

# **City of Hamlet Zoning Ordinance**

**Adopted by  
Hamlet City Council  
July 13, 2021**

## **Amendments:**

**03-08-2022 Regarding Breweries and Distilleries**

**08-09-2022 Definition of Hospital**

# City of Hamlet Zoning Ordinance

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## **ARTICLE I. ORDINANCE ESTABLISHED**

### **Section 1.1 Title**

This Ordinance shall be known as "The Zoning Ordinance for the City of Hamlet, North Carolina and Its Area of Extraterritorial Jurisdiction", and may be referred to as "The Hamlet Zoning Ordinance."

### **Section 1.2 Jurisdiction**

The regulations set forth in this Ordinance shall apply to all property within the City Limits of the City of Hamlet and within its Area of Extraterritorial Jurisdiction as shall now or hereafter be established.

### **Section 1.3 Districts Established**

In order to achieve the purposes of this Ordinance as set forth above, the jurisdictional area subject to this Ordinance is hereby divided into Districts of which there shall be twelve (12) with the designations as listed below:

R-20	Residential District
RA-20	Residential District
R-10	Residential District
R-8	Residential District
R-6	Residential District
R-6M	Residential District
O-1	Office and Institutional District
B-1	Central Business District
B-2	General Business District
B-3	Neighborhood Business District
I-1	Light Industrial District
I-2	Heavy Industrial District

### **Section 1.4 Official Maps Adopted - District Boundaries Established**

The boundaries of the Districts are shown upon the Zoning Map accompanying this Ordinance and made a part hereof. The Zoning Map and all the notations and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the Zoning Map were all fully described and set out herein. The previous and current versions of the Zoning Map, properly attested, shall be on file in the office of the City Clerk in digital or paper format and available for public inspection. Copies of the Zoning Map may be used in the administration of this Ordinance but the Zoning Map on file and the record of City Council action shall constitute the Official Record.

In the creation, by this Ordinance, of the respective Districts, the City Council of the City of Hamlet has given due and careful consideration to the peculiar suitability of each and every District for the particular regulations applied thereto, and the necessary, proper, and comprehensive groupings and arrangements of various uses and densities of population in accordance with a well-considered comprehensive plan for the physical development of the City.

The boundaries of such Districts as are shown upon the Zoning Map adopted by this Ordinance are hereby adopted and provisions of this Ordinance governing the use of land and buildings, the height of buildings, building site areas, the size of yards about buildings, and other matters as hereinafter set forth, are hereby established and declared to be in effect upon all land included within the boundaries of each and every District shown upon said Zoning Map.

### **Section 1.5 Bona Fide Farm Exemption**

This chapter shall in no way regulate, restrict, prohibit or otherwise deter any bona fide farm and its related uses within the extraterritorial jurisdiction; except that in case of conversion of the uses to nonagricultural or non-farm purposes, a zoning certificate shall be procured, and the new use must comply with all regulations for the district in which it is situated.

### **Section 1.6 Comprehensive / Land Use Plan Required**

As a condition of adopting and applying zoning regulations in accordance with N.C.G.S.160D-501, the City shall adopt and reasonably maintain a comprehensive plan or land-use plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. Plans shall be adopted by the City Council with the advice and consultation of the Planning Board. Adoption and amendment of a comprehensive plan is a legislative decision. Plans shall be advisory in nature. Plans shall be considered by the planning board and governing board when considering proposed amendments to zoning regulations as required by G.S. 160D-604 and G.S. 160D-605. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required.”

### **Section 1.7 Expansion of Extraterritorial Jurisdiction**

When the City of Hamlet proposes to exercise extraterritorial jurisdiction under this ordinance it shall notify the owners of all parcels of land proposed for addition to the area of extraterritorial jurisdiction, as shown on the county tax records. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the county tax records. The notice shall inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the landowners right’s right to participate in a legislative hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction, as provided in G.S. 160D-601, and the right of all residents of the area to apply to the board of county commissioners to serve as a representative on the Planning Board and the Board of Adjustment, as provided in G.S. 160D-303. The notice shall be mailed at least 30 days prior to the date of the hearing. The person or persons mailing the notices shall certify to City Council that the notices were sent by first-class mail, and the certificate shall be deemed conclusive in the absence of fraud.

## ARTICLE II. DEFINITIONS

### Section 2.1 General Rules

In the construction of this Ordinance the rules and definitions contained in this Article shall be observed and applied, except when the context clearly indicates otherwise. In further amplification and for clarity of interpretation of the context, the following definitions of word usage shall apply:

- A. Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural the singular;
- B. Words or phrases not specifically defined herein shall have their customary meanings as defined in a standard dictionary.
- C. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- D. The word "person" includes a firm, association, corporation, trust, and company as well as an individual.
- E. The word "shall" is mandatory and not discretionary;
- F. The word "may" is permissive and discretionary;
- G. The word "lot" shall include the words, "piece", "parcel", and "plots";
- H. The word "building" includes all structures of every kind regardless of similarity to buildings;
- I. The phrase "used for" shall include the phrases "arranged for", "designed for", and "occupied for";
- J. All "measured distances" shall be to the nearest "integral foot". If a fraction is one-half foot or less, the "integral foot" next below shall be taken;
- H. Where any other "requirement" of this Ordinance results in a fraction of a unit, a fraction of one-half or more of such unit shall be considered a whole unit and a fraction of less than one-half shall be disregarded except where in this Ordinance other specific provisions are stated.
- I. The phrase "set forth herein" refers to all Sections of the City of Hamlet Zoning Ordinance.

### Section 2.2 Definitions

#### **Abutting.**

Having property or district lines in common. For example, two lots are abutting if they have property lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a railroad, street, alley, or other transportation corridor. The terms "adjacent", "adjoining", and "contiguous" shall be interchangeable with the term abutting".

**Access.**

A way of approaching or entering a property. The term “access” shall be interchangeable with the terms “ingress”, “egress”, and “access way”.

**Accessory Building.**

A detached building, the use of which is customarily incidental to that of the principal building, and which is located on the same zone lot as the principal building.

**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.

**Accessory Structure.**

A detached subordinate structure, the use of which is customarily incidental to that of the principal structure and which is located on the same zone lot as the principal structure.

**Antenna.** A conductor by which electromagnetic waves (telephonic, radio, television, microwave, or otherwise) are transmitted or received.

**Automobile Repair Services, Major.**

An establishment primarily engaged in one or more of the following activities: 1) general repair or service; 2) engine repair; 3) installation or repair of transmissions; 4) installation or repair of automotive glass; 5) installation or repair of exhaust systems; 6) repair of tops, bodies, and interiors; and 7) automotive painting and refinishing.

**Automobile Repair Services, Minor.**

An establishment primarily engaged in one or more of the following activities: 1) diagnostic service and tune-ups; 2) installation or repair of air conditioners, brakes, carburetors, electrical systems, fuel systems, generators, starters, and radiators; 3) lubricating service; and 4) front end and wheel alignment.

**Bar.**

An establishment primarily engaged in the retail sale of beer or wine for consumption on the premises. Such establishment must obtain an ABC license for on-premises beer or wine consumption only. The establishment may also be engaged in the retail sale of prepared food for on-premises consumption.

**Bed and Breakfast.**

A dwelling in which lodging, with or without meals, is provided for overnight guests for a fee.

**Bedroom.**

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

**Block.**

A tract of land of a lot or group of lots bounded by streets, public parks, golf courses, railroad right-of-way, water courses, lakes, unsubdivided land, or a boundary line or lines of the county or its towns or any combination of the above.

**Board of Adjustment and Planning Board.**

The Board of Adjustment and Planning Board of the City of Hamlet.

**Brewery.**

An establishment where the production of beer takes place in accordance with G.S. 18B-1104. (Approved by Council 03-08-2022)

**Buffer.**

A strip of land established to protect one type of land use from another.

**Buffer, Watershed.**

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.

**Building.**

Any structure used or intended for supporting or sheltering any use or occupancy.

