a point at least ten feet beyond the public right-of-way line for all parking and loading facilities, whether paved or unpaved.

(3) Paving shall not be required for:

(a) Parking facilities used on an irregular basis for churches, private clubs or other similar nonprofit organizations.

(b) Parking facilities for residential uses where 20 or fewer spaces are required.

(c) Parking areas for agricultural uses.

(d) Parking areas for manufacturing and industrial uses in industrial zoning districts where 10 or fewer spaces are required, provided they are constructed with an all-weather surface.

(e) Parking areas for tracked heavy construction equipment, skid-mounted equipment and similar equipment, provided they are constructed with an all-weather surface.

Unpaved parking areas are still required to have a method of delineating spaces through the use of signs, railroad ties, or other identification items, the Administrator must approve the use of other parking space identification items.

(f) Where parking facilities are paved, curb and gutter or an equivalent drainage system shall be provided along the periphery of the parking lot, except where it is determined by the Administrator that such system is not practical for storm drainage purposes.

(g) All facilities shall be graded, properly drained, stabilized and maintained to minimize dust and erosion.

(h) All parking spaces and stacking lanes shall be clearly identified with paint lines, bumper guards, curbs, or similar treatment.

(i) All parking spaces shall be provided with wheel guards or curbs located so that no part of the parked vehicle will extend beyond the property line or encroach more than two feet into a required planting area.

(j) Concrete pads for stationary refuse containers shall be provided beneath and in the approach to each container.

(k) Parking lots shall be designed and constructed such that walkways shall maintain a minimum unobstructed width of four feet (vehicle encroachment is calculated as two feet beyond curb).

Parking lots shall be designed and constructed such that walkways provide access from the parking area to the use associated with parking.

Parking lots in excess of 50 parking spaces shall have speed bumps or speed control measures and painted pedestrian crossings for access to the use associated with parking.

SECTION 20.5: LOCATION

20.5.1 Off-Site Parking Lots

When required off-street parking is permitted to be located off-site, it shall be at least within five hundred feet of the lot containing the principal use, associated with the off-site parking. Required off-street parking shall not be located across an intervening major or minor thoroughfare. Off-site parking lots shall provide sidewalks or walkways for pedestrian access that is a minimum of 4 feet in width.

20.5.2 Parking in Nonresidential Districts

Automobile parking for any use may be provided in any nonresidential district.

20.5.3 Parking in Residential Districts

Surface parking in a residential district for any use not permitted in that district is allowed under the following conditions:

(A) Property on which the parking is located must abut the lot containing the use that the parking serves. The property must be under the same ownership or subject to a parking encumbrance agreement. All access to such property shall be through nonresidentially-zoned property;

(B) Parking shall be used only during daylight hours;

(C) Parking shall be used by customers, patrons, employees, guests, or residents of the use that the parking serves;

(D) No parking shall be located more than one hundred twenty feet into the residential zoning district.

(E) No parking shall be permitted closer than one hundred fifty feet to any public road right-of-way upon which the principal use would not be permitted driveway access; and

(F) Long-term or dead storage, loading, sales, repair work or servicing of vehicles is prohibited.

SECTION 20.6: COMBINED PARKING

20.6.1 Separate Uses

The required parking for separate or mixed uses may be combined in one facility.

20.6.2 Shared Parking

A maximum of fifty percent of the parking spaces required for a church, theater, auditorium or assembly hall or other similar use may also serve as required spaces for another use located on the same zone lot. Shared spaces may also be located off-site as allowed in subsection A., Section 20.5.1 (Off-site Parking Lots). In either case, the Administrator must determine through evidence provided by the owner, operator or applicant that the various activities will have peak parking demand at different periods of the day or week. Otherwise, no off-street parking required for one building or use shall be applied toward the requirements of any other building or use. A shared parking plan shall be enforced through a written agreement between the owners of record of all properties involved. The agreement shall be submitted to the Administrator prior to the issuance of a building permit for any use served by the shared parking area. After the Administrator has reviewed and approved the agreement, it shall be recorded with the Chowan County Register of Deeds.

20.6.3 Reassignment

Required off-street parking spaces shall not be leased or otherwise assigned to another use except as provided in subsection B.

SECTION 20.7: LOADING AREAS

20.7.1 Location

Off-street loading areas shall be located on the same lot as the use they serve.

20.7.2 Design Standards

(A) Minimum Number of Loading Spaces Required:

(1) Retail operations, including restaurant and dining facilities within hotels and office buildings:

Gross Floor Area (FT^2)	**Number of Spaces**
0 - 20,000	0
20,001 - 40,000	1
40,001 - 75,000	2
75,001 - 150,000	3
150,001 - 250,000	4
For each additional 250,000 square feet or fraction thereof	1

(2) Office buildings and hotels:

Gross Floor Area (FT2)	Number of Spaces
0 - 100,000	0
For each additional 100,000 square feet or fraction thereof	1

(3) Industrial and wholesale operations:

Gross Floor Area (FT2)	Number of Spaces
0 - 10,000	0
10,001 - 40,000	1
40,001 - 100,000	2
100,001 - 160,000	3
160,001 - 240,000	4
240,001 - 320,000	5
320,001 - 400,000	6
For each additional 90,000 square feet or fraction thereof	1

(B) Each loading space shall be at least twelve feet wide, sixty-five feet long, and fourteen feet in clearance.

(C) All off-street loading areas shall be arranged and marked to provide for orderly and safe unloading and loading, and shall not hinder the free movement of vehicles and pedestrians. All loading and unloading maneuvers shall take place on private property. No backing in from a road or maneuvering on the road right-of-way shall be permitted.

Loading areas shall be shown with projected truck movement and traffic flow so that the Administrator may determine that the proposed loading area will be practical and reasonably functional for the proposed use and will not serve as a detriment to traffic on the lot.

20.7.3 Parking and Loading Area Landscaping

Where ten or more parking spaces are required by Section 20.3, parking lots shall provide landscaping and screening in accordance with the standards delineated in this Article.

20.7.4 Excessive Illumination in Parking Lots and Loading Areas

Lighting within any parking and loading area that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot or that creates undue light pollution, including sky glow, glare, light trespass, light clutter, decreased visibility at night, and energy waste, is prohibited. Floodlights, spotlights, or any other similar lighting shall not be used to illuminate parking and loading areas.

All parking and loading area lighting shall be designed and located such that the maximum illumination, measured in foot-candles at the property line or edge of a road right-of-way, does not exceed the following standards: Uses that require illumination for parking lots and loading areas shall include a lighting plan that details the illumination in foot-candles so that the Administrator may verify that this requirement of these Regulations is being met.

Property Line	Maximum Illumination (in foot-candles)
Residential	0.5
Nonresidential	2.5
Edge of road right-of-way	2.5

SECTION 20.8: GENERAL REQUIREMENTS FOR LANDSCAPING AND SCREENING

The requirements of this Article shall apply to all uses of land, buildings, and structures located in the Chowan County Zoning Jurisdiction which are not exempted by this Article. The purpose of the landscaping and screening requirements contained in this Article is to establish minimum standards that (i) provide a visual buffer between parking lots and loading areas and adjoining roads and residentially used properties, (ii) provide a buffer between certain incompatible land uses, and (iii) screen solid waste collection dumpsters. Additional landscaping and screening requirements for properties located in the Highway Corridor Overly (HCO) Districts are delineated in Article 16.

20.8.1 Exemptions

None of the landscaping and screening requirements of this Article shall apply to:

(A) A detached single-family dwelling on its own separate lot.

(B) A two-family dwelling on its own separate lot.

(C) Existing uses and buildings, including repairs, alterations, or improvements to the interiors and exteriors of existing buildings which do not result in additions or expansions to them, if

the addition, expansion, repair, or renovation is greater than 75% of the tax value of the structure, the landscaping and screening requirements of this Article shall be complied with.

(D) Additions or expansions made to existing buildings within any consecutive 12-month period where the gross floor area of the additions or expansions does not exceed 30% of the gross floor area of the existing buildings. In instances where additions or expansions are being made for the third 12-month period (additions or expansions have been taking place over a 24-month period, the landscaping, screening and buffering requirements of this Article must be complied with).

(E) Additions or expansions made to existing vehicular parking areas within any consecutive 12-month period where the total area of the additions or expansions will not exceed 30% of the existing vehicular parking areas. In instances where additions or expansions are being made for the third 12-month period (additions or expansions have been taking place over a 24-month period, the landscaping, screening and buffering requirements of this Article must be complied with).

20.8.2 Landscaping Plan Approval

Whenever an application is filed with Chowan County for a building and/or zoning permit for any use of land to which these landscaping requirements apply, such application shall be accompanied by a landscape development plan. Such plan shall be in sufficient detail to enable the Administrator to determine whether or not such plan, when fully implemented, will comply with the landscaping requirements of these Regulations, and, in addition to information required by other provisions of these Regulations, shall include at a minimum the following specific information:

(A) The locations, dimensions and descriptions of all areas to be landscaped, including buffers, screens and fences;

(B) The locations, species, spacing and size (height and caliper) of proposed trees that are required;

(C) The locations, species (as appropriate), spacing and sizes of planting materials, walls, berms, and fences that are proposed to serve as required screens and buffers;

(D) The locations, dimensions and descriptions of any barriers to be installed at any time to protect trees and plants; and

(E) A description of the proposed means for watering and soil stabilization of planted areas, the description shall also include a maintenance plan so the Administrator may verify that a good faith effort is being made to ensure that the planted area will adequately satisfy the requirements of this Article.

SECTION 20.9: PARKING AND LOADING AREA LANDSCAPING

Where ten or more parking spaces are required by Section 20.3 parking lots shall provide landscaping and screening in accordance with the standards delineated below:

20.9.1 Roadside Buffer Yard Requirements

(A) Where ten or more parking spaces are required, parking lots shall include a minimum 10-foot perpetually maintained natural or planted buffer yard to screen the parking lot from all adjoining public road rights-of-way (where such parking lot is not screened visually by an intervening building, example the parking lot is located in the rear yard and not visible from the right-of-way due to the visual obstruction created by the intervening building).

(B) The required roadside buffer yard shall contain at least one canopy tree for each sixty linear feet of road frontage and each tree shall be a minimum of 8 feet in height and shall have a minimum caliper of 2 inches (measured six inches above grade) at the time of planting. Each tree shall be a species which can be expected to attain a minimum height of 40 feet and have a crown width of 30 feet or greater at maturity.

(C) The required buffer yard shall also contain evergreen shrubs, planted four feet on center, which are of a species that can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting.

(D) All portions of the roadside buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of 3 inches.

20.9.2 Property Line Buffer Yard Requirements

Where ten or more parking spaces are required by Section 20.3, any parking lot and loading area (i) which is located on a commercially-, industrially-, or institutionally used lot, and (ii) which abuts a residentially zoned lot shall include a minimum 10-foot perpetually maintained natural or planted buffer yard along all adjoining property lines that do not coincide with road rights-of-way.

The required property line buffer yard shall comply with the planting standards set out in subsection A. for roadside buffer yards except that there shall be one canopy tree for each 60 LF of property line adjoining a residentially zoned lot rather than for each 60 LF of road frontage.

20.9.3 Screening of Trash Containers and Dumpsters

(A) The large metal boxes commonly known as ‘dumpsters’ are a type of ‘trash container’ as such term is used herein. Such dumpsters are, however, referred to in this Section by specific name for purposes of emphasis and clarity.

(B) It is the intent of this Section to provide for visual screens and/or buffers between trash container and dumpster locations and all road rights-of-way and adjoining properties.

(C) Trash containers and dumpsters shall not be located in the front yard of any property and shall be screened from view on all sides, except for one opening not greater than ten feet in width to allow for service access.

(D) Screens and/or buffers intended to satisfy the requirements of this Section shall consist of plant materials, earthen berms or closed (solid) fences or walls or a combination thereof, which will restrict the view from street rights-of-way and/or abutting properties to a height of at least 8 feet above adjacent ground elevation year round. Plant materials shall be evergreen shrubs at least 2 feet in height at planting, shall be a species that can be expected to reach a height of at least 8 feet within 5 years of planting, and shall be planted and maintained in accordance with acceptable horticultural standards. Spacing between individual shrubs shall not exceed 5 feet on center.

SECTION 20.10: SCREENING OF ADJOINING INCOMPATIBLE LAND USES

20.10.1 Multi-family Residential Uses

Whenever 5 or more multi-family residential dwelling units are proposed to be located directly abutting property which is used for single-family residential purposes or which is zoned for single-family residential use, the multi-family use shall provide screening in accordance with the following standards:

(A) A minimum 15-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a single-family used or zoned lot, the buffer is to extend to the extent of the use footprint and not the entire property line unless required by the Administrator, the Administrator can require this only when the footprint use occupies 60% or more of the length of the property line. For example, a use that would require the buffer to extend 60 feet of a property line that is a length of 180 feet would not require the buffer to be installed for the full extent of the property line.

(B) The buffer yard shall contain 2 canopy trees and 3 understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of 8 feet in height and 2 inches in caliper (measured 6 inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper (measured 6 inches above grade) when planted. The Administrator shall modify the calculation in consistency with the intent of this Article in instances when 100 linear feet does not exist.

(C) The buffer yard shall also contain 17 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting. The Administrator shall modify the calculation in consistency with the intent of this Article in instances when 100 linear feet does not exist.

(D) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of 3 inches.

20.10.2 Industrial and Commercial Uses

Whenever an industrial or commercial use is proposed to be located so that the principal building, accessory building(s), outdoor use areas, or parking and loading areas are within 100 feet of a lot which is used for residential purposes or which is zoned for residential use, the industrial or commercial use shall provide screening in accordance with the following standards:

(A) A minimum 25-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a residentially used or zoned lot, the buffer shall extend the entire length of the property line.

(B) The buffer yard shall contain 3 canopy trees and 5 understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of 8 feet in height and 2 inches in caliper (measured 6 inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper (measured 6 inches above grade) when planted. The Administrator shall modify the calculation in consistency with the intent of this Article in instances when 100 linear feet does not exist.

(C) The buffer yard shall also contain 25 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting. The Administrator shall modify the calculation in consistency with the intent of this Article in instances when 100 linear feet does not exist.

(D) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, groundcover, or natural mulch of a minimum depth of 3 inches.

20.10.3 Manufactured Home Parks

Whenever a manufactured home park is proposed to be located directly abutting property which is used for single-family residential purposes or which is zoned for single-family residential use, the manufactured home use shall provide screening in accordance with the following standards:

(A) A minimum 15-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a single-family used or zoned lot, the buffer shall extend the entire length of the property line.

(B) The buffer yard shall contain 2 canopy trees and 3 understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of 8 feet in height and 2 inches in caliper

(measured 6 inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper (measured 6 inches above grade) when planted. The Administrator shall modify the calculation in consistency with the intent of this Article in instances when 100 linear feet does not exist.

(C) The buffer yard shall also contain 17 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting. The Administrator shall modify the calculation in consistency with the intent of this Article in instances when 100 linear feet does not exist.

(D) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of 3 inches.

SECTION 20.11: ALTERNATIVE METHODS OF COMPLIANCE

(A) Under certain circumstances the application of the standards delineated in Sections 20.8-20.10 is either inappropriate or ineffective in achieving the purposes of these Regulations. When screening is required by this Article or by other provisions of these Regulations and the site design, topography, unique relationships to other properties, lot configuration, spatial separation, natural vegetation, or other special considerations exist relative to the proposed development, the developer may submit a specific plan for screening to the Administrator. This plan must demonstrate how the purposes and standards of these Regulations will be met by measures other than those listed in Section 20.8-20.10. This type of approval requires a Special Use Permit issued by the Board of Adjustment “C”.

(B) A combination of natural vegetation, fences, walls and berms may be utilized to achieve the screening requirements of Sections 20.8-20.10 provided that the following standards are met:

(1) Walls (a minimum of 5 feet in height and constructed of masonry, stone or pressure treated lumber) or an opaque fence (a minimum of 5 feet in height) may be used to reduce the widths of the buffer yards required in Sections 16.02(A)1, 16.02(B), 16.04(A)1, 16.04(B)1, and 16.04(C)1 by 10 feet.

(2) Understory trees may be substituted for canopy trees if, in the opinion of the Administrator upon conferring with the electrical utility provider, a conflict exists with overhead utility lines.

(3) Wall planters shall be constructed of masonry, stone or pressure treated lumber and shall have a minimum height of 30 inches. The minimum height of shrubs in wall

planters shall be 6 inches. The effective planting area of the wall planter shall be 4 feet in width (7 feet if the wall planter contains trees).

(4) Any berm utilized for screening purposes shall have a minimum height of 3 feet, a minimum crown width of 3 feet, and a side slope no greater than 3:1.

SECTION 20.12: MAINTENANCE

In order for any screening to fulfill the purpose for which it was established, it must be properly maintained. The owner of the property and any tenant on the property where screening is required will be jointly and severally responsible for the maintenance of all required screening materials. Maintenance includes actions necessary to keep screening materials healthy, neat and orderly in appearance and free of litter and debris. Any live screening materials such as shrubs and trees which may die must be replaced in compliance with the minimum standards of these Regulations. All screening and landscaping areas must be protected from damage by motor vehicles or pedestrians which could reduce the effectiveness of the screening.

SECTION 20.13: USE OF EXISTING SCREENING

When a lot is to be developed so that screening is required and that lot abuts an existing hedge, fence or other screening material on the adjoining lot, then that existing screen may be used to satisfy the requirements of these Regulations. The existing screen must meet the minimum standards for screening established by these Regulations, and it must be protected from damage by pedestrians or motor vehicles. However, the burden to provide the necessary screening remains with the use to be screened and is a continuing obligation that runs with the land so long as the original use continues in operation. Consequently, should the screening on the adjoining lot be removed, the use required to be screened shall, at that time, provide screening in accordance with the requirements of these Regulations. The existing vegetation shall also be in a recorded maintenance agreement with both parcels and uses that share such vegetation.

SECTION 20.14: OBSTRUCTIONS PROHIBITED

Landscaping and screening materials shall not obstruct the view of motorists using any road, driveway, or parking aisle.

SECTION 20.15: GUARANTEE IN LIEU OF IMMEDIATE INSTALLATION OF LANDSCAPING AND SCREENING MATERIALS

It is recognized that land development occurs continuously, and that vegetation used in landscaping or screening should be planted at certain times of the year, October – April, to ensure the best chance of survival. In order to ensure compliance with these Regulations and reduce the potential expense of replacing landscaping or screening materials which were installed in an untimely or improper fashion, the developer may provide, in accordance with the provisions of Article 9, an adequately

secured performance bond or other security to ensure that all of the requirements of this Article will be fulfilled.

SECTION 20.16: MINIMUM USABLE OPEN SPACE AND RECREATIONAL SPACE REQUIREMENTS

(A) Each residential development that does not involve a subdivision of the property into lots intended for individual ownership shall reserve land area as usable open space and/or recreational space in accordance with the following.

(1) Multi-family, two-family, and mixed residential density developments: 15% of the gross land area.

(2) Manufactured home parks: 5% of the gross land area; See Article 19 also for additional recreation space requirements for manufactured home parks.

(B) Every residential development that involves a subdivision of the property into lots or units intended for individual ownership shall reserve land area as usable open and/or recreational space in accordance with the following.

(1) Traditional single-family residential, two-family, manufactured home, mixed residential density, townhouse, and condominium subdivisions of 10 or more lots: See Article 22.

(2) Waterfront subdivisions: See Article 22.

(3) Traditional Neighborhood Developments: See Article 22.

(4) Planned Unit Developments: See Article 22.

(5) Cluster residential subdivisions: See Article 14.

(C) For purposes of this Section, usable open space means an area that:

(1) Is not encumbered with any structure unless such structure is intended for recreational purposes and is accessible to all residents of the development or general public;

(2) Is not contained within a road right-of-way or otherwise devoted to use as a roadway or parking area not associated with the use of the open space;

(3) Is left in its natural or undisturbed state (as of the date development began), if wooded (except for the cutting of trails for walking or jogging) or, if not wooded at the time of development, is landscaped for ballfields, picnic areas, or similar facilities, or is properly vegetated and landscaped with the objective of creating a wooded area or other area that is consistent with the objective set forth in subsection C. 4;

(4) Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation;

(5) Is legally and practicably accessible to the residents of the development out of which the required open space is taken, or to the public if dedication of the open space is required pursuant to Section 20.17;

(6) Is not encumbered by underground septic lines, any part of a sewage disposal system, or any above-ground or below-ground structure; and

(7) Consists of land no more than 25 percent of which lies within an area of special flood hazard or a floodway as defined in Article 17.

SECTION 20.17: OWNERSHIP AND MAINTENANCE OF REQUIRED OPEN & RECREATIONAL SPACE

(A) Open space and recreational space required by these Regulations shall not be dedicated to the public except upon the written acceptance of Chowan County pursuant to subsection C. but shall remain under the ownership and control of the developer (or successor in title) or a Homeowners Association or similar organization established pursuant to Article 22.

(B) The person or entity identified in subsection A as having the right of ownership and control over such open space and recreational space shall be responsible for the continuing upkeep and maintenance of the same.

(C) The Board of County Commissioners shall have the authority to accept or reject offers for land dedications made as a requirement of this Article. Land proposed by the developer as public open space on a site plan shall be considered to be offered for dedication until such offer is officially accepted by the Chowan County Board of Commissioners. The offer may be accepted by the County through:

(1) Written acceptance by the Board of County Commissioners; or

(2) Written acceptance by an administrative officer designated by the Board of County Commissioners; or

Until such dedication has been accepted, land so offered may be used for open space purposes by the property owner or by a property owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use. The property owner shall be responsible for the maintenance of all facilities and improvements until an offer of dedication is accepted by Chowan County.

SECTION 20.18: FLEXIBILITY IN ADMINISTRATION AUTHORIZED

(A) The requirements set forth in this Article concerning the amount, size, location and nature of open space and recreational space to be provided in connection with residential developments are established by the Board of County Commissioners as standards that presumptively will result in the provision of that amount of open space and recreational space that is consistent with generally recognized standards relating to the need for such areas. The Board recognizes, however, that due to the particular nature of a tract of land, or the particular type or configuration of development proposed, or other factors, the underlying objectives of this Article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the permit-issuing board is authorized to permit minor deviations of no more than 10% from these standards whenever it determines that (i) the objectives underlying these standards can be met without strict adherence to them and (ii) because of peculiarities in the developer's tract of land or the particular type or configuration of the development proposed, it would be unreasonable to require strict adherence to these standards.

(B) Whenever the permit issuing board authorizes some deviation from the standards set forth in Article pursuant to subsection A., the official record of action taken on the development application shall contain a detailed statement of the reasons for allowing the deviation.

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ARTICLE 21. SIGN REGULATIONS

The purpose and intent of this Article is to recognize that signs serve a legitimate public service and that they complement and support trade, tourism and investment within Chowan County. These regulations are intended to establish standards which maximize the effectiveness of permitted signs while limiting visual distraction to motorists and preserving the land values and natural attractiveness of the area.

All signs except those specifically listed in this Article shall be erected, installed, or modified only in accordance with a duly issued and valid sign permit issued by the Administrator. Sign permits shall be issued in accordance with the zoning permit requirements and procedures of Article 3, and the submission requirements of Appendix A. If plans submitted for a zoning or special use include sign plans in sufficient detail that the permit issuing authority can determine whether the proposed sign(s) comply with the provisions of this Article, then issuance of the requested zoning or special use permit shall constitute approval of the proposed sign(s) provided that the fee for the sign permit has been paid. The table located in Section 21.6 summarizes the types of permissible signs by zoning district.

SECTION 21.1: DEFINITIONS

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Section should have the meaning indicated when used throughout this Article.

(A) **Sign.** Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, or trade names or trademarks by which anything is known (including any surface, fabric or other material or structure designed to carry such devices such as are used to designate or attract attention to an individual, firm, an association, a corporation, a profession, a business, or a commodity or product) which are exposed to public view and used to attract attention.

(B) **Advertising Signs (Billboards or Outdoor Advertising Signs).** A sign which publicizes and directs attention to a business, profession, commodity, activity, product, service or entertainment not conducted, sold or offered upon the premises where such sign is located. Billboards located within 660 feet of interstate of federally assisted primary highways are subject to the standards and permitting requirements of the Outdoor Advertising Control Act which is administered by the North Carolina Department of Transportation.

(C) **Animated Sign.** Any sign which flashes, revolves, rotates or swings by mechanical means, or which uses a change of lighting to depict action, or to create a special effect or scene.

(D) **Banner.** A temporary sign of light weight fabric or similar material that is rigidly mounted to a pole or a building by a rigid frame at two or more edges. National, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

(E) **Building Marker.** A sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface, or made of bronze or other permanent material.

(F) **Canopy Sign.** Any sign which is a part of or attached to an awning, canopy or other fabric-like or plastic protective structure which is extended over a door, window, or entranceway. A marquee is not a canopy.

(G) **Changeable Copy Sign.** Any sign on which copy is changed manually and copy is shown on the same sign face such as reader boards with changeable letters or changeable pictorial panels but not limited to the above. Poster panels and painted boards are not changeable copy signs.

(H) **Commercial Message.** Any sign wording, logo, or other representation that directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity. This definition does not include company nameplates or logos on instructional signs.

(I) **Construction Sign.** A sign on a construction site during the period of construction on which is printed or written the name of the owner, developer, contractor, architect, planner, engineer, or development title.

(J) **Electronically Controlled Message Sign.** A sign on which the copy changes automatically on a lampbank, such that the message or display does not run continuously in the travel mode, and any message or display remains stationary for a minimum of two seconds. Any sign on which the message or display runs continuously in the travel mode and/or on which any message or display does not remain stationary for a minimum two seconds shall be considered a flashing sign.

(K) **Flashing Sign.** A type of animated sign which contains an intermittent, blinking, scintillating, or flashing light source, or which includes the illusion of intermittent or flashing light, or an externally mounted intermittent light source. An electronically controlled message sign is not a flashing sign.

(L) **Freestanding Sign.** Any sign which is supported by structures or supports which are placed on, or anchored in the ground, and which structures or supports are independent from any building or other structure.

(M) **Governmental Sign.** Any sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.

(N) **Identification Sign.** A permanent sign announcing the name of a subdivision, manufactured home park, campground/RV park, multifamily or townhouse development, planned unit

development, church, school, park or quasi-public structure or facility, and uses permitted in A-1 and residential zoning districts.

(O) **Incidental Sign.** A sign that provides only information for the convenience and necessity of the public. Company logos may be displayed on such signs but must not occupy more than 25% of the sign area. Incidental signs include directories, entrance, exit and other necessary directional signs.

(P) **Menu Sign.** A permanent on-premises sign located at businesses that provide drive-up or drive-through services such as fast-food restaurants, banks, laundries, etc. Menu signs shall be located so as not to create vehicle stacking problems which will interfere with the flow of traffic.

(Q) **Nonconforming Sign.** Any sign that does not conform to size, height, location, design, construction, or other requirements of this Section. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

(R) **On-Premises Sign.** A sign that publicizes and directs attention to a profession, commodity, activity, product, service or entertainment conducted, sold or offered upon the premises where such sign is located. On-premises signs include pole and ground mounted signs.

(S) **Portable Sign.** A sign not permanently attached to any surface.

(T) **Professional or Occupational Sign or Name Plate.** A sign that publicizes and directs attention to a home occupation, rural family occupation, or to a profession.

(U) **Projecting Sign.** Any sign that is end mounted or otherwise attached to an exterior wall of a building that forms an angle with said wall.

(V) **Real Estate Sign.** A sign that advertises the sale, rent, or lease of property.

(W) **Sign Area.** The area of a sign shall be measured in conformance with the following:

(1) The area of the face of a sign shall be calculated to include the outermost part that forms the shape or display. Necessary supports and trim moldings shall not be included when calculating the area of the sign. Aprons below advertising signs shall not exceed 3 feet in height. Aprons serve an aesthetic function and shall not be used for any purposes other than to identify, by name, the sign company responsible for the sign.

(2) In computing the area of a sign, standard mathematical formulas for common regular geometric shapes (triangle, parallelogram, circle and ellipse, or combinations thereof) shall be used.

(3) In the case of an irregularly shaped sign or a sign with letters and/or symbols affixed to or painted, displayed or incorporated into or upon a wall, canopy, awning or

decorative facade of a building, the area of the sign shall be the area within the singular continuous perimeter, outlining the limits of the writing, representation, emblem, or any figure of similar character.

(4) Back-to-back and V-type signs mounted so as to be connected and not spread more than 15 feet will be considered as one sign location when calculating horizontal separation between signs. Advertising signs (billboards) shall not be stacked, horizontally or vertically.

(X) **Sign Height.** The vertical distance measured from the ground elevation where the sign is located, to the highest point of the sign except as follows: When the ground elevation is different from the elevation of an adjacent road, the height of a sign shall be measured from the road elevation of the adjacent road at the edge of the pavement.

(Y) **Temporary Signs.** Temporary signs are those signs that relate to such events as elections, farm auctions, yard sales, agricultural products sales, annual charitable, civic or fraternal events, horse shows, festivals, bona fide grand openings and model home show openings.

(Z) **Wall Sign.** A sign which is attached to a wall or facade of a building or canopy.

(AA) **Warning Sign.** Any sign with no commercial message that displays information pertinent to the safety or legal responsibilities of the public such as signs warning of 'high voltage', 'no trespassing', and similar directives.

SECTION 21.2: SIGN STANDARDS

(A) All signs, except for those attached flat against the wall of a building, shall be constructed to withstand minimum wind loads as specified by the NC State Building Code. Sufficient documentation shall be submitted to the Administrator for review to assure that wind and stress requirements have been met prior to any permit being issued. Such documentation shall be signed and sealed by a registered North Carolina architect or engineer.

(B) All signs shall be installed and maintained in compliance with the North Carolina State Building Code and the National Electrical Code and shall have appropriate permits and inspections. Electrical signs and fixtures shall bear labels of a nationally accepted testing laboratory.

(C) All signs shall be maintained in a state of good repair and shall present a neat, well-kept appearance.

(D) All lights used for the illumination of a sign shall be shielded so that the light will not shine directly on surrounding areas or create a traffic hazard or distraction to operators of motor vehicles on the public thoroughfares. The Administrator is authorized to order a change in the illumination of any sign that becomes a hazard or a nuisance.

(E) No illuminated sign, other than professional or occupational signs or nameplates, on-premises signs, incidental signs, or identification signs shall be permitted within 100 feet of any residential zoning district. Illuminated signs other than those listed above which are located within 300 feet of a residence or residentially zoned district shall not be illuminated between the hours of 12 midnight and 6 a.m.

(F) The Administrator or designee shall have the authority to order the painting, repair, alteration or removal of a sign, at the expense of the owner of such sign, which shall constitute a hazard to safety, health or public welfare by reasons of inadequate maintenance, dilapidation or obsolescence. The existence of a sign or its support structure with no message display for a period of 90 days shall be justification to declare the sign abandoned and require its removal.

(G) Any sign erected without proper permits or in violation of this Section shall be brought into compliance within 30 days of notification by the Administrator or said sign shall be removed immediately.

(H) Any permitted sign projection over a public sidewalk shall be no lower than 8 feet above the level of the sidewalk nor lower than 14 feet above the level of a vehicular driveway. An encroachment agreement must be obtained from the North Carolina Department of Transportation.

(I) No sign or sign structure shall be erected, constructed, or maintained so as to interfere with vision clearance along any street or highway or at any intersection of two or more streets or highways. No sign shall be located within a sight distance triangle of 10 feet x 70 feet at the intersection of public roads nor within a sight distance triangle of 10 feet x 35 feet at a point where driveways and private road rights-of-way intersect with public and private road rights-of-way. No sign or sign structure may be located within a road or road right-of-way except as allowed over sidewalks in subsection H.

SECTION 21.3: EXEMPT SIGNS

The following listed signs are subject to all placement and dimensional requirements of this Section and shall comply with the North Carolina Department of Transportation sight distance and road rights-of-way clearances. The following listed signs shall, however, be exempt from permit and fee requirements, except that any illuminated sign shall require an electrical permit. Exempt signs shall be maintained in good condition and shall not constitute a hazard to safety, health or public welfare. Exempt signs that are found to be in violation shall be ordered corrected or removed.

(A) Any sign 6 square feet or less in area.

(B) Any sign that is required by law or erected at the direction of a governmental agency.

(C) Signs erected to regulate traffic.

(D) Any warning signs; utility signs; signs for public use; and no trespassing, no hunting, or neighborhood watch signs shall contain no commercial message.