**Building Height.**

The vertical distance measured from the average elevation of finished grade to the topmost section of the roof.

**Building Setback Line.**

A line parallel to the property line. No structure shall be erected closer to property boundary than the setback line. The front building setback line shall be measured from the street/road right-of-way line.

**Built-Upon Area.**

Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: wooden slatted decks and the water area of a swimming pool is considered pervious.)

**Church.**

Religious uses and facilities operated for worship; promotion of religious activities, including houses of worship and education and training; and accessory uses such as living quarters for ministers and staff, child day care facilities, full-time educational institutions, hospitals, and other related operations.

**City.**

Unless the context clearly discloses a contrary intent, the word "City" shall mean the City of Hamlet.

**City Council.**

The City Council of the City of Hamlet.

**City Manager.**

The City Manager of the City of Hamlet.

**Code of Ordinances.**

The City of Hamlet Code of Ordinances.

**Colleges or Universities.**

A post-secondary institution for higher learning that grants associate or bachelor's degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees. This may also include community colleges that grant associate or bachelor's degrees or certificates of completion in business or technical fields.

**Conditional Zoning.**

A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

**Condominium.**

The term condominium shall apply to residential and commercial development where portions of buildings are separately owned and where land and other improvements are held in undivided interested.

**Congregate Care Facility.**

A facility providing shelter and services for ambulatory individuals at least fifty-five (55) years of age 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.

**Contour Line.**

A contour line is an imaginary line on the surface of the earth that connects all points that are of equal height above some reference plane, usually sea level.

**Contour Map.**

A contour map is a drawing which shows the location of the contour lines for a particular parcel of land which, in turn, show the topography of the parcel.

**Convalescent Home.**

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

**Dedication.**

The offer to transfer property from private to public ownership. Such transaction is not completed unless and until the appropriate public agency accepts the offer.

**Demolition and Construction Debris Landfill (Major).**

A disposal site (other than a minor demolition and construction debris landfill as defined in this Ordinance) for stumps, limbs, leaves, concrete, brick, wood, and uncontaminated earth. Disposal of any other types of wastes must be approved by the State Division of Health Services.

**Demolition and Construction Debris Landfill (Minor).**

A disposal site for stumps, limbs, leaves, concrete, brick, wood, and uncontaminated earth which is less than three (3) acres in size and is in operation for less than one (1) year.

**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 on that property.

**Development.**

Unless the context clearly indicates otherwise, the term means any of the following:

- A. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

- B. The excavation, grading, filling, clearing, or alteration of land.

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- C. The subdivision of land as defined in G.S. 160D-802.
- D. The initiation or substantial change in the use of land or the intensity of use of land.

(May also be referred to as “land development activity”).

**Dish Antenna.**

An accessory structure greater than three feet in diameter, which includes a combination of

- A. Antenna apparatus or component whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources;
- B. A low-noise amplifier which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and
- C. A coaxial cable whose purpose is to carry the signals into the interior of a building.

The height of the dish antenna shall be the vertical distance from the ground level at the bottom of the support base to the highest point when positioned at its lowest angle for operation. The setback of the dish antenna shall be measured from the center mounting post.

**Distillery.**

An establishment where the production of spirituous liquor takes place in accordance with G.S. 18B-1105 and 18B-1114.7.

(Approved by Council 03-08-2022)

**Down-zoning**

A zoning ordinance that affects an area of land in one of the following ways:

- A. By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- B. By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

**Driveway.**

That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

**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, except that for purposes of Article 12 of GS 160D, it does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

**Dwelling, Multi-family.**

A building or portion thereof used or designed as a residence for three (3) or more families living independently of each other with separate housekeeping and cooking facilities for each, and including apartments, townhouses, and condominiums.

**Dwelling, Single-family Detached.**

A separate, detached building designed for and occupied exclusively by one (1) family.

**Dwelling, Townhouse.**

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.

**Dwelling, Twin Home.**

A building consisting of two single family dwelling units, each dwelling unit occupying its own conventional lot and conveyed by deed in fee simple, connected along a common party wall with no interior circulation between the two.

**Dwelling, Two-family (Duplex).**

A building on one zone lot arranged and designed to be occupied by two (2) families living independently of each other.

**Dwelling Unit.**

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

**Easement.**

A right given by the owner of land to another party for specific limited use of that land. For example, a property owner may give an easement on his property to allow utility facilities, like power lines or pipelines; to allow light to reach a neighbor's windows; or to allow access to another property.

**Effective Date of this Ordinance.**

Whenever this Ordinance refers to the effective date or this Ordinance, the reference shall be deemed to include the effective date of any amendments to this Ordinance if the amendment, rather than this Ordinance as originally adopted, creates a nonconforming situation.

**Electronic Gaming Operations.**

Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes, beach sweepstakes or cyber cafes. This does not include any lottery approved by the State of North Carolina.

**Erosion.**

The wearing away of land surface by the action of wind, water, gravity or any combination thereof.

**Establishment.**

In the context of Article IX, "Sign Regulations," "establishment" is used to denote a business, building, or other use on a single zoning lot.

**Explosive.**

Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. "Explosive" shall be defined in the same manner as set forth in 27 C.F.R. § 555.11 and 13 N.C.A.C. 7F.0702(11).

**Facade.**

The generally vertical face or wall of a building, including the front, side, and/or rear elevations. For the purposes of this definition, a mansard or false mansard roof which extends the full width of a facade shall be considered as part of the facade of a building so long as the deflection from vertical is no greater than thirty (30) degrees.

**Fall Area.**

A circle whose center is the base of a telecommunications tower and whose radius is equal to

one and one-half the tower's height. A fall area of 1/2 :1 will be acceptable with signed and sealed statement by a registered professional engineer licensed by the State of NC indicating such fall area would prevent the tower's fall from encroaching onto adjoining property.

**Family.**

1) An individual; 2) two (2) or more persons related by blood, marriage, or adoption living together in a dwelling unit, and (unless the dwelling contains an accessory dwelling unit) may also include not more than two (2) unrelated persons; or 3) a group of not more than four (4) persons who need not be related by blood, marriage, or adoption living together in a dwelling unit. A family may include five (5) or fewer foster children placed in a family foster home licensed by the State but shall not include fraternities, sororities, boarding or rooming houses, tourist homes, or family care homes.

**Family Care Home.**

Pursuant to NCGS 168-21, a home for six (6) or less individuals with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for resident persons 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 122-58.2(l)(b).

**Flea Market.**

Open-air market for the sale of new and/or second-hand articles and goods by one or more merchants, which is conducted on an open, non-residential lot.

**Flood or Flooding.**

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; and/or the unusual and rapid accumulation of runoff of surface waters from any source.

**Group Care Facility.**

A facility licensed by the State of North Carolina, (by whatever name it is called, other than "Family Care Home: as defined by this Ordinance), with support and supervisory personnel that provides room and board, personal care, or habilitation services in a family environment for not more than thirty (30) people.

**Home Occupation.**

Any occupation or profession carried on by a member of the immediate family residing on the premises, in connection with which there is used no display of any type and there is no commodity sold upon the premises; no person is employed other than a member of the immediate family residing on the premises; and no mechanical or electrical equipment is used except such as is permissible for purely domestic or household purposes. A professional person may use his residence for infrequent consultation, emergency treatment, or performance of religious rites, but not for the general practice of his profession. No accessory building shall be

used for such home occupation. There shall not be displayed or created outside the building, any external evidence of the operation of the Home Occupation.

**Hospital.**

An institution where sick or injured persons are given medical care and, in the course of the same, are housed overnight, fed, and provided nursing and related services. Medical care includes provision of services for geriatric patients (individuals at least fifty-five (55) years of age or older), with behavioral health issues. This definition shall not include drug rehabilitation facilities, halfway houses, convalescent or nursing homes, institutions for adolescent mentally ill individuals or similar facilities. (updated 08-09-2022)

**Landowner**

The holder of the title in fee simple. Absent evidence to the contrary, the City may rely on the county tax records to determine who is a landowner. 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.