(E) Mailboxes, house numbers, nameplates, incidental signs, and building markers not exceeding 6 square feet in area.

(F) Religious symbols at a place of worship or at a church-owned or operated facility. Such symbols must meet all setbacks and lighting requirements for signs.

(G) In residential zoning districts, construction signs having a maximum area of 16 square feet and a maximum height of 6 feet and limited to one sign per construction site per street frontage. In nonresidential zoning districts, construction signs having a maximum area of 64 square feet and a maximum height of 10 feet and limited to one sign per construction site per street frontage. Exempt construction signs must be removed within 30 days following the completion of the project.

(H) Real estate signs having a maximum area of 6 square feet. Real estate signs are limited to one per site or one per 300 feet of road frontage. For properties in excess of 600 feet of road frontage, they may elect to have a 12 square foot sign in lieu of having two six feet signs but shall not exceed 12 square feet regardless of any additional road frontage.

Temporary real estate signs associated with the marketing of a subdivision shall be limited to one sign per subdivision entrance and 32 square feet in area and 8 feet in height. This type of sign must be set back a minimum of 2 feet from all exterior property lines of the subdivision and shall remain clear of the roadway sight distance easement. An additional directory-type sign of the same dimension, height and setback requirements may be located within the interior of a subdivision. Real estate signs must be removed within 30 days following completion of the project or transaction.

(I) Works of art with no commercial message.

(J) Lights and decorations with no commercial message temporarily displayed on traditionally adopted civic, patriotic or religious holidays.

(K) Hand-carried signs.

(L) Signs located on the interior of buildings, courts, lobbies, stadiums, or other structures that are not intended to be seen from the exterior of such structures.

(M) Flags of the United States, State of North Carolina, local governmental jurisdictions, foreign nations, and any other flags adopted or sanctioned by the County.

(N) Signs affixed to vehicles and trailers used in the normal transport of goods or persons where the sign is incidental and accessory to the primary use of the vehicle or trailer.

(O) Flags, emblems or insignia of corporate, political, professional, fraternal, civic, religious, or educational organizations.

(P) Historical or memorial plaques, tablets, or markers.

(Q) Signs painted or attached to vending machines, gas pumps, ice machines, or similar devices which indicate the contents of the machine, name or logo of supplier, the price or operating instructions.

(R) Window signs painted on the inside of a window.

(S) Changing copy of existing sign(s) without enlarging; however, a drawing of the new sign face must be submitted to the Administrator prior to changing the sign face.

(T) Banners on or across public road rights-of-way that are expressly approved by the North Carolina Department of Transportation.

(U) All other temporary signs not specified elsewhere in this Section shall not be placed on the premises more than 30 days prior to the temporary event and must be removed within 10 days following the temporary event. Such signs are limited to 16 square feet in area and 4 feet maximum height.

(V) Political signs during election periods as allowed by NCGS 136-32(b).

SECTION 21.4: PROHIBITED SIGNS

The following signs shall not be permitted, erected or maintained within the Chowan County planning and zoning jurisdiction.

(A) Signs with moving, revolving or rotating parts, optical illusions or movement or mechanical movements by any description or other apparent movement achieved by electrical, electronic or mechanical means, except for time, temperature, date signs; traditional barber poles; and electronically controlled message signs.

(B) Signs with lights or illuminations which flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color or use intermittent electrical pulsations, except for: time, temperature, date signs; traditional barber poles; and electronically controlled message signs.

(C) Strings of light bulbs used in connection with commercial premises for commercial purposes other than traditional holiday decorations.

(D) Portable signs, including signs painted on or displayed on vehicles or trailers used to serve primarily as a sign, except that portable signs used as temporary signs as defined in this Article and in compliance with the Exempt Signs Section are permitted.

(E) Signs erected, maintained, painted or drawn on any tree, rock or other natural feature.

(F) Signs that extend vertically above the highest portion of the roof of any structure.

(G) Outdoor advertising (billboards) located within Highway Corridor Overlay (HCO) Districts.

SECTION 21.5: SIGN PLACEMENT, SIZE, HEIGHT, SETBACK, SEPARATION, CLEARANCES AND CONSTRUCTION BY SIGN TYPE

21.5.1 Outdoor Advertising Signs (Billboards)

(A) Permissible Zoning Districts: B-1 and I-2.

(B) Maximum height: 30 feet. (In the event that unique topographic conditions exist on a site which render the 30-foot maximum height requirement impracticable, the Administrator may authorize a sign height not to exceed a maximum height of 40 feet.)

(C) Minimum separation from another billboard: 500 feet measured along the same side of the road and 100 feet radius along an intersecting or adjacent road.

(D) Billboards shall maintain a minimum separation of 150 feet from any residence as measured along the road beginning at a point projected perpendicular from the near side of an existing residence to the road right-of-way and 150 feet from any residential zoning district boundary.

Billboards shall be provided an easement for maintenance purposes.

(E) Maximum sign size:

(1) 320 square feet in area adjacent to roads with four or more lanes and 200 square feet in area adjacent to roads with less than four lanes.

(2) Top outs and side outs are permitted in addition to the above sign area dimensions. Top outs and side outs shall be confined to the immediate plane of the sign and may extend above and/or to the side of the sign face a maximum of two feet. Top outs and side outs shall not exceed a total of 32 square feet in area.

(F) Minimum setback: Billboards shall be located a minimum of 10 feet from the edge of a road right-of-way.

(G) Minimum separation from utility lines shall be in compliance with the requirements of the utility provider having jurisdiction.

(H) All structures, blank surfaces, backs and supports shall be uniformly painted in a neutral finish when exposed to any road and shall be maintained in good repair.

(I) Minimum requirements contained within the North Carolina Outdoor Advertising Control Act (North Carolina General Statute 136-126 et seq.) which are more stringent or in addition to those contained in this Section shall apply.

(J) Billboards are not permitted within Highway Corridor Overlay Districts.

21.5.2 On-Premises Signs (freestanding pole or ground mounted on-premises signs unless otherwise specified)

(A) Permissible Zoning Districts: A-1, B-1, B-2, B-3, I-1, and I-2.

(B) Maximum height:

(1) In Highway Corridor Overlay Districts (HCO): Limited to ground mounted signs 4 feet in height.

(2) In Neighborhood Commercial Districts (B-3): 12 feet.

(3) In Agricultural Districts: 12 feet.

(4) In B-1, B-2, I-1, and I-2 zoning districts: 20 feet.

(C) Maximum sign area:

(1) In Highway Corridor Overlay (HCO) zoning districts: 32 square feet per side or 64 square feet total.

(2) In Agriculture (A-1) and Neighborhood Commercial (B-3) zoning districts: 2 square feet of sign area per linear foot of building wall adjoining a road or 200 square feet, whichever is less.

(3) In B-1, B-2, I-1, and I-2 zoning districts: 3 square feet of sign area per linear foot of building wall adjoining a road or 300 square feet, whichever is less.

(4) The minimum guaranteed freestanding on-premises sign area at any individual parcel is 24 square feet.

(D) Maximum number of freestanding or ground mounted on-premises signs per parcel: 1 sign per adjoining public road frontage.

(E) Minimum separation from rights-of-way, property lines and structures: 10 feet.

(F) Minimum separation from utility lines shall be in compliance with the requirements of the utility having jurisdiction.

(G) No unfinished surfaces or structures shall be exposed on on-premises signs.

21.5.3 Wall Signs (including canopy, awning and building façade signs)

(A) Permissible Zoning Districts: A-1, B-1, B-2, B-3, I-1, and I-2.

(B) Maximum area: 1 square foot of sign area per linear foot of building, canopy or awning per building side. Sign footage permitted per building side may not be used on other than that building side (no transfers or cumulative totals).

(C) Minimum guaranteed wall signage area at any individual premises is 32 square feet.

(D) The maximum projection of a wall sign shall not exceed 18 inches.

(E) The height of a wall sign shall not exceed the height of the building or canopy facade.

21.5.4 Professional or Occupational Name Plates and Incidental Signs

(A) Permissible Zoning Districts: All zoning districts.

(B) Maximum sign area: 12 square feet.

(C) Maximum height: 30 inches if ground mounted, signs in this category may also be mounted against the structure.

(D) Minimum setback from all property lines: 2 feet.

(E) Maximum number of signs per business establishment: 1.

21.5.5 Identification Signs

(A) Permissible Zoning Districts: All zoning districts.

(B) Maximum sign area: 32 square feet.

(C) Maximum height: 8 feet.

(D) Minimum setback: 10 feet from all property lines, except as authorized is subsection 4.

(E) Ground signs with the name of the residential or nonresidential subdivision or development may be located within a public road right-of-way on one side of the roadway entrance or in the roadway median provided that an encroachment agreement is obtained from the North Carolina Department of Transportation and the sign does not exceed 42 inches in height.

(F) Maximum number of signs per entrance or premises: 1.

21.5.6 Menu Signs

(A) Permissible Zoning Districts: A-1, B-1, B-2, B-3, I-1, and I-2.

(B) Maximum sign area: 45 square feet.

(C) Maximum height if ground mounted: 8 feet.

(D) Minimum setback from all property lines: 10 feet.

(E) Maximum number of signs per business establishment: 1.

SECTION 21.6: TABLE OF PERMITTED SIGNS BY TYPE

Sign Type	R5	R15	R25	RMH25	R5	R40	A1	B1	B2	B3	I1	I2
Advertising Signs (Billboards)*								X				X
On-Premises							X	X	X	X	X	X
Wall Sign							X	X	X	X	X	X
Professional or Occupational Nameplate, Incidental	X	X	X	X	X	X	X	X	X	X	X	X
Identification	X	X	X	X	X	X	X	X	X	X	X	X
Menu							X	X	X	X	X	X
Construction	X	X	X	X	X	X	X	X	X	X	X	X
Real Estate	X	X	X	X	X	X	X	X	X	X	X	X
Temporary	X	X	X	X	X	X	X	X	X	X	X	X
Exempt	X	X	X	X	X	X	X	X	X	X	X	X

Notes: **X** = Indicates sign is permitted. **Blank** = Indicates sign is not permitted.

* Advertising signs are not permitted in Highway Corridor Overlay Districts. Advertising signs shall also comply with the permit procedures and standards contained in Section 9.05 (A) and the current edition of the North Carolina Department of Transportation outdoor advertising manual.

SECTION 21.7: NONCONFORMING SIGNS

It is the intent of this Article to permit signs that were lawful before the effective date of these Regulations to remain in service. Specific provisions regarding nonconforming signs are delineated in Article 10.

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ARTICLE 22. SUBDIVISION STANDARDS, REQUIREMENTS, & TYPES

SECTION 22.1: PLAT REQUIRED

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from the requirements of this Article or the Chowan County Land Use Regulations. A plat shall be prepared, approved, and recorded pursuant to this Article whenever a subdivision of land takes place.

SECTION 22.2: PLAT APPROVAL IS NOT ACCEPTABLE

The approval of a plat pursuant to this Article adopted under these Regulations shall not be deemed to constitute or effect the acceptance by the County or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat.

SECTION 22.3 LEGAL PROVISIONS

22.3.1 Duty of Subdivider and/or Authorized Agent

A plat must be prepared, approved, and recorded whenever the subdivision of land takes place, as defined in these Regulations. The owner of land shown on a subdivision plat submitted for recording, or his/her authorized agent, shall sign a statement on the plat stating whether any land shown thereon is within the subdivision regulation jurisdiction of Chowan County.

22.3.2 Duty of Registrar of Deeds

The Registrar of Deeds shall not thereafter file or record a plat of subdivision located within the platting jurisdiction of Chowan County without the approval of the legislative body, Administrator or its authorized agent as required in these Regulations. Neither shall the Registrar of Deeds file or record a deed or other instrument of conveyance regarding land located in a subdivision within the platting jurisdiction of Chowan County, as defined herein, unless a plat of the subdivision has been approved by the legislative body or Administrator of Chowan County as required in these Regulations. The filing or recording of a plat of a subdivision without the approval of the legislative body, Administrator or its authorized agent, as required by these Regulations, shall be null and void. The Registrar of Deeds is encouraged to stay in communication with the Administrator to ensure all conveyance of land are of legally recorded parcels, and that all exempt plats that may not require the Administrator's signature are valid subdivisions of land.

22.3.3 Duty of Clerk of Court

The Clerk of Superior Court of Chowan County shall not order or direct the recording of a plat where such recording would be in conflict with this section.

22.3.4 Duty of Review Officer

Prior to recordation by the Register of Deeds, the Chowan County Review Officer shall certify the map or plat meets statutory requirements.

22.3.5 Separability

Should any section or provision of this Article be, for any reason, held void or invalid by the courts, it shall not affect the validity of any other section or provision hereof which is not itself help void or invalid.

Whenever the provision of any other law, ordinance, or regulation imposes higher standards than are required by the provisions of this Article, the provisions of such law shall govern.

22.3.6 Compliance with Official Plans

Wherever a tract to be subdivided embraces any part of a road, thoroughfare or pedestrian or alternative form of transportation designed in the official maps and plans for Chowan County, specifically the Chowan County Comprehensive Transportation Plan or any other official transportation plan produced by the Albemarle Rural Planning Organization, such part of that proposed public way shall be platted and dedicated by the subdivider in the location and dimensions specified within the plan.

SECTION 22.4: PROCEDURES FOR PLAT APPROVAL & SUBDIVISION TYPES

22.4.1 General

No plat of a subdivision within the jurisdiction of the Chowan County shall be accepted for recordation by the Registrar of Deeds until and unless final approval has been given by the Chowan County Administrator.

To obtain final plat approval, the subdivider shall generally follow the procedures contained herein. In accordance with the provisions of NCGS 160D- 801, decisions on the approval or denial of preliminary and final subdivision plats may be made only on the basis of standards explicitly set forth in these Regulations and this Article. Whenever this Article includes criteria for a decision that requires the application of judgment on the part of the approval authority, those criteria must provide adequate guiding standards for the approval authority.

22.4.2 Exemptions

The following types of division shall not be subject to the regulations authorized by this Article and shall only be subject to what is specifically required by the individual exemption type. These exemptions shall be administratively approved by the Administrator.

(A) **Combination/Recombination Exemption** - The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the standards of the Chowan County Land Use Regulations.

(B) **10 Acre Exemption** – The division of land into parcels greater than 10-acres where no street right-of-way dedication is involved.

(C) **Public Acquisition Exemption** – The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

(D) **Single Ownership (2 to 3 Exemption)** – The division of a tract in single-ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of-way dedication Is involved and where the resultant lots are equal to or exceed the standards of the Chowan County Land Use Regulations.

(E) **Probated Will Exemption** – The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the NCGS.

(F) **Family Exemption -** The gift of a parent of a single lot to his or her child or each of his or her children where no new road is involved, provided: (1) that each and every such lot shall have dedicated right-of-way access to the State maintained road serving the principal parcel or direct access to an approved private road as defined by these Regulations and (2) there are no more than one lot conveyed to each child.

(1) The easement providing access to a public right-of-way shall be a minimum of 20’ and shall be an improved surface that is maintained by the family/property owners, easements that are in excess of 100 feet shall provide a cul-de-sac bulb or hammerhead turnaround of a size that the Chowan County Fire Marshal approves for emergency turnarounds. An Easement Maintenance Agreement must be recorded with the Chowan County Register of Deeds.

(2) Lots created from this division may not be further subdivided so that the access easement is serving more than the original number of lots created upon it.

(3) The Administrator may request that a birth certificate or legal papers of adoption be provided.

(4) Lots created must meet all dimensional requirements of these Regulations.

22.4.3 Exemption Review Procedure

Exemptions are encouraged but not required to be provided to the Administrator either in electronic or hard copy format at least 7 days prior to the anticipated recording of such exempt plat. This allows time for the Administrator to review the proposed exemption to determine its compliance with the North Carolina General Statutes.

22.4.4 Combination/Recombination Note Required

The recording of an exempt combination or recombination plat does not combine the parcels, the parcels are not legally combined until a deed referencing such plat has been recorded with the Chowan County Register of Deeds. Each exempt combination/recombination plat shall contain the following note with the owner also signing the plat to acknowledge their understanding of such note.

Note: In order for this combination/recombination to be complete, a deed referencing such plat must be recorded with the Chowan County Register of Deeds.

22.4.5 Minor Subdivisions

(A) **Type A.** The sketch design and preliminary plat approval procedure may be modified to allow for one-step final plat approval by the Administrator where the proposed subdivision:

(1) involves not more than four (4) lots fronting on a State maintained road;

(2) does not constitute the enlargement of a previously platted subdivision to more than four (4) lots;

(3) does not involve any new street or prospectively require any new street for access to interior property;

(4) does not require extension of public sewage or water lines or the creation of new drainage easements;

(5) does not adversely affect the development of the remainder of the parcel or of adjoining property;

(6) creates no new or residual parcels not conforming to the requirements of these regulations and related controls; in the event that the residual parcel is of adequate size to support further division, it shall not be divided as a Type A Minor Subdivision for a period of 5 years.

(7) and where the proposed plat:

(a) has been approved by the following agencies where necessary:

(i) the district highway engineer as to proposed streets, highways, and drainage systems,

(ii) the County sanitarian as to proposed water and sewage systems,

(iii) such other agencies and officials as the County Board of Commissioners may deem necessary or desirable, and

(b) Meets final plat criteria as set forth in this Article.

(B) **Type B Expedited Minor Subdivision.** Per NCGS 160D-802, Chowan County will allow for expedited review for Type B expedited minor subdivisions if all requirements are met. Only a plat for recordation is required for these types of minor subdivisions if all criteria listed below is met. These types of divisions are reviewed administratively and approved by the Administrator.

(1) The tract or parcel to be divided is not considered to be one of the 6 identified exemptions in this Article.

(2) No part of the tract or parcel to be divided has been divided under this subsection in the past 10 years.

(3) The entire area of the tract or parcel to be divided is greater than 5 acres.

(4) After division, no more than three lots are created.

(5) After division, all resultant lots comply with all of the following:

(a) Lots must meet the lot size requirements and all other applicable dimensional requirements set forth in this Article.

(b) A permanent means of ingress and egress is recorded for each lot. An Easement Maintenance agreement must be recorded with the Chowan County Register of Deeds.

22.4.6 Special Purpose Lot Division

Lots may be created when being divided out for specific special purposes such as off-site septic areas, pump stations, utility areas, and individual family cemeteries. These lots are not required to meet the dimensional requirements of these Regulations however the plat shall not that the lot shall never be used for residential use and their shall be deed restrictions placed upon these lots that state this. Special Purpose lots created for off-site septic areas shall be numbered with the corresponding residential lot is serves and shall be deeded with such lot. Easements a minimum of 20’ in width shall be provided to Special Purpose Lots and shall be maintained with an improved surface by the owner of the Special Purpose Lots. The Administrator shall determine the validity and necessity of a Special Purpose Lot.

22.4.7 Major Subdivision

A subdivision that does not meet any of the requirements to be an Exemption, Minor or Special Purpose Subdivision. Major subdivisions will typically include the extension of utilities, services, and the construction of new rights-of-way.

SECTION 22.5: SUBDIVISION REVIEW PROCEDURES

22.5.1 Major Subdivision (24 lots or less)

For major subdivisions containing 24 lots or less, the Administrator shall review any submitted sketch plans and shall have the authority to review and decide upon requests for preliminary plat approval. Final plats conforming substantially to the approved preliminary plat shall be reviewed and decided upon by the Administrator. If the submitted final plat deviates substantially from the overall design of the approved preliminary plat the subdivider shall be required to resubmit the preliminary plat.

22.5.2 Major Subdivision (25 lots or more)

For major subdivisions containing 25 or more lots, the Administrator shall review any submitted sketch or preliminary plans to review and determine if the plan has met all requirements of this Article and these Regulations as applicable. Final plats conforming substantially to the approved preliminary plat shall be reviewed and decided upon by the Administrator. If the submitted final plat deviates substantially from the overall design of the approved preliminary plat the subdivider shall resubmit a preliminary plan.

SECTION 22.6: PLAN/PLAT REQUIREMENTS

22.6.1 Sketch Design Plan (OPTIONAL BUT ENCOURAGED)

Prior to the filing of an application for approval of the preliminary plat, the subdivider is encouraged to submit to the Administrator a sketch design plan of the proposed subdivision. Once a submission has been received, the Administrator may schedule a meeting with the subdivider. At the meeting the subdivider should discuss his thoughts and ideas pertaining to the new subdivision and also become familiar with the regulations affecting the land to be subdivided. This procedure does not require application or fee. Voluntary submission of a sketch plan shall not constitute an application for subdivision approval. Accordingly, any review or discussion by staff regarding a voluntarily submitted sketch plan prior to the submission of a Preliminary Plat and application for subdivision approval shall not constitute any official government action nor establish any right or privilege. There will not be any official approval granted upon Sketch submissions, the Administrator may either instruct the subdivider that they are encouraged to proceed with preliminary submittal or that they need to reevaluate their proposal.

22.6.2 Sketch Design Plan - Required Contents

(A) Streets

(1) Proposed pavement width

(2) Approximate rights-of-way

(B) Other rights-of-way and easements

(C) Lot lines (tentative arrangement)

(D) Sites, if any, for schools, churches, parks, beaches, etc.

(E) Site data

(1) Acreage in tract

(2) Approximate acreage in parks or other than residential use

(3) Approximate number of lots

(F) Sketch vicinity map showing relationship between subdivision and surrounding area

(G) Be of adequate scale

(H) Name and address of the owner and the subdivider

(I) Proposed name of subdivision

22.6.3 Preliminary Plat - Submission and Review

(A) Submission: The subdivider shall submit a subdivision application in the form of one hardcopy and one PDF version unless otherwise required by the Administrator and any supplementary material to the Administrator.

(B) Review: The Administrator shall distribute the preliminary plat and its associated materials to The Technical Review Committee for review and may schedule a meeting with the TRC and the subdivider to discuss the nature of the proposal and the comments generated. The Technical Review Committee shall check the preliminary plat against the design standards, plat requirements and any other organization specific requirements for subdivision. The TRC is chaired by the Administrator and is composed of a variety of agencies with interest in the proper subdivision and development of land in the County. The County Manager shall appoint membership from County agencies to serve on the TRC. The County Commissioners or County Manager may appoint or invite others deemed necessary. The District Highway Engineer, County School Superintendent, and local Coastal Area Management Act Permit Officer are to be invited to TRC meetings or otherwise serve to advise the TRC on matters related to their interests. It shall be the duty of the Administrator to ensure that the TRC and

other required agencies have an opportunity to review and make recommendations concerning the proposed subdivision plat before approval is given. The following agencies shall have an opportunity for review:

(1) The District Highway Engineer as to proposed streets, highways, and drainage systems.

(2) The County Health Director as to proposed water and sewerage systems.

(3) The County School Superintendent as to proposed school sites.

(4) The local Coastal Area Management Act Permit Officer for his determination as to whether the subdivision is located either within or outside of a North Carolina Coastal Area Management Act Area of Environmental Concern.

(5) Such other agencies and officials as the County Commissioners or his designee may deem necessary or desirable.

(C) The Technical Review Committee shall make recommendations to the Administrator, including any recommendations received from other County and State agencies and officials reviewing the plat.

(D) The Administrator shall discuss with the subdivider changes deemed advisable, if any, and the kind and extent of improvements to be made by him. The subdivider shall provide revised copies of the preliminary and may redistribute the revised copies to the entire TRC or portions of the TRC based off the nature and extent of the comments received.

(E) Approval of the preliminary plat is authorization for the subdivider to proceed with the construction of the necessary improvements or guarantee their installation, as provided, in preparation for submission of the final plat. Preliminary approval is valid for a period of 12 months. In this 12 month period, substantial infrastructure work must be completed or a final plat for all or a portion of the approved preliminary shall be submitted to the Administrator.

(F) If the Administrator should disapprove the preliminary plat, the reasons for such action shall be stated and recommendations made on the basis of which the proposed subdivision would be approved.

22.6.4 Preliminary Plat - Required Contents

The preliminary plat shall be at a scale of 1" = 100' or larger and will be drawn on sheets not larger than 18" x 24".

(A) The location of existing and platted property lines, streets, buildings, water courses, railroads, transmission lines, sewers, bridges, culverts and drain pipes, water mains, City and County boundary lines (if adjoining), and any public utility easements on the land being subdivided and immediately adjoining lands.

(B) Name of proposed subdivision and boundaries of tract, shown with bearings and distances.

(C) Existing wooded areas, marshes, normal tidal variations, floodplains (where information is available), and any other conditions affecting the site.

(D) Names of adjoining property owners or other subdivisions, existing or proposed.

(E) Zoning classification, if any, both on the land to be subdivided and on adjoining land.

(F) Proposed streets, street names, rights-of-way roadway widths, and approximate grades.

(G) All streets and roads in the subdivision shall be designed as public or private. This designation shall not apply to an access way for an individual property owner, but shall apply to all streets and roads for three or more property owners, lots, building sites, or other divisions of land. The streets and roads offered for dedication to the public shall meet the requirements of State law for public streets. The streets and roads designated to be private shall meet the same State standards as those designated to be public. (See standards as described in this Article.

(H) The plans for proposed utility layouts (sewer, water, gas, electricity) showing connections to existing systems or plans for individual water supply, sewage disposal, storm drainage, stormwater management and maintenance plans and required certifications, etc.

(I) All subdivisions shall have a water system connected to the system owned and operated by Chowan County unless service by the County water system is not available; this exception, due to the lack of available services, will be determined by the County Commissioners or their duly authorized representative. The preliminary subdivision plat shall be accompanied by a complete set of construction plans for the proposed system, prepared by a registered engineer, and approved by the engineer of the public water system and the appropriate State agencies. All water mains and easements shall be dedicated to the public. The subdivider shall be responsible for contacting the Chowan County Water Department and complying with the Department policies and regulations regarding subdivisions.

(J) Other proposed rights-of-way or easements; locations, widths, and purposes.

(K) Proposed lot lines, lot and block numbers (numbered consecutively), and approximate dimensions.

(L) Proposed minimum building setback lines with special provision for waterfront lots.

(M) Contour map with intervals of two foot or less when required by the Planning Board.

(N) Location of proposed parks, school sites, or other public open spaces, if any.

(O) Title, date, north point, and graphic scale.

(P) Names and addresses of all owners, surveyors, engineers, and land planners.

(Q) Site data:

(1) Acreage in total tract

(2) Acreage in parks, access sites, or other additional land usage

(3) Total number of lots

(4) Number and location of solid waste container sites

(R) Sketch vicinity map showing relationship between subdivision and surrounding area.

(S) A statement, as follows, signed by the local permit officer: *'This subdivision conforms to the standards of the North Carolina Coastal Area Management Act of 1974 and is/is not located within any Area of Environmental Concern.'*

22.6.5 Preliminary Plat - Expiration

Preliminary plat approval shall be valid for a period of 12 months from the date of approval of the plat by the Administrator unless a longer time period is established under applicable vested rights provisions. Preliminary plats whose approval has elapsed, or which have been approved more than 12 months previous to the adoption of these Regulations and for which no final plat has been approved shall be resubmitted in accordance with the provisions of this Section. Resubmitted plats shall conform to the Chowan County Land Use Regulations requirements in effect at the time of plat resubmittal.

22.6.6 Preliminary Plat - Modification

Modifications to approved preliminary plats shall comply with the following provisions:

(A) Insignificant deviations from the approved preliminary plats approved by the Administrator are permissible. A deviation is insignificant if it has no discernible impact on neighboring properties, the public, or those intended to occupy or use the proposed development. The Administrator shall make all determinations on whether or not the deviation is insignificant.

(B) Minor design modifications or changes in approved preliminary plats are permissible with the approval of the Administrator. Such permission may be obtained without a formal application, hearing, or payment of any additional fee. For purposes of this Section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(C) All other requests for changes in approved preliminary plats will be processed as a modification to the original approved plat and will require a revised preliminary submittal to undergo the entire review procedure. New conditions may be imposed only on the specific site or area requested to be modified, but the applicant retains the right to reject such

additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously approved plat.

(D) The Administrator shall determine whether amendments to and modifications of applications fall within the categories set forth above in subsections a), b), and c).

(E) A subdivider requesting approval of changes shall submit a written request for such approval to the Administrator, which request shall identify the changes. Approval of all changes must be given in writing.

(F) The Administrator may elect for the Planning Board to serve as the review board for proposed changes.

22.6.7 Final Plat - Submission and Review

The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at the time; such portion shall conform to all requirements of these Regulations.

(A) Submission: Once the subdivider has received preliminary plat approval, the final plat may be submitted to the Administrator for review and approval so that the final plat may be recorded.

(1) On application for final plat approval, the subdivider shall pay a fee to Chowan County.

(2) Final plats shall be presented on pages no larger than 18" x 24" for filing at the office of the Registrar of Deeds. More than one page may be presented, clearly marked with section lines. A scale of one-inch equals 100 feet shall be used for final plat drawings.

(3) The subdivider shall submit one hardcopy and a PDF version unless otherwise required by the Administrator within twelve (12) months after approval of the preliminary plat; otherwise, such approval shall become null and void.

(B) Review: The final plat shall be reviewed by the Administrator, with the advice and assistance of the Technical Review Committee, either in whole as an entire committee or necessary selected members as determined by the Administrator, for compliance with the approved preliminary plan. The Administrator may appoint an engineer to check the final plat against the subdivision's actual layout for correctness, charging the costs to the subdivider if the plat is found to be seriously in error. The Administrator shall take expeditious action on a final plat. If the Administrator fails to act within 30 days after the final plat is submitted, the subdivider may request that the final plat be reviewed by the Board of County Commissioners for final plat approval according to the same review and approval procedures set forth this Article for preliminary plats. The Administrator may at any time,

however, refer an application for final plat approval to the Board of County Commissioners. If referred or requested to the Board of County Commissioners, the Commissioners are under no obligation to complete the review within a period of 30 days and shall complete the review within a 180-day period or sooner dependent upon the level of other County business that they are engaged in.

(1) If the final plat is in compliance with the Regulations the preliminary is approved, and any improvements have either been installed or their installation has been guaranteed, the Administrator shall approve the plat. When the final plat is approved by the Administrator, a signed written certification to this effect shall be entered on the face of the plat in accordance with the requirements of this Article.

(2) If the final plat is not in compliance with these Regulations the subdivider shall be given an opportunity to submit a revised final plat within a period of 30 days. If a revised final plat is not submitted, the Administrator shall disapprove the final plat and shall provide the subdivider with a written statement of the reasons for the disapproval and reference shall be made to the specific section(s) of these Regulations and this Article with which the plat does not comply.

(3) If a final plat is disapproved by the Administrator, the applicant may appeal the decision by requesting that the final plat be scheduled for review by the Board of Adjustment as it is an appeal of an administrative decision.

(C) Approval of the final plat is authorization for the subdivider to file the plat with the Registrar of Deeds.

(D) Two copies shall be returned to the subdivider; one of these (on 18" x 24" format) to go to the Registrar of Deeds and the other retained for the permanent files of the Planning and Inspections Department.

(E) No final plat shall be approved until all required improvements are installed or their installation guaranteed as provided in these Regulations, specifically Article 8; the inspection fee has been paid; and the certificates required by these Regulations, to appear on the final plat, have been properly filled out and signed.

(F) Upon the installation of the improvements shown in the approved preliminary plat (or a suitable guarantee for their installation) for the whole or that part of the subdivision to be developed, the applicant shall submit a final plat of the area.

22.6.8 Final Plat - Required Contents

The final plat shall be at the same scale and shall conform substantially to the preliminary plat, as approved, and shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conform to all requirements of these regulations. The final plat drawn in accordance with G.S. 47-

30 will show: The Administrator shall not sign the final plat until all other required signatures have been signed upon the plat. Example the Administrator shall not sign the plat prior to NCDOT signing the plat.

(A) The lines of all streets and roads.

(B) Proposed lot lines, lot and block numbers and approximate dimensions.

(C) Minimum building setback lines.

(D) Contour map with intervals of two feet or less when required by the Administrator.

(E) Proposed parks, school sites, or other public open spaces, if any.

(F) Acreage in total tract and acreage in parks, access sites, or other land usage.

(G) Number and location of solid was container sites.

(H) Reservations, easements, alleys, and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations.

(I) Sufficient data to determine readily and reproduce on the ground, the location, bearing, and length of every street line, lot line, boundary line, block line, and building line, whether curved or straight, and including true north point. This should include the radius, center angle, and tangent distance for the center line of curved streets and curved property lines that are not the boundary of curved streets.