(May also be referred to as an “owner”).

**Land Development Activity.**

See “development”.

**Land Disturbing Activity.**

Per NCGS 113A-52(6), any use of the land by any person in residential, commercial, industrial, educational or institutional development, highway and road construction and/or maintenance that results in a change in the natural cover or topography of the land that may cause or contribute to sedimentation.

**Lot.**

A parcel of land which is either a “lot of record” or a “zoning lot.”

**Lot Area.**

The total area circumscribed by the boundaries of a lot, except that when the legal instrument creating a lot shows the boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel thirty (30) feet from the center of the traveled portion of the street, and in a residential district, when a private road that serves more than three (3) dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

**Lot, Corner.**

A lot located at the intersection of two (2) or more streets.

**Lot Coverage.**

The portion of a lot covered by building(s) or roofed structures(s), excluding allowed projected eaves, balconies, and similar features.

**Lot Depth.**

The distance between the front lot line and the rear lot line, measured from the midpoint of the front lot line to the midpoint of the rear lot line.

**Lot Frontage.**

The distance along which the front boundary of the lot and the street lines or right-of-way lines are coincident. On a corner lot the principal frontage shall be the shorter of the street frontages,

measured from the point of intersection of the lot lines abutting such street. Where two (2) such frontages are equal in length, the owner shall designate which is the front for building purposes.

**Lot Interior.**

A lot other than a corner or reversed corner lot.

**Lot Line, Rear.**

The rear lot line is that opposite to the front lot line. Where lot lines are irregular, the rear lot line shall be assumed to be a line not less than twenty (20) feet long, lying within the lot and parallel to the front lot line at its midpoint.

**Lot of Record.**

A lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of Richmond County; or a parcel of land, the deed of which was recorded in the office of said Register of Deeds prior to the adoption of this Ordinance.

**Lot Width.**

The distance between the side lot lines of a lot measured at right angles to the depth and at the required front yard setback lines.

**Lot, Zoning.**

A single tract of land located within a single block, which (at the time of filing for a zoning permit) is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership of control. Therefore, a "zoning lot or lots" may or may not coincide with a lot of record.

**Lot, Corner.**

A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

**Lot Coverage.**

The portion of a lot covered by building(s) or roofed structure(s), excluding allowed projected eaves, balconies, and similar features.

**Lot, Reversed Corner.**

A corner lot the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

**Lot, Interior.**

A lot other than a corner or reversed corner lot.

**Lot, Through.**

A lot having a pair of opposite lot lines along two more or less parallel public streets, and which is not a corner lot. On a "through lot" both street lines shall be deemed front lot lines.

**Mean Sea Level.**

For purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. The FIRM panels are adopted by reference and declared to be part of this Ordinance. The incorporated maps shall be kept on file in digital or paper format with the City Clerk, and is available for public inspection during normal business hours.

**Mobile Home.**

A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is 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. The term "mobile home" shall be synonymous with "manufactured home," as that term is defined by G.S. § 143-145.

**A. Class AA.**

A mobile home that was constructed to meet or exceed the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction.

**B. Other:**

Any mobile home that does not meet the criteria of a Class AA mobile home.

**Modular Dwelling.**

A dwelling constructed in accordance with the standards set forth in the NC State Residential Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**Non-conforming Building or Structure.**

A non-conforming situation that occurs when the height of a structure or the relationship between an existing building or buildings and other buildings or lot lines do not conform to the dimensional regulations applicable to the district in which the property is located.

**Non-conforming Lots of Record.**

A lot existing at the effective date of this Ordinance or any amendment to it (and not created for the purpose of evading the restrictions of this Ordinance) that cannot meet the minimum area and/or lot width requirements of the district in which the lot is located.

**Non-conforming Use.**

A Non-conforming situation that occurs when property is used for a purpose or in a manner not permitted by the use regulations applicable to the district in which the property is located.

**Non-conforming Situation.**

A situation that occurs when, on the effective date of this Ordinance or any amendment to it, 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 non-conforming situation may arise because a lot does not meet minimum acreage requirements, because structures do not satisfy minimum yard requirements, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this Ordinance, or because land or buildings are used for purposes which are not in conformance with the list of permitted uses for the district in which the property is located.

**Nursing Home.**

An institution, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients who, on admission, are not as a rule, acutely ill and who do not usually require special facilities, such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have

remedial ailments or other ailments, for which continuing medical and skilled nursing care is indicated; and who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. A major factor that distinguishes nursing homes is that the residents will require the individualization of medical care.

**Ordinance.**

This Ordinance, including any amendments. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.

**Orphanage.**

A facility for six (6) or more otherwise normal children or adolescents who for various reasons cannot reside with their families and are provided with room, board, ordinary care and supervision by adults who are not legally related to the children.

**Permit-Issuing Authority.**

The entity responsible for the approval of a specific type of permit as set forth in this Ordinance. Also referred to a "permitting authority".

**Plan.**

A map or plan of a parcel of land which is to be, or has been subdivided.

**Planning and Zoning Board.**

The public agency in a community empowered to prepare a comprehensive plan and to evaluate proposed changes in land use, either by public or private developers, for conformance with the plan. The Planning Board hears, deliberates, and makes recommendations to City Council on all Ordinance and map amendments.

**Plat.**

A map showing the location, boundaries, and ownership of individual properties.

**Plat, Final.**

A drawing and related materials showing the layout of lots, streets, and other natural or man-made features in a proposed subdivision which must be approved pursuant to this Ordinance prior to recordation and prior to the transfer of any lots.

**Plat, Preliminary.**

A drawing and related material showing the layout of a proposed subdivision, including improvements details, which must be approved pursuant to this Ordinance prior to the preparation of a final plat.

**Principal Building.**

A building in which is conducted the principal use(s) of the zone 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 building.

**Private Drive, Road, or Street.**

An easement or right-of-way not dedicated to the public which provides access to not less than two (2) abutting properties or dwelling units; and is permitted only where specifically authorized by this Ordinance. Included also are roads or streets, within a mobile home park, travel trailer campground, multi-family housing project, commercial center, industrial park or other planned unit development which is not publicly maintained and is used for access by occupants of the development, their guests and the general public.

**Public Sewer.**

A sewage system which is owned by the City of Hamlet, by any other unit of government or authority, or by a private corporation, person or association and which is designed to serve uses locating along existing lines or within the service area of the system, should additional collection lines be constructed.

**Public Water Supply System.**

Any approved water supply system furnishing potable water to ten (10) or more dwelling units or businesses or any combination thereof.

**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, certificates of appropriateness, and appeals of administrative determinations.

**Register of Deeds.**

The Register of Deeds for Richmond County, North Carolina.

**Reservation**

An obligation by a property owner to keep certain land free from development for a stated period of time. A reservation does not involve transfer of property rights but allows the public to acquire such land within the stated time period. Building setback lines shall observe the reserved line of a street during the stated time period.

**Residential Development.**

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

**Retreat Centers..**

A facility used for study or instruction to improve health and wellness or for groups to discuss strategy, build stronger teams or formulate goals.

**Roadway.**

The portion of a street, road, highway or alley intended for vehicular use. The surface that vehicles normally travel on; i.e., the surfaced portion within the right-of-way.

**Salvage Yard, Auto Parts.**

Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5015. Also, any land or area used, in whole or in part, for the storage, keeping, accumulation, dismantling, demolition, or abandonment of inoperable vehicles or parts therefrom.

**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 in part, for the storage, keeping, or accumulation of scrap or waste materials, including scrap metals, wastepaper, rags, building materials, machinery, or other scrap materials.

**Screening Device.**

A screen that is at least ninety percent (90%) opaque from the ground to a height of at least six (6) feet. The screen is intended to exclude completely all visual contact between uses and to

create a strong impression of special separation. The screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. In any case where vegetation, either existing or proposed, is to be used as the required screening device, if the vegetation is to be less than ten (10) feet in width (thickness), a fence, wall or similar device at least fifty (50) percent opaque and six (6) feet in height shall be used in combination with the vegetation. In all cases, the screen must be at least ninety (90) percent opaque in all seasons of the year.