(J) All dimensions should be to the nearest one-tenth of a foot and angles to the nearest minute.

(K) Accurate location and description of all monuments and stakes.

(L) The proposed utility system:

(1) Water

(2) Gas

(3) Sewers

(4) Storm drainage

(M) The names and locations of adjoining subdivision, and streets, and the location and ownership of adjoining unsubdivided property.

(N) Title, date, name, and location of subdivision, graphic scale, and true north point.

(O) Name of owner, surveyor, and land planner.

(P) Sketch vicinity map showing relationship between subdivision and surrounding area.

(Q) All of the certificates shown this Article shall be rubber-stamped or otherwise shown on the final plat.

(R) The boundaries of Special Flood Hazard Areas.

(S) A statement as follows signed by the local permit officer *"This subdivision conforms to the standards of the North Carolina Coastal Area Management Act of 1974 and is/is not located within any Area of Environmental Concern."*

22.6.9 Final Plat – Recordation

(A) Approval of a final plat is contingent upon the plat being recorded in the Office of the Register of Deeds within 30 days after the approval date of the final plat. Failure to record the approved plat within the specified 30-day period shall render the plat null and void.

(B) Dedication and Acceptance.

(1) Rights-of-way and Easements. The approval and recordation of a final plat may constitute an offer to dedicate but does not constitute actual dedication to and acceptance for maintenance responsibility by Chowan County or the public of any public road, alley, or utility or drainage easement shown on such plat. Improvements within such rights-of-way or easements, such as utility lines, road paving, drainage facilities, or sidewalks may, however, be accepted for maintenance by the North Carolina Department of Transportation or by the private utility provider upon compliance with applicable NCDOT and private utility provider guidelines and standards. The subdivider shall actively work to have all installed improvements accepted for maintenance by the applicable party.

(2) Open Space. Land designed as public open space on a final plat shall be considered to be offered for dedication until such offer is officially accepted by the County. The offer may be accepted by the County through:

(a) Express action by the Board of County Commissioners of Chowan County;

(b) Express action by an administrative officer designated by the Board of County Commissioners of Chowan County; or

(c) Conveyance of fee simple marketable title (unencumbered financially and environmentally) of the property to Chowan County at the time of final plat recordation.

Until such dedication has been accepted, land so offered may be used for open space purposes by the owner or by the owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use.

The developer shall be responsible for the maintenance of all facilities and improvements until an offer of dedication is accepted.

(C) Permits and Certificates of Occupancy. Unless otherwise provided in these Regulations, upon recordation of the final plat, the applicant shall be eligible to apply for building permits and any other permits required by the County. No certificates of occupancy shall be issued until all improvements are complete and approved by the County and the applicable utility provider.

SECTION 22.7: DESIGN STANDARDS

Land which the Administrator has determined, either through his own investigations or the investigations of other public agencies, to be unsuitable for development because of flooding, poor drainage, steep slopes, poor soil conditions and other such physical features which may endanger health, life, or property or necessitate the excessive expenditure of public funds for the provision and/or maintenance of public services shall not be approved for subdivision unless methods are formulated by the developer for mitigating the problems created by the subdivision of such land.

All subdivisions located in flood hazard areas shall comply with the requirements of Article 17. Required public utilities and facilities in all subdivisions shall be installed so as to minimize flood damage. No more than 10% of the total number of lots in a new subdivision shall be platted within the SFHA.

All public and private streets in subdivisions shall be paved and be designed in compliance with the current *Subdivision Roads Minimum Construction Standards*, as published by the Division of Highways, North Carolina Department of Transportation. All streets are encouraged to be platted and dedicated as public NCDOT rights-of-way. Other minimum requirements for all new subdivisions are listed below:

22.7.1 Streets

(A) In any new subdivision, the street layout shall conform to the arrangement, width, and location indicated on any official plans or maps for Chowan County. In areas for which such plans have not been completed, the streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, and to the proposed use of land to be served by such streets.

(B) The proposed street layout shall be made according to good land planning practice for the type of development proposed, and shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of principal streets in surrounding areas and provide reasonable means or ingress and egress for surrounding acreage tracts.

Where, required by the Administrator, it is desirable to provide for street access to adjoining property, proposed streets shall be extended, dedicated, and, where appropriate, constructed to the boundary of such property, in the event where the Administrator does not require for the street to be constructed, the developer of the adjacent property will be required to complete the connection and construct the right-of-way. It is the intention of this subsection to promote the orderly development of a local street system that provides interconnection between developed or developing properties.

Factors that shall be evaluated when considering requiring the extension of streets or street rights-of-way to adjoining property include (i) the development potential of the adjoining land; (ii) the physiographical and man-made characteristics of the adjoining property, and (iii) the existing and proposed local street system and traffic flow of the entire area surrounding the subdivided tract and adjoining properties. In the event that the adjacent property desires to not make the connection there must be a minimum of four points of access from an existing public right-of-way into the subdivision. In the event that the stub connection has already been constructed, the adjacent property shall not have the option to not complete this connection.

Generally, 'stub streets' shall be required (i) where the zoning and/or land use on the adjoining property are compatible with the proposed subdivision, (ii) where there are no natural or man-made barriers that make the street extension impracticable, (iii) where the street extension will result in desirable traffic flows and patterns and where inappropriate levels of through traffic are avoided, and (iv) where the street extension will promote the overall orderly development of the area. All stub streets shall be designed and, where required to be built, constructed in accordance with the appropriate standards as delineated in this subdivision ordinance.

The design and construction of streets within a traditional neighborhood development shall comply with the NCDOT's *Traditional Neighborhood Development (TND) Guidelines*.

(C) Minimum street right-of-way width shall be as shown in the thoroughfare plan for the County; and if a plan does not exist, shall not be less than called for by the current *Subdivision Roads Minimum Construction Standards* published by the Division of Highways, North Carolina Department of Transportation.

(D) Paving widths shall be as shown in the thoroughfare plan for the County; and if a plan does not exist, shall not be less than called for by the current *Subdivision Roads Minimum Construction Standards*, published by the Division of Highways, North Carolina Department of Transportation.

(E) Unless necessitated by exceptional topography and subject to the approval of the Administrator, the grades shall be not more than ten percent nor less than one-half percent on any street.

(1) Grades approaching intersections shall not exceed five percent, for a distance of not less than 100 feet from the center line of said intersection.

(2) Street grades shall be established wherever practicable in such a manner as to avoid excessive grading, the indiscriminate removal of ground cover and tree growth, and general leveling of the topography.

(F) When a continuous street center line deflects at any points by more than ten degrees, a circular curve shall be introduced, having a radius of curvature on said center line of not less than the following:

(1) Major Primary Highway and County Roads: 300 feet

(2) Minor County Roads; City & Town Thoroughfares: 200 feet

(3) Local Access Roads: 100 feet

(G) A tangent at least one hundred feet long shall be provided between reverse curves on all streets.

(H) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty degrees.

(1) Street jogs with centerline offsets of less than 125 feet shall be avoided.

(2) Intersections with a major street or highway shall be at least 1,200 feet apart.

(3) Property lines at street intersection shall be rounded with a minimum radius of fifteen feet or of a greater radius when required by the Planning Board.

(I) Permanent dead-end streets and cul-de-sacs on public and private streets shall be no longer than 600 feet. The closed end of public streets shall have a turn-around having an outside roadway diameter of at least 100 feet and a street property line diameter of at least 120 feet. Private dead-end streets over 100 feet shall be provided a turn-around of 100 feet diameter or by approval of the Planning Board when said private street or drive serves six or fewer lots, as in the case of abutting flag lots, a hammer head turn-about with at least 50 feet combined head-in and back-up space.

(J) Temporary cul-de-sacs shall be provided in subdivisions where the street ends, but future phases of the subdivision exist beyond the terminus of the street, the area of the temporary cul-de-sac not needed for the future right-of-way and extension shall revert to the adjacent property owner upon the removal of the temporary cul-de-sac and the extension of the street and subdivision.

(K) Street names for all subdivision plats shall be subject to approval of the Chowan County Emergency Services in agreement with the Administrator. New street names shall not

duplicate or be similar to existing street names and existing street names shall be used for proposed streets which are obviously in alignment with the existing street.

(L) The developer shall clearly designate on both the preliminary and final plats whether the proposed subdivision streets are to be private or public, i.e., to be dedicated for maintenance by the State. The preliminary plat shall not show one type and it change to a different type on the final plat. The subdivider shall not record initial phases of a subdivision with public rights-of-way and revert to private rights-of-way in subsequent phases.

(M) Private streets shall comply with the following:

(1) Where Permitted. Private streets shall be permitted only in developments with Property Owners' Associations.

(2) Minimum Design and Construction. The minimum design standards, including paving, for all private streets will be equivalent to the minimum standards and specifications of the North Carolina Department of Transportation (NCDOT) for public subdivision roads. Certification from a registered, professional engineer that private streets have been constructed in accordance with minimum NCDOT standards and specifications shall be provided to the Administrator prior to final plat approval or, in the case where an guarantee has been posted, prior to the release of the bond.

(3) Property Owners' Associations Required. A Property Owners' Association, established in accordance with the provisions of this Article, is required to own and maintain all private streets allowed under this Article. All private streets will be indicated as such on the subdivision plat.

(4) Private Through Streets. No through street in a residential area connecting two public streets can be designated as a private street, unless specifically approved by the Administrator and with a statement from NCDOT that includes language to the effect of it being no concern and not inhibiting their ability to accept and maintain the public rights-of-way.

(5) Connections to Public Streets. All private streets, connecting with public streets, require an approved driveway application from the NCDOT.

(6) Sidewalks. Where sidewalks are proposed adjacent to private streets, they shall be a least four feet in width.

(7) Disclosure Statement. A disclosure statement in accordance with NCGS § 136-102.6 shall be recorded simultaneously with the subdivision plat and referenced on the final plat. The disclosure statement must contain the provision(s) for construction and/or maintenance of the private street as required by this Article.

(8) Utility and Service Access Easements. When required by the County, necessary utility and service access easements (including designation of fire lanes when required) shall be dedicated over private streets for utility maintenance purposes, sanitation collection, and law enforcement and fire services.

22.7.2 Lots

Lot sizes, shapes, and locations shall be made with due regard to topographic conditions, contemplated use, and the surrounding area. Land subject to flooding shall be under the restrictions of Article 17 and all efforts are encouraged for this land to remain as common open space or conservation areas and not be used for purposes that require the use of habitable structures for the purpose of residence or commerce.

(A) Every lot shall front or abut on a public or approved private street except as provided herein. If re-subdivision of an existing lot is permitted, then each interior or rear lot must be provided with a dedicated right-of-way to the State-maintained or private road serving the area.

(B) Every lot shall have sufficient area, dimensions, and street access to permit a principal building to be erected thereon in compliance with all zoning district and other zoning dimensional requirements of these Regulations. Lots not served by a public water system or lots not served by a public sewer system shall comply with the minimum specifications and standards of the County Health Department.

(C) Where public water and sewer facilities are not available and individual water supplies or individual sewage disposal systems are planned, the subdivider, at his own expense, shall have the site investigated by the County Health Department to determine whether or not such individual facilities are feasible and shall present proof to the Administrator that appropriate soil tests have been conducted and each lot in the subdivision not served by public water or sewage disposal systems has been approved by the County Health Department for individual water supplies and/or sewage disposal systems. The site investigation for sewage disposal shall include sufficient number of test holes of sufficient depth to determine the absorption capacity of the soil and the locations of the groundwater table, and of rock formations and other impervious strata. (The number of tests required and the depth of test holes shall be determined by the County sanitarian.)

(D) Water supply and sewerage facilities shall comply with applicable State and County Public Health laws and regulations, in all aspects not specifically mentioned in this document.

(E) Where individual sewage disposal systems are planned, the minimum lot sizes specified in this Article shall be increased as required by the results of the site evaluation. As a minimum, and unless required otherwise by the County Sanitarian, the following shall apply:

(1) The minimum lot shall be of a size consistent with the requirements of these Regulations. All lots shall be in compliance with current Health Department regulations.

(2) Wells shall be located at least 100 feet from any septic tank or filter field, whether on the same lot or another adjoining lot.

(F) Corner lots for residential use shall have an extra width of ten feet to permit adequate building setback from side streets.

(G) Double frontage and reverse frontage lots shall be avoided, except where required to separate residential development from through traffic.

(H) Side lot lines shall be substantially at right angles or radial to street lines.

(I) All lots shall comply with the lot access requirements of Article 14.

(J) Lots within Planned Unit Developments shall comply with the requirements of Article 14.

(K) Condominium developments and townhouse developments shall comply with the requirements of Article 19.

(M) Lots within cluster developments shall comply with the requirements of Article 14.

(N) Lots within subdivisions located adjacent to thoroughfare streets with capacity deficiencies and lots within nonresidential subdivisions shall comply with the following requirements:

(1) Major and minor subdivisions shall not be approved that propose individual residential lots with direct vehicular access to roads that have, in the opinion of the NCDOT, capacity deficiencies or reduced levels of service that warrant the prohibition of the platting of lots with direct vehicular access.

(2) Whenever a proposed major or minor subdivision abuts any principal arterial, minor arterial, major collector, or minor collector (as delineated on the latest adopted Thoroughfare Plan or as designated by Chowan County), the Administrator may prohibit the platting of lots with direct vehicular access to such roads. The Administrator's decision to require suitable access shall be based upon the need to provide safe access to proposed lots, reduce interference with the existing traffic pattern and flow, and provide buffering of the proposed lots from adverse effects from traffic noise. When a major subdivision fronts on an arterial road or highway, the Administrator may require a marginal access street to provide access to lots fronting on the arterial road or highway, or shared driveways.

(3) In order to reduce traffic congestion, commercial and industrial subdivisions may be required by the Planning Board, after consultation with the NCDOT, to provide a frontage road or other suitable means of access along major thoroughfares, as

shown on the adopted thoroughfare plan or as designated by Chowan County, unless the Administrator determines that no practicable alternative for access exists. Where a frontage road is required, intersections with public streets shall be spaced no closer than 800 feet. Frontage roads may be permitted within the rights-of-way of existing streets subject to the approval of the NCDOT.

(4) Access to lots in proposed subdivisions located in HCO, Highway Corridor Overlay Districts shall comply with the requirements of Article 17.

(O) Lots within Traditional Neighborhood Developments shall comply with the requirements of Article 14 & 19 of these Regulations.

(P) Flag lots shall comply with the following requirements:

(1) A flag lot shall serve only one single-family dwelling and its uninhabited accessory structures, meaning flag lots shall not allow for accessory dwelling units;

(2) Generally, the maximum flagpole length shall not exceed 400 feet. However, the Administrator may authorize a length in excess of 400 feet if, in the opinion of the review authority, extenuating site conditions warrant a greater flagpole length;

(3) The minimum flagpole width on an approved public or private street shall be 20 feet;

(4) The maximum lot area shall be 3 acres. *(Note: The 'flagpole' portion of the lot is not used to calculate lot area, width, depth, and setbacks of the lot or to provide off-street parking.)*;

(5) The minimum separation between the flagpole portion of the lot and that of another flag lot shall be 300 feet;

(6) Where public water is available, any residence on the flag lot must be within 500 feet of a hydrant. This distance shall be measured along the street, then along the flagpole, then in a straight line to the building location;

(7) Where public sewer is available, the residence on the flag lot shall have a gravity service line or the sewer pump requirements shall be noted on the plat;

(8) Use of a single driveway to serve a flag lot and an adjoining conventional lot is permitted and encouraged; the preferred location for the driveway is in the flagpole portion of the flag lot, with the conventional lot granted an access easement over the flagpole;

(9) No resubdivision of a flag lot shall be permitted unless access to the proposed new lot(s) can be provided from an approved private easement, public street, or private street; and

(10) Flag lots shall be approved only where the configuration of the parcel or site features warrant such a lot design. Authorizing a flag lot design is intended to accommodate a particular extenuating circumstance which makes conventional lot design infeasible. Therefore, flag lots should be judiciously approved. Requests for the creation of more than one flag lot from the same parcel shall be reviewed by the Planning Board using the subdivision review procedures delineated in this Article.

(Q) Lots platted on an access easement shall comply with the requirements of this Article.