**Sedimentation.**

The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land disturbing activity or into a lake or natural watersource.

**Sexually Oriented Business.**

An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center (including adult massage parlor) or any combination of the foregoing or any similar business. As used in this Ordinance the following definitions shall apply:

- A. **Adult Arcade** (also known as "peep show"). Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other imagine-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe "specified sexual activities" or "specified anatomical areas".
- B. **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:
  - 1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or
  - 2. Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities".
- C. **Adult Cabaret.** A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:
  - 1. Persons who appear nude or semi-nude; or
  - 2. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
  - 3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe "specified sexual activities" or "specified anatomical areas."
- D. **Adult Motel.** A hotel, motel or similar commercial establishment that:
  - 1. Offers accommodations to the public for any form of consideration;

provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproduction that depict or describe "specified sexual activities" or "specified anatomical areas" as one of its principal business purposes; or

2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.

**E. Adult Motion Picture Theater.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe "specified sexual activities" or "specified anatomical areas".

**F. Adult Theater.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict "specified anatomical areas" or "specified sexual activities".

**G. Escort.** A person who, for any 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.

**H. 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 other consideration.

**I. Nude Model 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 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:

1. 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
2. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
3. Where no more than one nude or semi-nude model is on the premises at any one time.

**J. Nude or State of Nudity.**

1. The appearance of a human anus, male genitals, or female genitals; or

2. A state of dress which fails to opaquely cover a human anus, male genitals, or female genitals.
- K. Semi-nude.** A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.
- L. Sexual Encounter Center.** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex, or similar activities between male and female persons and/or between persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
- M. Specified Anatomical Areas.** Human genitals in a state of sexual arousal.
- N. Specified Sexual Activities.** Is and includes any of the following:
1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
  2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
  3. Masturbation, actual or simulated; or
  4. Excretory functions as part of or in connection with any of the activities set forth in 1. through 3. above.

**Sign.**

Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names, or trademarks by which anything is made known and which is visible from any public right-of-way.

**Sign Area.**

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the matter displayed. However, in computing sign area only one (1) side of a double-faced sign structure shall be considered. Frames and structural members not bearing advertising matter shall not be included in computation of the surface area. Signs erected in a "V" shape shall be considered to be double-faced as long as the angle of the "V" is ninety (90) degrees or less.

**Sign, Business Identification.**

Any sign which advertises an establishment, a service, commodity, goods or entertainment sold or offered on premises other than that on which such sign is located.

**Sign, Freestanding.**

A sign supported by a structure placed in the ground and which is wholly independent of any building or object other than the sign structure for support. A freestanding sign may include changeable copy and a digital sign face.

**Sign, Marquee.**

A sign designed to have changeable copy. Marquee signs may include a digital sign face.

**Sign, Off-premises.**

A sign that directs attention to an establishment, goods, or services not primarily located on the same premises as the sign. Off-premises signs do not include signs that are primarily designed to express an idea or concept, not to advertise an establishment, goods, or services.

**Sign, Outdoor Advertising.**

An off-premises sign that is either freestanding or attached to a building and is owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign. Except as required by North Carolina state law, digital sign faces are not permitted on outdoor advertising signs.

**Sign, Snipe.**

A sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or other objects. This definition does not include roof signs or wall signs.

**Sign, Temporary.**

A non-electrified sign intended to be displayed for a limited period of time.

**Sketch Plan.**

A crude conceptual map indicating a subdivider's intent to subdivide a tract.

**Sleeping Unit.**

A room or space in 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.

**Sign, Under Canopy.**

A sign placed under a building canopy or arcade area within a shopping center. Under canopy signs may include a digital face.

**Solar Energy System (SES).**

The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. A system fits into one of three system types: Level 1 SES, Level 2 SES, and Level 3 SES.

**Level 1 Solar Energy System** - Level 1 SESs include the following:

1. Roof-mounted on any code-compliant structure.
2. Building integrated solar (i.e., shingle, hanging solar, canopy, etc.); and
3. Ground-mounted solar panels installed for educational purposes.

**Level 2 Solar Energy System** - Level 2 SESs are ground-mounted systems not included in Level 1 that meet the area restriction listed below:

1. Light Industrial (I-I): SES of any size
2. Heavy Industrial (1-2): SES of any size

**Level 3 Solar Energy System** - Level 3 SESs are systems that do not satisfy the parameters for a Level 1 or Level 2 Solar Energy System.

**Solid Waste Disposal Site.**

As defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

**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 judgment and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as “conditional use permits” or “special exceptions.”

**Start of Construction.**

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 stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundation of the erection of temporary forms; nor does it include the installation on 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.

**Street, Alley.**

A strip of land providing secondary access to properties otherwise abutting a street.

**Street, Cul-de-Sac.**

A street that terminates in a vehicular turnaround.

**Street Frontage.**

A lot line abutting on the side of a street, or on a permanent turnaround at the end of a street; also, the distance along such line.

**Street, Marginal Access.**

A street that is parallel to and adjacent to an arterial street or thoroughfare and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

**Street, Public.**

A dedicated public right-of-way in which the roadway has been accepted or constructed to public standards for vehicular traffic but not an alley.

**Street, Thoroughfare.**

A traffic artery designed primarily to carry heavy volumes of through vehicular traffic as shown on the major street plan.

**Structure.**

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

**Subdivider.**

Any person, firm, or corporation who creates or proposes to create a subdivision as defined herein.

**Subdivision.**

All divisions of tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purposes of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but pursuant to NCGS 160D-802, the following shall not be included within the definition:

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to exceed the standards of the municipality as shown in its subdivision regulations;
- (2) The division of and into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets; and
- (4) The division of a tract in single ownership whose entire area is not greater than two (2) acres into not more than three (3) lots, where no street extension or right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Ordinance.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession

**Subdivision, Major.**

Any subdivision other than a minor subdivision.

**Subdivision, Minor.**

A division of land that creates not more than three (3) lots (excluding the parent tract where no new street right-of-way dedication is required, and all resultant lots conform to the requirements set forth in this Ordinance.

**Taxed Value.**

The official value assigned to real property by the Richmond County Tax Assessor for ad valorem tax purposes.

**Telecommunications Tower.**

Any tower or structure erected for the purpose of supporting one or more antennas designed to transmit or receive signals (e.g., telephonic, radio, television or microwave).

**Temporary Family Health Care Structure.**

A transportable residential structure, providing an environment facilitating a caregiver's provision of care for mentally or physically impaired person that is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted. See also, section 152-150, Accessory Uses.

**Tower Height.**

The vertical distance measured from ground to the uppermost point of the tower and any antenna, structure, or appendage fixed thereto.

**Tract.**

The term is used interchangeable with the term lot, particularly in the context of subdivisions, where one "tract" is subdivided into several "lots".

**Use.**

The purpose for which land or structures thereon is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

**Use, Accessory.**

Any use which is clearly incidental, secondary, and/or supportive of a principal use.

**Use, Principal Permitted.**

Any use listed as Permitted Use in any Zoning District, except those which by definition or their nature are accessory uses.

**Utility Facilities.**

Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose by the [the appropriate provision of state law] and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals.

**Variance.**

Official permission from the Board of Adjustment to depart from the requirements of this Ordinance.

**Vested Right.**

The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in G.S. 160D-108 or under common law.

**Yard.**

An open space on the same zoning lot with a building or structure, unoccupied and unobstructed from its lowest to the sky, except as otherwise permitted herein. A "yard" extends along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.

**Yard, Corner Side.**

A side yard which adjoins a public street.

**Yard, Front.**

A yard extending along the full width of the zoning lot between the side lot lines.

**Yard, Rear.**

A yard extending along the full width of the zoning lot between the side lot lines.

**Yard, Side.**

A yard extending along a side lot line from the front yard to the rear yard.

**Yard, Interior Side.**

A side yard which is located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.