22.7.3 Building Setback Lines

Traditional building lot minimum building setbacks shall comply with Article 14. Building setbacks within townhouse and condominium developments shall comply with Article 19. Building setbacks within cluster developments shall comply with the requirements of Article 14. Building setbacks within Planned Unit Developments shall comply with the requirements of Article 14 & 19 of these Regulations. Building setbacks within Traditional Neighborhood Developments shall comply with the requirements of Article 14 and 19 of these Regulations.

22.7.4 Blocks

(A) Blocks shall be laid out with special attention given to the type of use contemplated.

(B) Block lengths shall not exceed 1,500 feet or be less than 500 feet.

(C) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic.

22.7.5 Easements

Easements centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least twenty feet wide.

(A) Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

(B) Lakes, ponds, creeks, and similar areas may be accepted for maintenance only if sufficient land is dedicated as a public recreation area or park, or if such area constitutes a necessary part of the drainage control system. Such areas must be approved by the Administrator before approval of the final plat. Dedication of such areas does not constitute county acceptance of such areas for maintenance. The Board of County Commissioners will consider acceptance by resolution referencing said dedication and plat reference.

22.7.6 Buffer Strips

(A) "Buffer Strip" shall be defined as a separate area of land, owned by the developer, subdivider, or a homeowners association that shall not be developed and is designed and maintained to separate land uses deemed incompatible. Buffer strips shall be excluded from the computation of recreational or open space referenced in this Article or these Regulations.

(B) The developer or subdivider of subdivisions of 5 or more lots located adjacent to US and primary or secondary NC Highways, railroads, industrial or commercial developments, or watercourses shall establish and maintain a continuous and uninterrupted buffer strip a minimum of 35 feet in depth in addition to the normal lot depth required.

(1) The purpose of the buffer strip is to provide a safety, visual, and noise barrier to traffic and to separate incompatible land uses.

(2) The buffer strip shall be a part of the platted subdivision and shall have the following restrictions lettered on the face of the plat: "*This buffer strip is reserved for the planting of trees, shrubs, or groundcover; the building of structures, the establishment of private or public streets or roads, and the recreational use of any type of motorized self-propelled vehicles hereon is prohibited.*" Buffer strips shall be excluded from the computation of recreational or open space referenced in this Article or these Regulations.

(3) The buffer strip as described herein shall be required whenever a total of five (5) or more lots have been subdivided from the same parcel regardless of the incremental timing of the platting of the lots.

(C) The developer or subdivider, or a property owners association incorporated in accordance with N.C.G.S. Chapter 55, shall provide for the perpetual maintenance and enforcement of buffer strips. Guarantee of maintenance and enforcement of the buffer strip shall be provided in the form of a Declaration of Covenants creating a property owners association and containing, appropriate bylaws, covenants or deed restrictions, which adequately address maintenance, apportionment of financial responsibility, and enforcement. Chowan County legal counsel shall approve the adequacy of these materials prior to final plat review and approval. These materials shall be recorded at the same time as the final plat and shall be appropriately cross-referenced in the county register of deeds office. Property owners associations shall be established according to the provisions of this Article. In lieu of creation of a property owners association with adequate financial provisions, perpetual maintenance of a buffer strip may be guaranteed by a surety bond, cash, certified check, or irrevocable line of credit in an amount determined annually by the Board of County Commissioners or a duly authorized representative of the Board of County Commissioners.

(D) Buffer strips shall be continuous, may only be broken by approved street entranceways as approved on the final plat, and shall not be interrupted by individual driveways to lots. Notwithstanding any other design standards in these regulations requiring minimum distances between subdivision street intersections at major streets or highways, the number and location of streets serving as entranceways to major subdivisions from railroads, US Highway 17, primary NC Highways 32, 37, and 94, primary NC Highways 32, 37, and 94, secondary NC highways in the County, and, or from boundaries of adjacent industrial or commercial developments, shall be approved by the applicable review authority.

22.7.7 Utilities

(A) Every subdivision lot intended for building purposes shall be served by a water supply system and a sewage disposal system that (i) is adequate to accommodate the reasonable needs of the proposed use of the lot and (ii) complies with all applicable county water and sewer requirements and county health department regulations. Water and sewer systems shall be designed in accordance with all state requirements, the Chowan County Standard Details prepared by the Chowan County Water Department or the standards of other appropriate water utility providers, and the requirements of these regulations. No utility improvements shall be constructed until the utility construction plans have been reviewed and approved by the appropriate utility provider. Work performed pursuant to approved utility construction plans shall be inspected and approved by the Chowan County Water Department or the appropriate utility provider.

(B) Connections to public water systems shall be made in accordance with the following provisions:

(1) Connection of each lot to a public water supply and distribution system shall be required if the proposed subdivision is within the minimum distance of the nearest adequate lines of a public system as specified in the following formula:

Number of lots in the proposed subdivision X 100 feet = minimum mandatory connection distance, up to a maximum of 5,000 feet

For example, if a proposed 25-lot subdivision is within 2,500 feet (25 lots x 100 feet = 2,500 feet minimum mandatory connection distance) of an existing public water line, such subdivision would be required to connect to the existing water system.

(2) In determining the number of lots proposed for the subdivision, all phases of the proposed subdivision shall be considered, not just the current lots being platted.

(3) In the event that a proposed subdivision should meet the minimum mandatory connection distance specification requirements of subsection (1) and the publicly owned or operated water supply and distribution system to which the subdivision would connect shall have insufficient capacity to permit the delivery of water to said

subdivision, the subject subdivision may be relieved of the requirement to connect to such public water system, the Board of County Commissioners may require that the subdivider share in the cost to expand the system capacity to accommodate for the proposed subdivision.

(4) Where a proposed subdivision is not required to connect to a public water line based upon the minimum mandatory distance formula in subsection 1. or where, in the opinion of the Administrator and the Chowan County Water Department, a proposed subdivision cannot be economically connected to a publicly owned or operated water distribution system, wells and/or other private water systems shall be constructed in accordance with the standards and specification of the County Health Department, applicable County ordinances, and applicable State of North Carolina regulations. The proposed subdivision must contain adequate land area (based on information concerning soils, water table, type of sewage disposal, etc.) for the installation of a private water supply system and must be approved in writing by the County Health Department.

(5) When a subdivider is required to install a water distribution system pursuant to this Section, the plans for the water distribution system to be so installed shall be submitted to the Director of the Chowan County Water Department or other appropriate water utility provider prior to final approval of the record plat. The location, size and specifications of the water distribution system shall be placed upon said plat for review and approval. The Director of Chowan County Water Department or other appropriate water utility provider shall review the information supplied and determine whether the plans meet the requirements of this Section and the standards and specification of the Chowan County Public Utilities Department or other appropriate water utility provider.

(C) Fire Hydrants: In major subdivisions with new roads where an adequate public water supply system is available, the subdivider shall install fire hydrants in such a manner that the subdivision is afforded adequate fire protection.

(1) All hydrants shall be American Water Works Association-approved.

(2) No fire hydrant shall be installed on less than a 6-inch main.

(3) Hydrants shall have two 2.5-inch and one 4.5-inch connection with threads of the National Standard Thread type.

(4) The upper hydrant operation stem within the bonnet shall be sealed and lubricated by means of an oil or grease bath. The operating nut shall be National Standard Pentagon type measuring 1.5 inches from point to flat. Hydrants shall open left.

(5) In residential districts, fire hydrants shall be located in such a manner that no lot is further than five hundred feet from a hydrant. The distance between hydrants, shall be measured along street centerlines. There shall be at least one) fire hydrant at each intersection. When residential intersections are less than seven hundred feet apart, a hydrant is not required between the intersections.

(6) All hydrants shall be furnished with barrel and stem extensions as required for the final field location. Nominal minimum bury will be 3.5 feet.

(7) All fire hydrants shall be located on the right side of the roadway in which responding fire apparatus would travel into subdivisions.

(8) All hydrants at finish grade shall measure 18 inches from ground to center of steamer cap.

(9) The Fire Marshal's office shall approve all hydrant types and locations in new subdivisions and any alterations to these regulations related to fire hydrants and fire protection.

(D) Sewage disposal systems shall comply with the following requirements:

(1) Individual septic systems or private sewage disposal systems shall be constructed in accordance with the standards and specification of the County Health Department, applicable County ordinances or regulations, and applicable State of North Carolina regulations. The proposed subdivision must contain adequate land area (based on information concerning soils, water table, type of water supply, etc.) for the installation of a private sewage disposal system and must be approved in writing by the County Health Department.

(2) The plans for the sewage disposal system to be so installed shall be submitted to the County Director of Public Utilities or other appropriate utility provider prior to final approval of the record plat. The location, size and specifications of the sewage disposal system shall be placed upon said plat for review and approval. The County Director of Public Utilities or other appropriate utility provider shall review the information supplied and determine whether the plans meet the requirements of this Section and the standards and specification of the Chowan County Public Utilities Department or other appropriate utility provider.

(E) As-built Drawings: Two copies of as-built drawings shall be submitted to the Director of the Chowan County Water Department or other appropriate utility provider within 30 days of the completion or installation of required utility, stormwater, street, park, and recreational improvements. Final plat approval shall be withheld until all required as-built drawings are provided to the County.

(F) Oversized Utility Improvements: In the interest of adequately providing service to adjacent properties, the County may require the installation of certain oversized utility improvements or the extension of utility improvements to adjacent properties. If the County requires the installation of utility improvements in excess of the standards and specifications required in these regulations as well as those adopted by reference, the County shall, in pursuant to its adopted utility policies, pay the cost differential between the required oversized improvements and the standard improvements required by these regulations.

22.7.8 Waterfront Lots – Special Design Criteria

(A) Because of special water quality concerns in Chowan County as a coastal county, where a subdivision contains lots which adjoin the Chowan River, the Albemarle Sound, or their impounded waters and tributaries, no construction or building, other than that specified in this Article, shall take place within 50 feet landward of the mean high water mark. This 50-foot setback from the shoreline may include the required setbacks stated in this Article.

(B) The 50-foot setback area shall not contain any buildings or related structures, such as decks, paved patios, or utility sheds. On-site septic systems and nitrification lines are also prohibited from this area. The primary use of the area is the growth of natural vegetation such as grassed lawn.

(C) The only structure permissible within the waterfront set-back area is an elevated pier of wood construction, no more than six feet wide, constructed to provide access to the water.

(D) Developers will also be responsible for compliance with the N.C. Department of Environment and Natural Resources, Division of Water Quality Stormwater Rules.

22.7.9 Dedication of Access for Waterfront Developments

(A) Where a subdivision which adjoins the Chowan River or the Albemarle Sound, or their impounded waters and tributaries, contains interior lots, parcels, or tracts of land which do not adjoin the water's edge, but any part of which is within the subdivision, one or more lots which adjoin the water's edge shall be reserved to provide water access for the owners of interior properties or as public access sites. Such lots shall hereafter be called "water access lots."

(B) If property which is in the same ownership adjoins said subdivision, this property shall be construed as being a part of the subdivision for purposes of determining requirements of water access lots. Also, if only waterfront lots are developed, the provisions of this section shall still be applicable.

(C) The water access lots shall equal an area not less than 8% of the area (exclusive of streets) of all the interior property which lies within 500 feet of the water's edge. Where the 8% would equal less than 2,000 square feet, the subdivider shall not be required to provide any water

access lots. All water access lots shall have a minimum frontage at the water's edge of 100 feet.

(D) All water access lots shall abut both a street and the water shoreline.

(E) The water access lots shall either be dedicated to the County (but only if the Board of Commissioners agrees to accept such dedication) or shall be transferred in fee simple title to the common ownership of all owners of the subdivision.

(F) Before approval of the final plat can be given, the subdivider shall submit to the Administrator a covenant stating either:

(1) That he will dedicate the required amount of water access lots to Chowan County, or

(2) That he will convey title to the water access lots to the purchasers of each interior lot, said purchasers to have common ownership of the water access lots with undivided fee simple interest and shall be equally responsible for the maintenance of water access lots.

(G) If the subdivider chooses to dedicate the water access lots to the County, the Board of Commissioners must have agreed to accept the responsibility of maintaining the lots, and the preliminary plat and the final plat must show the dedication.

(H) If the title is transferred to the interior lot owners, the preliminary plat and final plat shall designate the following:

(1) The lot or lots that are to serve as water access lots, and

(2) The lots the owners of which are to have common title to the water access lots. (Example: Owners of Lots 1, 2, 3, 4, 5, etc., to have undivided fee simple title to this water access lot).

SECTION 22.8: STORMWATER AND DRAINAGE MANAGEMENT STANDARDS

(A) All development not classified as a minor subdivision shall be required to control and treat the stormwater runoff generated by a 1.5-inch rain event, and comply with this Article and its appendices.

(B) A draft sketch of proposed stormwater and drainage management systems shall be submitted 30 days prior to the Chowan County Soil and Water Conservation District Technician and Administrator for review prior to a site visit.

(C) A project site visit shall be scheduled with the Chowan County Soil and Water Conservation District Technician and Administrator to review and discuss the proposed stormwater and drainage management systems. The recommended and agreed upon stormwater and drainage management systems shall be designed using the criteria listed below. Minor

development projects (1-4 lots) that do not require engineered stormwater and drainage management structures designed by registered professionals must have, at a minimum, a stormwater and drainage management plan approved by the Chowan County Soil and Water Conservation District Technician and Administrator.

(D) Structural stormwater and drainage management controls must meet the following criteria:

(1) Stormwater and drainage management plans shall include an analysis of tailwater concerns i.e., down-stream flow capacities that result in upstream ponding and flooding. Building pads and finished floor elevations shall be based on this analysis. Plans shall also include an analysis of upstream and downstream drainage to identify the most limiting factor for bank-full flow, which may be a ditch, culvert or structure. If a culvert or a structure is not the limiting factor in the upstream or downstream analysis, then approximately 1000 feet of existing channel shall be used. The upstream analysis shall also consider the drainage capacities of the existing upstream drainage system. All drainage components within the proposed development that transport upstream flow must equal or exceed the upstream drainage capacity.

(2) The ten-year frequency storm shall be used as design criteria for all components of the proposed development. Ditches or canals through proposed developments must carry the existing upstream flow at bank-full, or 10-year storm, whichever is greater.

A 100-year frequency storm event shall be used to predict out-of-bank water surface elevations. Building pads and finished floor elevations must be based on this analysis. The building pad of all buildings must be above the 100-year storm elevation.

(3) Post development run-off rates must be equal to or less than pre-development run-off rates. The drainage analysis shall include predictions of surface water elevations for out-of-bank flow for the watershed that includes the proposed development site. This requires using cross sections, which may exceed the boundaries of the proposed development.

(4) For wet detention ponds draw down the treatment volume no faster than 48 hours, but no slower than 120 hours.

(5) Meet the General Engineering Design Criteria set forth in 15A NCAC 02H.1008(c).

(6) Prohibit new points of stormwater discharge to SA waters or expansion (increase in the volume of stormwater flow through conveyances or increase in capacity of conveyances) of existing stormwater conveyance systems that drain to SA waters. Any modification or redesign of a stormwater conveyance system within the contributing drainage basin must not increase the net amount or rate of stormwater

discharge through existing outfalls to SA waters. Diffuse flow of stormwater at a non-erosive velocity to a vegetated buffer or other natural area capable of providing effective infiltration of the runoff from the 1-year, 24-hour storm shall not be considered a direct point of stormwater discharge. Consideration shall be given to soil type, slope, vegetation, and existing hydrology when evaluating infiltration effectiveness.

(E) The following order of preference shall be considered in the approval of designed on-site stormwater and drainage management systems:

(1) Constructed wetlands

(2) Open vegetated swales and natural depressions

(3) Infiltration

(4) Retention (permanent pool) structures

(5) Detention (no permanent pool) structures.

The order of preference shall be modified where necessary, to accommodate requirements of the State of North Carolina for controlling stormwater quality.

(F) A constructed wetland shall complement, and in some cases may totally replace, traditional ditch-drainage systems required for residential and commercial development on flat landscapes. This BMP improves water storage and water management associated with residential and commercial development. This BMP also creates better biodiversity for mosquito control and eliminates the need for protective measures (fencing) associated with traditional retention and detention ponds and structures.

Constructed wetlands or swales (minimum 6:1 side slopes) are preferred over traditional ditches. Maintenance easements shall be the width of the constructed wetland or swale. All major drainage ditches or canals that are not converted to wetlands or swales shall require a 30 foot maintenance area. A sufficient and approved easement shall be required for the 30-foot maintenance area and the entire width of the ditch or canal.