**Yard Sale.**

An occasional sale conducted by a household or a group of households, or by a nonprofit organization on its own premise, at which surplus and primarily used household goods and/ or clothing are sold. Yard sales conducted by a household or group of households shall be those conducted on residential premises or one or more of those households.

**Zoning Enforcement Officer.**

The person, officer, or official and his authorized representative, whom the City Manager has designated as the agent for the administration and enforcement of the Zoning Ordinance of the City of Hamlet, North Carolina.

**Zoning Ordinance.**

The City of Hamlet Zoning Ordinance.

## **ARTICLE III. GENERAL PROVISIONS**

The following general provisions shall apply in all situations unless otherwise indicated.

### **Section 3.1 Relationship of Buildings to Lot**

Every building hereafter erected, moved or placed shall be located on a lot and in no case shall there be more than one (1) principal residential building on a lot except pursuant to the provisions of Article VII, Note 3.

### **Section 3.2 Open Space Requirements**

No part of a yard, court or other open space provided around any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space required under this Ordinance for another building or structure. Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except for the ordinary projection of sills, chimneys, flues and eaves; provided, however, that none of the aforesaid projections shall project into a minimum side yard more than one-third (1/3) of the width of such yard nor more than twenty-four (24) inches, whichever is the least. Open or lattice enclosed fire escapes, fire proof outside stairways, and balconies opening upon fire towers projecting into a yard not more than five (5) feet shall be permitted where placed so as not to obstruct light and ventilation. In addition, certain accessory structures are permitted to be placed in the required yard area as provided for in the Schedule of District Regulations.

### **Section 3.3 Reduction of Lot and Yard Areas Prohibited**

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth in this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

### **Section 3.4 Access to Property**

No building, structure or use of land shall be established on a lot nor shall any lot be created that does not abut upon a public street to which it has legal access. The public access requirement shall not apply to land exempt from public street access by this Ordinance or the Subdivision ordinance nor to existing lots of record to which other access is available.

### **Section 3.5 Interpretation of District Boundaries**

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

- A.** Where such District boundaries are indicated as approximately following street lines, railroad lines, lot lines, creeks, and other features shown on the Map such lines shall be construed to be such boundaries.
- B.** Where such District boundaries are indicated on the Map to be a certain distance from a certain feature (such as a stated distance from a street), such distance shall be the determining factor in establishing the District boundary.
- C.** Where such District boundary is not indicated by a feature and is not the result of a stated dimension, the boundary shall be determined by use of the scale appearing on the same Map.
- D.** In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of

the Map as to the location of such boundary.

### **Section 3.6 Interpreting Permitted Uses**

The listings of Permitted Uses in the various Districts in this Ordinance are considered to be specific in regard to the types of uses intended for each of the various Districts. In interpreting proposed uses, the Zoning Enforcement Officer shall refer to the Standard Industrial Classification (SIC) Manual as a guide. When a proposed use is not specifically listed in the Table of Permitted Uses, the Zoning Enforcement Officer shall use the SIC Manual to determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the Zoning Enforcement Officer finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted. In each such case, the Zoning Enforcement Officer shall maintain a written record of such interpretations. Any person who is aggrieved by any such interpretation by the Zoning Enforcement Officer may appeal such interpretation to the Board of Adjustment as provided for in Article XII.

### **Section 3.7 Water and Sewer Requirements**

The lot sizes required for the various Districts in this Ordinance were drawn based upon the assumption that adequate water supply and sewage disposal systems are available to each and every lot. The lack of adequate systems for one or both facilities, however, may require larger lot areas or, in some instances, not permit development as intended.

### **Section 3.8 Height Limitation Exceptions**

Except as may otherwise be prohibited by Federal Aviation Authority Regulations, the height limitations of this Ordinance 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 North Carolina Building Code.

### **Section 3.9 Building Setback Exceptions**

Setback distances shall be measured from the property line or street right-of-way line to the nearest portion of any building, or structure excluding:

- A. The outermost four feet of any uncovered porch, step, eave, gutter, canopy, or similar fixture; and
- B. A deck or patio if no portion of the same extends more than twelve inches off the ground;
- C. Any structure that is a mere appendage to a building, such as a flagpole, or fountain; and
- D. Fences six (6) feet in height or less.

### **Section 3.10 Temporary Buildings**

The Zoning Enforcement Officer may permit temporary buildings, including mobile structures, incidental to a construction project to be used concurrent with the permit for permanent building(s) or construction.

### **Section 3.11 Fees**

Applicants for permits and other procedures as provided for by this Ordinance may be required to pay such fees as may be established by the City Council for the administration of this Ordinance.

## **ARTICLE IV. NON-CONFORMING SITUATIONS**

The purpose of this Article is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this ordinance or any applicable amendment thereof even though such use, structure or property does not conform with the provisions of this Ordinance. However, this Article is also established to require that non-conforming situations be terminated under certain circumstances.

### **Section 4.1 Continuation of Non-conforming Situations**

Non-conforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in Sections 4.2 through 4.7 of this Article.

### **Section 4.2 Non-Conforming Lots of Record**

Where the owners of a lot of record at the time of the adaption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this Ordinance, such lot may be used as a building site provided all other dimensional requirements are met and provided that the use to be made of the property is not one to which larger than minimum lot area requirements are called for in the list of Permitted Uses.

### **Section 4.3 Extension or Enlargement of Non-conforming Situations**

- A. Except as specifically provided in this Section, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of non-conformity of a non-conforming situation.
- B. Subject to Paragraph 4 of this Section, a non-conforming use may be extended through any portion of a completed building that, when the use was made non-conforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, a non-conforming use may not be extended to additional buildings or to land outside the original building.
- C. A non-conforming use may not be extended to cover more land than was occupied, or manifestly designed and arranged to be occupied, by that use when it became non-conforming.
- D. The volume, intensity, or frequency of use of property where a non-conforming situation exists may be increased and the equipment or processes used at a location where a non-conforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this Section occur.
- E. Physical alteration of non-conforming structure or structures containing a non-conforming use is unlawful if it results in:
  - 1. An increase in the total amount of space devoted to a non-conforming use.
  - 2. Greater non-conformity with respect to dimension restrictions such as yard requirements, height limitations, or density requirements.
  - 3. The enclosure of previously unenclosed areas, even though those areas are or were used in connection with non-conforming activity.

F. Minor repairs to and routine maintenance of property where non-conforming situations

exist are permitted and encouraged. Major renovation - i.e., work estimated to cost more than ten percent (10%) but less than sixty percent (60%) of the taxed value of the structure to be renovated may be done provided that the work will not result in a violation of any other paragraphs of this Subsection particularly Paragraph 5. In no case however shall work costing more than sixty percent (60%) of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.

**Section 4.4 Reconstruction Prohibited**

Any non-conforming building or structure or any building or structure containing a non-conforming use for which major repair or reconstruction is proposed in an amount equal to sixty percent (60%) or more of the taxed value of the building or structure or which has been damaged by any cause to an extent equal to sixty percent (60%) or more of its taxed value shall only be repaired and/ or reconstructed and used as a conforming structure and a conforming use.

**Section 4.5 Change in Kind of Non-conforming Use**

- A. A non-conforming use may be changed to a conforming use. Thereafter, the property may not revert to a non-conforming use.
- B. A non-conforming use shall not be changed to another non-conforming use except upon a finding by the Board of Adjustment that the new use is more in character with the uses permitted in the District than the previous use.
- C. If a non-conforming use and a conforming use, or any combination of non-conforming uses exist on one lot, the use made of the property may be changed into a conforming use.
- D. Conforming uses, except sexually oriented businesses, may be established or re-established in non-conforming buildings or structures provided that off-street parking is provided as required by this Ordinance and provided no other provision of this Ordinance for the establishment of new uses is violated.

**Section 4.6 Discontinuance of Non-conforming Uses**

- A. When active operation or occupancy of a non-conforming use is discontinued regardless of the purpose or reason for a consecutive period of one hundred eighty (180) days, the property involved may thereafter be used only for conforming uses.
- B. For purposes of determining whether a right to continue a non-conforming situation is lost pursuant to this Subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a non-conforming apartment building or one space in a non-conforming mobile home park for one hundred eighty (180) days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or mobile home park as a whole is continuously maintained. But if a non-conforming use is maintained in conjunction with a conforming use, cessation of operation or occupancy of the non-conforming use for the required period shall terminate the right to maintain it thereafter.

**Section 4.7 Discontinuance of Non-conforming Sexually Oriented Businesses and Bars**

Notwithstanding the provisions of Section 4.6 above, Sexually Oriented Businesses and Bars shall be governed by the following:

- A. Any sexually oriented business or bar that fails to comply with the use and locational requirements of this Ordinance, but which was lawfully operating before the effective date of this ordinance, shall not be deemed to be in violation of this Ordinance but shall be a non-conformity. Any such business which ceases active operation for a period of thirty (30) days regardless of the purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.
  
- B. Any sexually oriented business or bar lawfully operating as of the effective date of this Ordinance, but which subsequently fails to comply with the use and locational requirements of this ordinance as the result of changes within the vicinity or amendment to this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be a non-conformity. Any such business which ceases active operation for a period of thirty (30) days regardless of purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.

## ARTICLE V. SCHEDULE OF DISTRICT REGULATIONS

Within the Districts as established by this Ordinance, requirements as set forth in this Article shall be complied with in addition to any other general or specific requirements of this Ordinance.

### Section 5.1 R-20 Residential District

#### A. Permitted Uses

See Article VI, Table of Permitted Uses.

#### B. Dimensional Requirements

1. Minimum Required Lot Area for a Single-Family Dwelling or Any Non-Residential Use- 20,000 square feet.
2. Minimum Required Lot Area for Two Family and Multi-Family Dwellings-
  - a. 20,000 square feet for the first dwelling unit
  - b. 9,000 square feet for- each additional dwelling unit.  
See Article VII, Note 3 for additional requirements for multi-family developments.
3. Minimum Required Lot Width- 100 feet
4. Minimum Required Front Yard- 40 feet
5. Minimum Required Side Yard-
  - a. Interior side- 15 feet
  - b. Corner side- 15 feet
6. Minimum Required Rear Yard- 30 feet
7. Maximum Building Height- 35 feet
8. Maximum Lot Coverage- 35%
9. Location of Accessory Buildings and Structures.

No accessory building or structure shall be erected in any required front or side yard or within 15 feet of any street line or within 5 feet of a lot line (not a street line) and, in any case of a corner. Lot with reversed frontage, no accessory building or structure shall extend beyond the required front yard line of the lots in the rear. See Article VII, Note 7 for specific requirements for dish antennas.

#### C. Visibility at Intersections

On a corner lot nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) feet and ten (10) feet in a triangular area formed by a diagonal line between two points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as

established by NCDOT, whichever is greater.

**D. Off-Street Parking and Loading**

Off-street parking and loading shall be provided in accordance with the provisions of Article VII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

**Section 5.2 RA-20 Residential District**

**A. Permitted Uses**

See Article VI, Table of Permitted Uses.

**B. Dimensional Requirements**

1. Minimum Required Lot Area for a Single-Family Dwelling or Any Non-Residential Use – 20,000 square feet
2. Minimum Required Lot Area For Two Family and Multi-Family Dwellings
  5. 20,000 square feet for the first dwelling unit
  - b. 9,000 square feet for each additional dwelling unit.  
See Article VII, Note 3 for additional requirements for multi- family developments.
3. Minimum Required Lot Width- 100 feet
4. Minimum Required Front Yard- 40 feet
5. Minimum Required Side Yard
  5. Interior side – 15 feet
  - b. Corner side – 15 feet
6. Minimum Required Rear Yard – 30 feet
7. Maximum Building Height – 35 feet
8. Maximum Lot Coverage – 35%
9. Location of Accessory Buildings and Structures

No accessory building or structure shall be erected in any required front or side yard or within 15 feet of any street line or within 5 feet of a lot line (not a street

line) and, in any case of a corner lot with reversed frontage, no accessory building or structure shall extend beyond the required front yard line of the lots in the rear. See Article VII, Note 7 for specific requirements for dish antennas.

**C. Visibility at Intersections**

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) feet and ten (10) feet in a triangular area formed by a diagonal line between two points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as established by NCDOT, whichever is greater.

**D. Off-Street Parking and Loading**

Off-street parking and loading shall be provided in accordance with the provisions of Article VIII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

**Section 5.3 R-10 Residential District**

**A. Permitted Uses**

See Article VI, Table of Permitted Uses.

**B. Dimensional Requirements**

1. Minimum Required Lot Area For a Single Family Dwelling or Any Non-Residential Use – 10,000 square feet
2. Minimum Required Lot Area For Two Family and Multi-Family Dwellings – (Not Permitted)
3. Minimum Required Lot Width – 80 feet
4. Minimum Required Front Yard - . 30 feet
5. Minimum Required Side Yard –
  - a. Interior Side- 10 feet
  - b. Corner Side- 15 feet
6. Minimum Required Rear Yard – 30 feet
7. Maximum Building Height – 35 feet

8. Maximum Lot Coverage – 35%
9. Location of Accessory Buildings and Structures

No accessory building or structure shall be erected in any required front or side yard or within 15 feet of any street line or within 5 feet of a lot line (not a street line) and, in any case of a corner lot with reversed frontage, no accessory building or structure shall extend beyond the required front yard line of the lots in the rear. See Article VII, Note 7 for specific requirements for dish antennas.

**C. Visibility at Intersections**

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) feet and ten (10) feet in a triangular area formed by a diagonal line between two points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as established by NCDOT, whichever is greater.

**D. Off-Street Parking and Loading**

Off-street parking and loading shall be provided in accordance with the provisions of Article VIII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

**Section 5.4 R-8 Residential District**

**A. Permitted Uses**

See Article VI, Table of Permitted Uses.

**B. Dimensional Requirements**

1. Minimum Required Lot Area For a Single Family Dwelling or Any Non-Residential Use- 8,000 square feet
2. Minimum Required Lot Area For Two Family and Multi-Family Dwellings - (Not Permitted)
3. Minimum Required Lot Width - 60 feet
4. Minimum Required Front Yard - 30 feet
5. Minimum Required Side Yard
  - a. Interior side – 8 feet

- b. Corner side - 15 feet
- 6. Minimum Required Rear Yard - 30 feet
- 7. Maximum Building Height - 35 feet
- 8. Maximum Lot Coverage - 35%
- 9. Location of Accessory Buildings and Structures

No accessory building or structure shall be erected in any required front or side yard or within 15 feet of any street line or within 5 feet of a lot line (not a street line) and, in any case of a corner lot with reversed frontage, no accessory building or structure shall extend beyond the required front yard line of the lots in the rear. See Article VII, Note 7 for specific requirements for dish antennas.

**C. Visibility at Intersections**

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 1/2) feet and ten (10) feet in a triangular area formed by a diagonal line between two points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as established by NCDOT, whichever is greater.

**D. Off-Street Parking and Loading**

Off-street parking and loading shall be provided in accordance with the provisions of Article VIII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

**Section 5.5 R-6 Residential District**

**A. Permitted Uses**

See Article VI, Table of Permitted Uses.

**B. Dimensional Requirements**

- 1. Minimum Required Lot Area for a Single Family Dwelling or any Non-Residential Use- 6,000 square feet.
- 2. Minimum Required Lot Area for Two Family Dwellings - 4,500 square feet for each dwelling unit.
- 3. Minimum Required Lot Area for Multi-Family Dwellings - 4,500 square feet each for the first two (2) dwelling units and 2,000 square feet for each dwelling unit over two (2)

See Article VII, Note 3 for additional requirements for multi-family developments.