Although the use of natural wetlands for storing and purifying water is encouraged, care must be taken not to overload their capacity, thereby harming the wetlands and transitional vegetation. Natural wetlands shall not be damaged by the construction of detention ponds. Developers shall acquire applicable permits from the state and federal agencies.

(G) Detention ponds shall be used to detain increased and accelerated runoff caused by development or redevelopment if the runoff is discharged to a water body, watercourse or wetland. Water shall be released from detention ponds into water bodies, watercourses or

wetlands at a rate and in a manner approximating the natural flow that would have occurred before development.

(H) Where detention and retention structures are used, designs that consolidate these facilities into a limited number of large structures shall be preferred over designs that utilize a large number of small structures.

(I) Artificial watercourses shall be designed, considering soil type, so that the velocity of flow is low enough to prevent, or minimize to the maximum extent practicable, erosion.

(J) Vegetated buffer strips shall be created or, where practicable, retained in their natural state along the stormwater control measures. The width of the buffer shall be sufficient to prevent erosion and trap the sediment in overland runoff.

(K) Intermittent watercourses, such as swales, shall be vegetated.

(L) Setbacks for impervious surfaces from receiving waters shall be as follows:

(1) All impervious surfaces, except for roads, paths, and water-dependent structures, shall be located at least 30 feet landward of all perennial and intermittent surface waters.

(M) Stormwater management plans shall be certified by a North Carolina registered stormwater professional to be in conformity with the latest edition of the North Carolina Stormwater Best Management Practices Manual and the requirements of this Section. Stormwater management plans shall contain the information required in this Article.

A stormwater management and drainage maintenance plan shall be submitted for review to the Chowan County Soil & Water Conservation District prior to approval of any preliminary plat. The Chowan County Soil & Water Conservation District shall certify to the Administrator that the proposed plan for development will not.

(1) Unreasonably burden adjacent properties with surface waters as a result of such development;

(2) Impede the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties; and

(3) Result in surface waters from such development being unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

(N) A stormwater and drainage management and maintenance plan shall be submitted to the Chowan County Soil and Water Conservation District Technician and Administrator prior to the approval of a preliminary subdivision plat. The plan shall identify the party or entity

responsible for ownership and maintenance activities. Plans for the operation and maintenance of stormwater control and drainage management structures shall comply with the requirements of this Article. Recorded deed restrictions including easements dedicated on the final plat shall be required to ensure management and maintenance consistent with approved stormwater and drainage management plans. The maintenance of stormwater control and drainage management structures shall be guaranteed by the subdivider in restrictions or covenants approved by the Administrator and consistent with this Article.

(O) All engineered stormwater control structures shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; these registered professionals are defined as professional engineers, landscape architects, to the extent that the General Statutes, Chapter 89A allow, and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in General Statutes Chapter 89 C-3(7).

(P) All new stormwater control structures shall be conditioned on the posting, in accordance with provisions of this Article, of adequate financial assurance for the purpose of maintenance, repairs or reconstruction necessary for adequate performance of the stormwater control structures.

(Q) The storm drainage system shall follow existing topography as nearly as practical, shall divert stormwater away from surface waters, and shall incorporate stormwater Best Management Practices to minimize adverse water quality impacts. The banks of ditches shall be immediately seeded upon grading and installation of utilities and the ditch itself shall be improved with appropriate vegetative cover to retard erosion.

(R) No surface water shall be channeled into a sanitary sewer.

(S) Fill shall be placed so as not to cause water to be diverted to an adjacent property. The maximum amount of fill at any location shall be limited to an average of two (2) feet across the area filled, unless the applicant submits a professionally designed stormwater management plan.

(T) Incidental filling on previously developed residential lots may exceed the two (2) feet limitation without submitting a professionally designed stormwater management plan, provided the incidental filling does not cause water to be diverted to adjacent property.

(U) Pipe culverts shall be installed under driveways with proper design practices to allow passage of water. In subdivisions, the invert of all proposed culverts must be installed in accordance with the planned ditch profiles. For individual lots that impact existing drainage ditches, all proposed culverts must be installed at the elevation of the existing upstream and downstream culverts. If culverts are not present immediately upstream and downstream, installation of properly sized culverts shall be at the average upstream and downstream elevation of the existing ditch.

(V) Land that has been cleared for development and upon which construction has not commenced shall be protected from erosion by appropriate techniques designed to revegetate the area within thirty (30) days (seeding, etc.).

(W) Any person desiring to pave, stabilize or otherwise make impervious any area adjacent to or draining over any public right-of-way shall obtain a permit from the appropriate governing authority. The grading, drainage and material used adjacent to the public right-of-way shall be approved by the appropriate governing authority.

(X) If a development changes ownership or engineering firms prior to or during construction, and the new owners or engineers change the approved stormwater and drainage management plan for the development, then the new owners and/or engineers must submit a new stormwater and drainage management plan to the Chowan County Soil and Water Conservation District Technician and the Subdivision Administrator for review (see step number one above).

(Y) Stormwater and drainage management and maintenance plans must be submitted to the Chowan County Soil and Water Conservation District Technician and the Administrator for review prior to preliminary approval being given.

In the event that any stormwater requirements adopted by the State of North Carolina Department of Environmental Quality supersede or have more stringent requirements than this section they shall take precedence.

SECTION 22.9: SOIL EROSION AND SEDIMENTATION CONTROL

(A) No land use or special use permit may be issued and preliminary plat approval for subdivisions may not be given with respect to any development that would cause land disturbing activity requiring prior approval of an erosion and sedimentation control plan by the Land Quality Section, Division of Land Resources, NC Department of Environment and Natural Resources under NCGS 113A-57(4) unless the Land Quality Section has certified to the County, either that:

(1) An erosion control plan has been submitted to and approved by the Land Quality Section; or

(2) The Land Quality Section has examined the preliminary plans for the development, and it reasonably appears that an erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin (and no building permits may be issued) until the Land Quality Section approves the erosion control plan.

(B) For purposes of this Section, 'land disturbing activity' means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and street construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation except activities that are exempt under NCGS 113A-52(6)). Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

SECTION 22.10: PRIVATE DEED RESTRICTIONS

The subdivider is encouraged to prepare and record private deed restrictions (restrictive covenants) to establish development standards to address particular development and land use issues and/or to establish more desirable development standards that exceed Chowan County design standards and requirements. For example, subdividers may establish deed restrictions that address such issues as architectural design, building materials, minimum building floor area, parking of recreational vehicles, home-based businesses, lot maintenance, etc. Deed restrictions are private agreements between the subdivider and lot buyers. Enforcement of deed restrictions is a private matter and is solely the responsibility of the lot owners and/or a property owners' association. Deed restrictions shall not be enforced by Chowan County. The Administrator or any other official of Chowan County will not be involved in the enforcement of private deed restrictions.

SECTION 22.11: IMPROVEMENTS

22.11.1 General

No subdivision shall be granted final approval unless the following improvements either have been constructed or approved plans prepared and their execution guaranteed in accordance with the provisions of this Article. If the services of a consultant are required by the County Commissioners to determine if improvements have been properly made or properly guaranteed as provided by this Article, the costs of such services shall be paid by the subdivider.

(A) Within the corporate limits of any municipality whose governing body agrees by resolution to these regulations. Grading street rights-of-way, paving roadways at the designated width, and installing facilities for water supply, sewage collection, and surface drainage, all in conformance with standards specified by the various town engineers. The design of all public streets and roads, and the drainage, base preparation, paving, and subsequent maintenance, shall be approved by the State Department of Transportation and shall meet the standards of that agency.

(B) Within Chowan County, but outside the limits of the jurisdiction of a municipality. The subdivider of any subdivision shall design, clear, pave, and maintain all public streets and roads to meet the State Department of Transportation standards, as contained in the current *Subdivision Roads Minimum Construction Standard*. The subdivider shall have the approval of that agency for his design and for the subsequent grading, drainage, base preparation, paving, and maintenance.

(C) All private roads shall meet the standards of the Department of Transportation for design, and for drainage, base preparation, paving, and maintenance. Prior to recording of the final plat and prior to release of bond guarantees, the developer shall certify to the Chowan County Board of Commissioners that the roads were constructed as designed, i.e., according to the *N.C. Minimum Construction Standards for Subdivision Roads*. This certification may be in the form of a statement by a registered professional engineer or other qualified party acceptable to Chowan County.

22.11.2 Monuments

(A) Monuments: Permanent concrete monuments four inches in diameter or square, three feet long, shall be placed at not less than two corners of the subdivision, provided that additional monuments shall be placed where necessary so that no point within the subdivision lies more than 500 feet from a monument. Two or more of the required monuments shall be designated as control corners. The top of each monument shall have an indented cross, metal pin, or metal plat to identify properly the location of the point. All monuments shall be shown on the final plat.

(B) Property Corner Tie: At least one corner of the property surveyed shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coast and Geodetic Station or N.C. Grid System coordinated monument, then this corner shall be accurately tied to this station or monument by computed X and Y coordinates, which shall appear on the map with a statement identifying this station or monument or to an accuracy of 1:15000. When such a monument or station is not available, the tie shall be made to some pertinent and readily recognizable landmark or identifiable point, physical object, or structure.

(C) Markers: All lot corners, all points where the street lines intersect the exterior boundaries of the subdivision, and all angle points and points of curve in each street shall be marked with iron pipe no less than 3/4 inches in diameter and 30 inches long, driven so as to be two inches above the finished grade.

SECTION 22.12: SPECIAL PROVISIONS

22.12.1 Reservation of Sites for Recreation and Open Space

(A) In all subdivisions with ten (10) or more residential lots, except for cluster subdivisions which must comply with Article 14, there shall be one or more recreation areas which shall be easily accessible to all residents.

The amount of recreation area shall be based upon a minimum of 200 square feet for each residential lot. Twenty (20) or more lots will require 250 square feet for each lot. No single outdoor recreation area shall contain less than 2,000 square feet. Recreation areas shall be so located so as to be free of traffic hazards and should, where topography permits, be

centrally located and shall be usable for recreation. Waterfront subdivisions may include waterfront access lots in recreation and open space calculations.

Additional open space requirements are applicable to the unsubdivided components of Planned Unit Developments and Traditional Neighborhood Developments see Article 19.

(B) Criteria for evaluating suitability of proposed recreational and open space areas shall include, but not be limited to, the following as determined by the Administrator in consultation with the Director of the Edenton-Chowan County Recreation Department.

(1) Unity. The dedicated land shall be a single parcel except where it is determined that two or more parcels would be in the public interest. The Administrator may require that the parcels be connected and may also require a path at least thirty feet in width in addition to the land requirement.

(2) Location. The dedicated land shall be located so as to serve the recreation needs of the immediate neighborhood within the subdivision.

(3) Physical Characteristics. The shape, topography and subsoils of the dedicated land shall be such as to be suitable for the intended use.

(4) Accessibility. Public access to the dedicated land shall be provided either by an abutting street or public easement. Such public easement shall be at least thirty feet in width.

(C) Fees in lieu of dedication. In lieu of the dedication of land as required in subsection b), a developer may provide funds in the amount of the assessed value, but not to exceed $10,000.00 per acre, of the land required to be dedicated to Chowan County. The County may use the funds to purchase recreational land or areas to serve the subdivision or development in the immediate area. This may be done in lieu of providing the land required subsection a) above if so approved by the Chowan County Board of Commissioners.

(D) The expenditure of recreation funds paid by the subdivider to the County in lieu of the dedication of land shall be determined by the Chowan County Board of Commissioners.

(E) If the land required for donation in a particular section of a subdivision exceeds the requirement in subsection a), the difference can be applied to future sections.

(F) If the overall master plan of a subdivision shows future recreation areas not included in the section receiving final plat approval, the donation of recreation land (or fees) shall not be required for that phase of development. However, if the amount of recreation land required by this Article is not developed within one year of final plat approval, the requirements of subsections b) and c) shall immediately apply.

(G) Chowan County shall be divided into recreational districts by the Edenton-Chowan County Recreation Department for the purpose of distributing funds that are collected from the cash-in-lieu-of-land payments. These funds shall be spent only on capital improvements to county-owned recreational facilities.

(H) Open space and recreational space required by this Article shall not be dedicated to the public except upon the written acceptance of Chowan County pursuant to subsection k) but shall remain under the ownership and control of the developer (or successor in title) or a Property Owners' Association or similar organization established pursuant to this Article. As an alternative to a Property Owners' Association, a private non-profit organization, such as a private land trust, whose primary purpose is the preservation or conservation of open space may own and manage the proposed open space.

(I) The person or entity identified in subsection i) as having the right of ownership and control over such open space and recreational space shall be responsible for the continuing upkeep and maintenance of the same.

(J) The Board of County Commissioners shall have the authority to accept or reject offers for land dedications made as a requirement of this Section. Land proposed by the developer as public open space on a site plan shall be considered to be offered for dedication until such offer is officially accepted by the Chowan County Board of Commissioners. The offer may be accepted by the County through:

(1) Written acceptance by the Board of County Commissioners; or

(2) Written acceptance by an administrative officer designated by the Board of County Commissioners; or

Until such dedication has been accepted, land so offered may be used for open space purposes by the property owner or by a property owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use. The property owner shall be responsible for the maintenance of all facilities and improvements until an offer of dedication is accepted by Chowan County.

22.12.2 Property Owners' Associations

(A) Establishment of Owners' Association.

(1) Creation. An Owners' Association shall be established to fulfill the requirement of the North Carolina Condominium Act or to accept conveyance and maintenance of all common areas and facilities within a development containing common areas.

(2) Conveyance. Where developments have common areas for facilities serving more than one dwelling unit, these areas shall be conveyed to the Owners' Association in which all owners of lots in the development shall be members. All areas other than

public road rights-of-way, other areas dedicated to the County, and lots shall be shown and designated as common areas. The fee-simple title of the common area shall be conveyed by the subdivider or developer to the Owners' Association.

(3) Subdivision or Conveyance of Common Area. Common areas shall not be subsequently subdivided or conveyed by the Owners' Association unless a revised preliminary plat and a revised final plat showing such subdivision or conveyance have been submitted and approved. Common areas or open space shall not be subdivided if such subdivision eliminates the required open space or would bring the subdivision out of compliance with these Regulations.

(4) Owners' Association Not Required. Developments involving only two units attached by a party wall shall not be required to have common areas or an Owners' Association. Developments with only two units attached and not having an Owners' Association shall have an agreement between owners concerning maintenance of party walls.

(B) Submission of Owners' Association Declaration. Prior to or concurrently with the submission of the final plat for review and approval, the applicant shall submit a copy of the proposed Bylaws of the Owners' Association containing covenants and restraints governing the Association, plats, and common areas. The submitted documents shall be reviewed by the Chowan County legal counsel and a recommendation made to the Administrator as to their sufficiency. The restrictions shall include provisions for the following:

(1) Existence Before Any Conveyance. The Owners' Association declaration shall be organized and in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.

(2) Membership. Membership in the Owners' Association shall be mandatory for each original purchaser and each successive purchaser of a lot or unit. Provisions shall be made for the assimilation of owners in subsequent sections of the development.

(3) Owners' Association Declaration.

(a) Responsibilities of Owners' Association. The Owners' Association declaration shall state that the association is responsible for:

(i) The payment of premiums for liability insurance and local taxes;

(ii) Maintenance of recreational and/or other facilities located on the common areas; and

(iii) Payment of assessments for public and private improvements made to or for the benefit of the common areas.

(b) Default of Owners' Association. Upon default by the Owners' Association in the payment to the County of any assessments for public improvements or ad valorem taxes levied against the common areas, which default shall continue for a period of six months, each owner of a lot in the development shall become personally obligated to pay to the County a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the County by the total number of lots in the development. If the sum is not paid by the owner within thirty days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the owner, his heirs, devisees, personal representatives and assigns. The County may either bring an action at law against the owner personally obligated to pay the same, or may elect to foreclose the lien against the property of the owner.

(c) Powers of the Association. The Owners' Association is empowered to levy assessments against the owners of lots or units within the development. Such assessments shall be for the payment of expenditures made by the Owners' Association for the items set forth in this Section, and any assessments not paid by the owner against whom such assessments are made shall constitute a lien on the lot of the owner.

(d) Easements. Easements over the common areas for access, ingress, and egress from and to public streets and walkways and easements for enjoyment of the common areas, and for parking, shall be granted to each lot owner.