4. Minimum Required Lot Width - 50 feet
5. Minimum Required Front Yard - 25 feet
6. Minimum Required Side Yard
  - a. Interior side - 6 feet
  - b. Corner side - 12 feet
7. Minimum Required Rear Yard - 30 feet
8. Maximum Building Height - 35 feet
9. Maximum Lot Coverage - 35%
10. Location of Accessory Buildings and Structures

No accessory building or structure shall be erected in any required front or side yard or within 15 feet of any street line or within 5 feet of a lot line (not a street line) and, in any case of a corner lot with reversed frontage, no accessory building or structure shall extend beyond the required front yard line of the lots in the rear. See Article VII, Note 7 for specific requirements for dish antennas.

**C. Visibility at Intersections**

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) feet and ten (10) feet in a triangular area formed by a diagonal line between two points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as established by NCDOT, whichever is greater.

**D. Off-Street Parking and Loading**

Off-street parking and loading shall be provided in accordance with the provisions of Article VIII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

**Section 5.6 R-6M Residential District**

**A. Permitted Uses**

See Article VI, Table of Permitted Uses.

**B. Dimensional Requirements**

1. Minimum Required Lot Area For a Single Family Dwelling or Any Non-Residential Use - 6,000 square feet
2. Two Family Dwellings - 4,500 square feet for each dwelling unit
3. Multi-Family Dwellings- 4,500 square feet each for the first two (2) dwelling units. See Article VII, Note 3 for additional requirements for multi-family developments.
4. Minimum Required Lot Width – 50 feet
5. Minimum Required Front Yard - 25 feet
6. Minimum Required Side Yard
  - a. Interior side - 6 feet
  - b. Corner side - 12 feet
7. Minimum Required Rear Yard - 30 feet
8. Maximum Building Height - 35 feet
9. Maximum Lot Coverage - 35%
10. Location of Accessory Buildings and Structures

No accessory building or structure shall be erected in any required front or side yard or within 15 feet of any street line or within 5 feet of a lot line (not a street line) and, in any case of a corner lot with reversed frontage, no accessory building or structure shall extend beyond the required front yard line of the lots in the rear. See Article VII, Note 7 for specific requirements for dish antennas.

**C. Visibility at Intersections**

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) feet and ten (10) feet in a triangular area formed by a diagonal line between two points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as established by NCDOT, whichever is greater.

**D. Off-Street Parking and Loading**

Off-street parking and loading shall be provided in accordance with the provisions of Article VIII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

**Section 5.7 O-I Office and Institutional District**

**A. Permitted Uses**

See Article VI, Table of Permitted Uses.

**B. Dimensional Requirements**

1. Minimum Required Lot Area for a Single Family Dwelling or Any Non-Residential Use - 8,000 square feet
2. Two Family Dwellings - 4,500 square feet for each dwelling unit
3. Multi-Family Dwellings - 4,500 square feet each for the first two (2) dwelling units and 2,000 square feet for each dwelling unit over two (2)  
See Article VII, Note 3 for additional requirements for multi-family developments.
4. Minimum Required Lot Width - 60 feet
5. Minimum Required Front Yard - 15 feet
6. Minimum Required Side Yard  
  
None required except when abutting a residential district in which case a ten (10) foot side yard shall be provided.
7. Minimum Required Rear Yard - 15 feet
8. Maximum Building Height - 35 feet
9. Maximum Lot Coverage - None
10. Location of Accessory Buildings and Structures

No accessory building or structure shall be erected in any required front or side yard or within 15 feet of any street line or within 5 feet of a lot line (not a street line) and, in any case of a corner lot with reversed frontage, no accessory building or structure shall extend beyond the required front yard line of the lots in the rear. See Article VII, Note 7 for specific requirements for dish antennas.

**C. Visibility at Intersections**

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 1/2) feet and ten (10) feet in a triangular area formed by a diagonal line between two points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as established by NCDOT, whichever is greater.

**D. Off-Street Parking and Loading**

Off-street parking and loading shall be provided in accordance with the provisions of Article VIII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

**Section 5.8 B-1 Central Business District**

**A. Permitted Uses**

See Article VI, Table of Permitted Uses.

**B. Dimensional Requirements**

1. Minimum Required Lot Area for Any Non-Residential Use - None
2. Minimum Required Lot Area for Multi-Family Dwellings - 1,000 square feet for each dwelling unit.  
  
See Article VII, Note 3 for additional requirements for multi-family developments.
3. Minimum Required Lot Width - 25 feet
4. Minimum Required Front Yard - None
5. Minimum Required Side Yard  
  
None required except when abutting a residential district in which case a ten (10) foot side yard shall be provided.
6. Minimum Required Rear Yard - 15 feet when abutting a residential district and twelve ( 12) feet when abutting an alley.
7. Maximum Building Height - None
8. Maximum Lot Coverage - None
9. Location of Accessory Buildings and Structures  
  
No accessory building or structure shall be erected in any required front or side yard or within 15 feet of any street line or within 5 feet of a lot line (not a street line) and, in any case of a corner lot with reversed frontage, no accessory building or structure shall extend beyond the required front yard line of the lots in the rear. See Article VII, Note 7 for specific requirements for dish antennas.

**C. Visibility at Intersections**

Does not apply in the B-1 District.

**D. Off-Street Parking and Loading**

Off-street parking is not required in this District. Off-street loading shall be provided in accordance with the provisions of Article VIII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

**Section 5.9 B-2 General Business District**

**A. Permitted Uses**

See Article VI, Table of Permitted Uses.

**B. Dimensional Requirements**

1. Minimum Required Lot Area For Any Non-Residential Use - None
2. Minimum Required Lot Area for Multi-Family Dwellings - 4,000 square feet for each ground floor dwelling unit. 2,000 square feet for each above ground floor dwelling unit.

See Article VI I, Note 3 for additional requirements for multi-family developments.

3. Minimum Required Lot Width - 50 feet
4. Minimum Required Front Yard - 25 feet
5. Minimum Required Side Yard

None required except when abutting a residential district in which case a twenty (20) foot side yard shall be provided.

6. Minimum Required Rear Yard - 20 feet
7. Maximum Building Height - 35 feet
8. Maximum Lot Coverage - None
9. Location of Accessory Buildings and Structures

No accessory building or structure shall be erected in any required front or side yard or within 15 feet of any street line or within 5 feet of a lot line (not a street line) and, in any case of a corner lot with reversed frontage, no accessory building or structure shall extend beyond the required front yard line of the lots in the rear. See Article VII, Note 7 for specific requirements for dish antennas.

**C. Visibility at Intersections**

On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner- as materially to impede vision between a height of two and one-half (2 1/2) feet and ten (10) feet in a triangular area formed by a diagonal line between two Points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as established by NCDOT, whichever is greater.

**D. Off-Street Parking and Loading**

Off-street parking and loading shall be provided in accordance with the provisions of Article VIII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

**Section 5.10 B-3 Neighborhood Business District**

**A. Permitted Uses**

See Article VI, Table of Permitted Uses.

**B. Dimensional Requirements**

1. Minimum Required Lot Area for Any Non-Residential Use - None
2. Minimum Required Lot Area for Multi-Family Dwellings - 4,500 square feet for each of the first two dwelling units. 2,000 square feet for each additional dwelling unit.  
  
See Article VII, Note 3 for additional requirements for multi- family developments.
3. Minimum Required Lot Width - 25 feet
4. Minimum Required Front Yard - 5 feet
5. Minimum Required Side Yard  
  
None required except when abutting a residential district in which case a ten (10) foot side yard shall be provided.
6. Minimum Required Rear Yard - 20 feet
7. Maximum Building Height - 35 feet
8. Maximum Lot Coverage – None
9. Location of Accessory Buildings and Structures

No accessory building or structure shall be erected in any required front or side

yard or within 15 feet of any street line or within 5 feet of a lot line (not a street line) and, in any case of a corner lot with reversed frontage, no accessory building or structure shall extend beyond the required front yard line of the lots in the rear. See Article VII, Note 7 for specific requirements for dish antennas.

**C. Visibility at Intersections**

On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner- as materially to impede vision between a height of two and one-half (2 1/2) feet and ten (10) feet in a triangular area formed by a diagonal line between two Points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as established by NCDOT, whichever is greater.