(e) Maintenance and Restoration. Provisions for common area maintenance of and restoration in the event of destruction or damage shall be established.

(4) Nonresidential Condominiums. If the condominium is a nonresidential condominium, the declaration shall contain the following provision: *Parking spaces shall be allocated among the individual lots or units in such a manner that each unit is entitled to a sufficient number of parking spaces to comply with these regulations for the use intended to be located therein. The Owners' Association shall maintain a register listing the total number of parking spaces in the development and the number of parking spaces allocated to each lot or unit. A copy of this register shall be available to the Administrator at his/her request. The Owners' Association shall not reduce the number of parking spaces allocated to an individual lot or unit without the express written consent of the owner thereof, and in no case shall the number of parking spaces allocated to an individual unit be reduced to a number below that required by these regulations*.

SECTION 22.13: REQUIRED SIGNATURE BLOCKS

The certificates listed herein shall either appear on, or be attached to, all final plats, if applicable.

22.13.1 Exemption

I (ADMINISTRATOR) certify that this plat has been reviewed and has been determined to be an exempt subdivision under (CITE SECTION) of the Chowan County Land Use Regulations.

Administrator Date

22.13.2 Certification of Ownership and Dedication

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish the minimum building lines, and dedicate all streets, alleys, walks, parks, and other open spaces to public or private use as noted. Further, I (we) certify that the land as shown hereon is within the subdivision regulations jurisdiction of Chowan County.

Owner Date

22.13.3 Certificate of Accuracy and Mapping

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

Witness my hand and seal this___ day of _____ A.D., 20____.

Surveyor or Engineer

22.13.4 Notary Seal

North Carolina

_____ County

I, _____, a Notary Public for said County and State, do hereby certify that a registered land surveyor appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this the ___ day of _____, 20__.

Notary Public Official Seal

My Commission Expires:

22.13.5 CAMA Consistency Certificate

I hereby certify that this subdivision conforms to the standards of the North Carolina Coastal Area Management Act of 1974 and is/is not located within any Area of Environmental concern.

Local Permit Officer Date

22.13.6 Certificate of Approval and Acceptance of Dedications

I, _____, the Chowan County Planning & Inspections Administrator, do certify that Chowan County approved this plat or map and accepted the dedication of the easements, rights-of-way and public park shown thereon, but assume no responsibility to open or maintain the same until, in the opinion of the governing body of Chowan County, it is in the public interest to do so.

Administrator Date

22.13.7 Review Officer Certificate

I, _____, Review Officer of Chowan County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer Date

22.13.8 Certificate of the Approval of Public Streets

All streets depicted in this subdivision have been offered to the State of North Carolina for dedication to public use, but these streets have not been accepted into the NCDOT road maintenance system. The streets in this subdivision must meet NCDOT residency requirements to be included in the NCDOT road maintenance system. Following the construction of the streets shown in this subdivision, the developer is responsible for petitioning NCDOT for the addition and acceptance of streets shown upon this plat. I certify the streets shown upon this plat have been designed in an acceptable manner according to the current NCDOT Minimum Construction Standards for Subdivision Roads.

NCDOT District Engineer. Date

22.13.9 Certificate of the Approval of Streets and Related Utilities

I hereby certify that streets and related utilities and improvements have been designed and will be installed in an acceptable manner, and according to County specifications and the current N.C. DOT *Subdivision Roads Minimum Construction Standards,* in the subdivision entitled:

Developers Engineer Date

22.13.10 Certificate of Approval of Surety for Improvement

I hereby certify: (1) that a security bond in the amount of $_____ has been posted with the Chowan County Planning & Inspections Department for installing improvements in the subdivision entitled _____ or, (2) that a satisfactory financial arrangement has been made to assure completion of all required improvements in case of default.

Administrator Date

22.13.11 Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Chowan County Land Use Regulations, with the exception of such waivers, if any, as are noted in the official public record of the Administrator and that it has been approved for recording in the office of the Registrar of Deeds.

Administrator Date

22.13.12 Additional District Health Department Certifications

(A) This subdivision, entitled _____, has been designed for the construction of individual sewage systems and meets the criteria and requirements of the District Health Department based on existing conditions and regulations. The District Health Department reserves the right to require additional improvements to these properties and to limit the number of bedrooms and size of structure based on site conditions upon issuance of the final site improvements permits. This certification does not constitute a warranty and is issued based on this subdivision being serviced by _____ water system(s).

(Individual/Public)

District Health Director or designee Date

(B) Addendum # 1: Artificial drainage has been installed in this subdivision according to plans and specifications prepared by _____ and based upon the requirement of the District Health Department to keep the seasonal high-water table a minimum of twelve inches (12") below the septic tank nitrification lines. Proper landscaping and maintenance of these drainage facilities are the responsibility of the property owners to insure that septic tank malfunctions do not occur. The District Health Department assumes no responsibility for the design, maintenance, or the guaranteed performance of the artificial drainage measures and their effects.

Certifier of Drainage Facilities Date

22.13.13 Certificate of Disclosure – North Carolina Coastal Area Management Act

I (we) hereby certify that prior to entering any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign, a statement which fully and accurately discloses that the buyer may have responsibility to obtain a development permit (minor or major) and the agency to which an application must be filed in order to obtain a permit prior to any undertaking or activity, subject to the requirement of the North Carolina Coastal Area Management Act.

Signature of Owner(s) Date

22.13.14 Certificate of Disclosure – Chowan County Floodplain Management

I (we) hereby certify that prior to entering any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign, a statement which fully and accurately discloses that the subject real estate, or a portion of the subject real estate, is located within a flood hazard area and that the buyer must satisfy the requirements of the Chowan County Floodplain Management Regulations prior to the issuance of construction permits.

Signature of Owner(s) Date

22.13.15 Certificate of Disclosure of Private Developments

I (we) acknowledge that neither the State nor the County shall be responsible for maintenance of any streets, parks, drainage, open space, or other areas which are designated for private use. I (we) acknowledge that prior to contracting with a prospective buyer, I shall give the buyer a written statement which discloses the existence and location of such private areas and specifies the maintenance responsibilities for same. When applicable, the statement shall disclose that the street(s) will not be constructed to minimum standards sufficient to allow their inclusion on the State highway system for maintenance.

Signature of Owner(s) Date

SECTION 22.14: TYPICAL STREET AND ROADWAY DESIGN

Please refer to the NCDOT Subdivision Roads Minimum Construction Standards for road construction and design standard reference.

SECTION 22.15: WATER DEPARTMENT SUBDIVISION POLICIES

22.15.1 General Provisions

(A) Any subdivision developer or other person requesting permission to connect water lines to the County system is responsible for all costs associated with construction of the lines including preparation of plans, approval by County engineer, obtaining approval of State

Health Department, installation of lines, and supervision of construction by water system personnel.

(B) After acceptance by the County, water lines become the property of the County water system and will be maintained by the County.

(C) Plans for water lines must be prepared or approved by the County engineer.

(D) Plans must be approved by the N.C. Department of Health.

(E) All pipe, valves, hydrants, and other materials must be inspected and approved by the County engineer and water superintendent prior to installation.

(F) All water lines must be installed, tested, and disinfected under observation of the County engineer or water superintendent.

(G) Service tap lines to meter box will be installed by the County. The cost of this service must be paid by water user.

(H) A conference will be held prior to installation of any piping to discuss the specifications and how work is to be performed. The conference will be attended by the County Water Superintendent, developer, contractor representative, County Manager or Chairman of Board of Commissioners.

(I) All pipeline tie-ins or taps to the County Water System will be performed by the County at the developer's expense.

(J) The Contractor must guarantee and be responsible for repairs in all lines and service for a period of one year after acceptance by the County.

22.15.2 Outline of Procedures

(A) Notification of Design Approval - After a review of the proposed water distribution lines for each subdivision, Chowan County Water Department engineers will return the plans to the office of the County Manager with any comments and changes in the proposed design which will be required. The County Manager will return the approved copy of the plans and drawings, with the comments and any required changes, to the developer or his engineer.

(B) Approval by the N.C. Division of Health Services - All extensions and additions to the Chowan County Water Department require by law approval by the N.C. Division of Health Services in Raleigh. Approval is obtained through submitting a request for approval form provided by the Division of Health Services to, State Division of Health Services, P.O. Box 2091, Raleigh, NC 27602. Chowan County requires that the subdivision developer furnish four (4) copies of the proposed water line plans and four (4) copies of the Division of Health Services application, to the office of the County Manager. The County Manager will then forward the plans and applications to the Division of Health Services for approval. After notification of approval

from the Division of Health Services, the developer will be notified and the construction and installation of the water lines can begin.

(C) Inspection of Water Line Installations - Chowan County requires that the developer or his water line contracting company have all water lines installed in accordance with the guidelines and specifications of the Chowan County Water Department. A copy of the specifications will be furnished by the County to the developer for use by his engineering firm and the water line contracting company. Chowan County also will require that all of the lines installed be inspected and approved by the Chowan County Water Superintendent.

(D) As-Built Plans for Water Lines - The developer will be required to furnish to Chowan County, after the completion of all installation of water facilities, two (2) copies of engineering as-built plans. These plans will become a permanent part of the Chowan County Water Department files and records for future use in maintenance, repairs and water system design. The two (2) copies should be furnished by the developer's engineer to the Chowan County Water Superintendent.

(E) Materials and Construction for Water Lines - In accordance with the rules and regulations of the Chowan County Water Department, all materials used in construction of water lines are to be in accordance with specifications provided by the Chowan County Water Department. The installation of all lines and facilities will also be in accordance with the prescribed procedures and specifications of the County's water system.

SECTION 22.16: STORMWATER AND DRAINAGE MANAGEMENT PLANS

22.16.1 Information Required with Stormwater and Drainage Management Plans

Stormwater and drainage management plans shall include the following information:

(A) Applicant information (Name, legal address, and telephone number)

(B) Common address and legal description of the property

(C) Vicinity map

(D) Existing conditions and proposed site layout (recommended scale of 1"=50') including at a minimum the following:

- Existing topography (recommended minimum of 1-foot contours)
- Perennial and intermittent streams
- Mapping of predominant soils from USDA soil surveys
- Boundaries of existing predominant vegetation and proposed limits of clearing and grading
- Location and boundaries of all resource protection areas (e.g. floodplains, riparian buffers, wetlands)

- Location of floodplain/floodway limits and relationship of site to upstream and downstream properties and drainages
- Location of existing and proposed roads, buildings, parking lots, and other impervious surfaces
- Location of existing and proposed utilities (e.g. water, wastewater, gas, electric) and easements
- Location of existing and proposed stormwater conveyance systems such as grass channels, swales, and storm drains
- Location of proposed channel modifications, such as bridge or culvert crossings
- Sediment and erosion control features
- Location, size, maintenance access, and limits of disturbance of proposed stormwater management practices

(E) Signature and stamp of registered engineer, landscape architect, or other certified professional and designer/owner certification.

(F) Hydrologic and hydraulic analysis including:

(1) Hydrologic analysis for existing conditions including runoff rates, volumes, and velocities showing methodologies used and supporting calculations (the analysis must use accepted engineering coefficients representative of the soils and conditions on the proposed site).

(2) Hydrologic analysis for proposed (post-development) conditions including runoff rates, volumes and velocities showing the methodologies used and supporting calculations (the analysis must use accepted engineering coefficients representative of the soils and conditions on the proposed site).

(3) Hydrologic and hydraulic analysis of the stormwater and drainage management systems based on the following storm events:

(a) The ten-year frequency storm shall be used as design criteria for all components of the proposed development. Ditches or canals through proposed developments must carry the existing upstream flow at bank-full, or 10-year storm, whichever is greater.

(b) A 100-year frequency storm event shall be used to predict out-of-bank water surface elevations. Building pads and finished floor elevations must be based on this analysis. The building pad of all buildings must be above the 100 year storm elevation.

(4) Final sizing calculations for structural stormwater controls including contributing drainage area, storage, and outlet configuration.

(5) Stage-discharge or outlet rating curves and inflow and outflow hydrographs for storage facilities.

(6) Final analysis of potential downstream impact and effects of project, where necessary.

(7) Dam safety and breach analysis, where necessary.

(G) Representative cross-section and profile drawings and details of structural stormwater controls and conveyances which include:

(1) Existing and proposed structural elevations (e.g., invert of pipes, manholes, etc.).

(2) Design water surface elevations,

(3) Structural details of structural control designs, outlet structures, embankments, spillways, grade control structures, conveyance channels, etc.

(4) Stormwater and drainage management plans shall include an analysis of tailwater concerns i.e., down-stream flow capacities that result in upstream ponding and flooding. Building pads and finished floor elevations shall be based on this analysis. Plans shall also include an analysis of upstream and downstream drainage to identify the most limiting factor for bank-full flow, which may be a ditch, culvert or structure. If a culvert or a structure is not the limiting factor in the upstream or downstream analysis, then approximately 1000 feet of existing channel shall be used. The upstream analysis shall also consider the drainage capacities of the existing upstream drainage system. All drainage components within the proposed development that transport upstream flow must equal or exceed the upstream drainage capacity.

(5) Post development run-off rates must be equal to or less than pre-development run-off rates. The drainage analysis shall include predictions of surface water elevations for out-of-bank flow for the watershed that includes the proposed development site. This requires using cross sections, which may exceed the boundaries of the proposed development.

(H) Applicable construction specifications.

(I) Landscaping plans for structural stormwater controls and any site reforestation or revegetation.

(J) Evidence of acquisition of all applicable local and non-local permits.

(K) Evidence of acquisition of all necessary legal agreements (e.g., easements, covenants, land trusts, etc.).

22.16.2 Operation and Maintenance of Stormwater Control Structures

The Stormwater and Drainage Operation and Maintenance Plan shall include the following information:

(A) Name, legal address and phone number of responsible parties for maintenance activities.

(B) Description and schedule of maintenance tasks.

(C) Description of applicable easements.

(D) Description of funding source.

(E) Review of access and safety issues.

22.16.3 Plans

Stormwater and drainage management and maintenance plans must be submitted to the Chowan County Soil and Water Conservation District Technician and the Subdivision Administrator County for review 30 days prior to a Planning Board meeting.

SECTION 22.17: STORMWATER WETLAND DESIGN

The following considerations shall be used for designing constructed wetlands associated with and as part of the drainage system.

22.17.1 Drainage

(A) To ensure that a constructed wetland does not negatively impact storm flow, upstream and downstream drainage must be analyzed to identify the most limiting flow factor under bank-full flow, which may be a ditch, culvert or structure. If a culvert or a structure is not the limiting factor, then approximatley1000 feet of existing channel shall be used for the analysis.

(B) To predict surface water elevations for out-of-bank flow for given stormwater events, drainage evaluations must be performed using cross sections that span the entire watershed area impacted by the predicted out-of-bank flow.

(C) To ensure adequate storm flow in a densely planted wetland (assuming 100% plant coverage), the design shall use a roughness coefficient ≥ 0.1 (Manning's (*n)*).

(D) Water control structures must be maintenance free and not require adjustments to handle stormwater flow. Semi-pervious rock weirs are desired and shall be designed for maximum bank-full flow as a channel restriction or submerged weir.

22.17.2 Water Quality

(A) Recommended to exceed minimum state requirements for storing and retaining 1.5 inches of water for 2-5 days.

(B) Must maintain a permanent pool level of 6-18 inches.

(C) Must be designed to handle approximately 1 foot of sedimentation without impeding stormwater flow from upstream sources.

22.17.3 Aesthetics

(A) Should have 6:1 slopes and shaped to blend into the surrounding landscapes.

(B) Should be meandering, following old drain ways or depressions that served as natural drainage prior to development.

22.17.4 Vegetation Requirements

(A) Plant at a 3x3 spacing with indigenous wetland species such as spatterdock, bulrush, bur reed, cattail, swamp smartweed, pickerel weed, water lilies, green ash, swamp chestnut oak, cypress, and black gum.

(B) Wetland plants shall be planted at water depths that are found under natural conditions. For example, spatterdock shall be planted in areas where permanent water depths range from 12-18 inches.

22.17.5 Maintenance Requirements

(A) Replanting shall be required if less than 50% of the area is covered with wetland plants after the first year.

(B) Sediment removal is required only under extreme conditions where sedimentation has exceeded the designed holding level and changes the predicted upstream in-bank water profiles more than 0.5 ft.

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