**D. Off-Street Parking and Loading**

Off-street parking and loading shall be provided in accordance with the provisions of Article VIII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

**Section 5.11 I-1 Light Industrial District**

**A. Permitted Uses**

See Article VI, Table of Permitted Uses.

**B. Dimensional Requirements**

1. Minimum Required Lot Area - 20,000 square feet
2. Minimum Required Lot Width - 100 feet
3. Minimum Required Front Yard - 30 feet
4. Minimum Required Side Yard - 15 feet
5. Minimum Required Rear Yard - 30 feet
6. Maximum Building Height - 35 feet
7. Maximum Lot coverage – None
8. Location of Accessory Buildings and Structures

No accessory building or structure shall be erected in any required front or side yard or within 15 feet of any street line or within 5 feet of a lot line (not a street line) and, in any case of a corner lot with reversed frontage, no accessory

building or structure shall extend beyond the required front yard line of the lots in the rear. See Article VII, Note 7 for specific requirements for dish antennas.

**C. Visibility at Intersections**

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of- two and one-half (2 1/2) feet and ten (10) feet in a triangular area formed by a diagonal line between two points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as established by NCDDT, whichever is greater.

**D. Off-Street Parking and Loading**

Off street parking and loading shall be provided in accordance with the provisions of Article VIII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

**Section 5.12 I-2 Heavy Industrial District**

**A. Permitted Uses**

See Article VI, Table of Permitted Uses.

**B. Dimensional Requirements**

1. Minimum Required Lot Area - 20,000 square feet
2. Minimum Required Lot Width - 100 feet
3. Minimum Required Front Yard - 15 feet
4. Minimum Required Side Yard

None required except when abutting a residential district in which case a fifteen (15) foot side yard shall be provided.

5. Minimum Required Rear Yard - None required except when abutting a residential district in which case a thirty ( 30) foot rear yard shall be provided.
6. Maximum Building Height- 35 feet
7. Maximum Lot Coverage - None
8. Location of Accessory Buildings and Structures.

On a corner lot nothing shall be erected, placed, planted or allowed to grow in

such a manner as materially to impede vision between a height of- two and one-half (2 1/2) feet and ten (10) feet in a triangular area formed by a diagonal line between two points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as established by NCDDT, whichever is greater.

**C. Visibility at Intersections**

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of- two and one-half (2 1/2) feet and ten (10) feet in a triangular area formed by a diagonal line between two points of the right-of-way lines, twenty (20) feet from where they intersect or a sight triangle as established by NCDDT, whichever is greater.

**D. Off-Street Parking and Loading**

Off-street parking and loading shall be provided in accordance with the provisions of Article VIII.

**E. Signs**

Signs shall be regulated by the provisions of Article IX.

**F. Screening**

Screening shall be regulated by the provisions of Article X.

## ARTICLE VI. TABLE OF PERMITTED USES

### Section 6.1 General

- A. The District or Districts in which a particular listed use is permitted with a zoning permit is indicated by a "P" in the District column(s) opposite the listed use. Uses permitted with the issuance of a special use permit are indicated by and "S" in the District Column(s) opposite the listed use. See Section 3.6 for information on interpreting permitted uses. In any case where a note reference such as "Note 3" appears in the "Special Requirements" column opposite a particular listed use, that means there are special additional performance requirements that use must comply with in the development. See Article VII and the numbered note in that Article for the special additional performance standards for the use.

The listing of a use as permitted with a zoning permit or special use permit in the Table of Permitted Uses in no way relieves that use of having to meet all local, State and Federal laws pertaining to the establishment and operation of that use.

- B. Unless prohibited by subsections (C) and (D) below, any use not listed in the Table of Permitted Uses shall be permitted with the issuance of a special use permit.
- C. The following uses are specifically prohibited in all districts:
1. Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible materials in violation of the North Carolina Fire Prevention Code;
  2. Any use that involves the manufacture, handling, sale, distribution, or storage of explosives as a primary use is prohibited. Explosives may be stored as an accessory use only in accordance with the requirements of this ordinance and all State and Federal requirements, including but not limited to 27 C.F.R. Part 555, "Commerce in Explosives";
  3. Stockyards, slaughterhouses, and rendering plants.
- D. All commercial, industrial, and other nonresidential uses not specifically authorized by the Table of Permitted Uses or otherwise authorized by this ordinance shall be prohibited in residential zoning districts, including the R-20, RA-20, R-10, R-8, R-6 and R- 6M districts.

### Section 6.2 Table of Permitted Uses



**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
home occupation		P	P	P	P	P	P	P						Note 6
office												P		
satellite dishes		P	P	P	P	P	P	P	P	P	P	P	P	Note 7
solar energy system- level 1		P	P	P	P	P	P	P	P	P	P	P	P	Note 34
swimming pools		P	P	P	P	P	P	P	P	P	P	P	P	Note 8
Temporary family healthcare structures		P	P	P	P	P	P							
yard sales		P	P	P	P	P	P	P						
<b>Recreational Uses</b>														
amusement or water parks, fairgrounds													P	Note 9
Athletic fields													P	
batting cages										P			P	
billiard parlors									P	P				
bingo games									P	P				
bowling centers									P	P				
clubs or lodges (non-profit)									P	P	P		P	
coin operate amusements									P	P	P			
country clubs and golf courses		P	P	P	P	P	P	P	P	P	P		P	Note 10
dance schools									P	P	P			
electronic gaming operation										P				Note 29
fortune tellers/astrologers									P	P				
go-cart raceways													P	Note 9
golf courses, miniature										P				
golf courses		P	P	P	P	P	P		P	P	P		P	Note 10
golf driving ranges										P			P	

**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
martial arts instructional schools									P	P	P			
physical fitness centers									P	P	P			
public parks		P	P	P	P	P	P	P	P	P	P			
public recreation facilities		P	P	P	P	P	P	P	P	P	P			
riding stables, non-commercial		P	P											Note 11
riding stables, commercial													P	Note 11
shooting ranges, indoor													P	
shooting ranges, outdoor, local government only													P	
skating rinks									P	P				
sports and recreation clubs, indoor									P	P	P			
swim and tennis clubs		P	P	P	P	P	P	P	P	P	P			Note 12
<b>Educational and Institutional Uses</b>														
ambulance services						P	P	P	P	P				
auditoriums, coliseums, or stadiums										P			P	
cemeteries/mausoleums		P	P	P	P	P	P	P	P	P	P			Note 13
churches		P	P	P	P	P	P	P		P	P			Note 14
colleges or universities		P	P			P	P	P	P	P	P			Note 14
correctional institutions													P	
day care centers, adult (5 or less, home occupation)		P	P	P	P	P	P	P						Note 15
day care centers, adult (6 or more)		P	P		P	P	P	P	P	P	P			Note 15
day care centers, child (5 or less, home occupation)		P	P	P	P	P	P	P						Note 15
day care centers, child (6 or more)		P	P		P	P	P	P	P	P	P			note 15
elementary or secondary schools		P	P	P	P	P	P	P	P	P	P			
fire stations		P	P	P	P	P	P	P	P	P	P	P	P	
government offices								P	P	P	P			
hospitals			P			P	P	P	P	P				Note 14

**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
libraries						P	P	P	P	P	P			
museums or art galleries						P	P	P	P	P	P			
nursing and convalescent homes; congregate and group care			P			P	P	P		P	P			Note 14
orphanages			P			P	P	P		P	P			Note 14
police stations, neighborhood		P	P	P	P	P	P	P	P	P	P	P	P	
post offices								P	P	P	P			
psychiatric hospitals								P	P					
retreat centers			P					P		P				Note 14
school administration facilities								P	P	P				Note 14
specialty hospital								P	P	P				
<b>Business, Professional &amp; Personal Services</b>														
accounting, auditing, or bookkeeping								P	P	P	P			
administrative or management services								P	P	P	P			
advertising agencies or representatives								P	P	P	P			
advertising services, outdoor								P	P	P	P			
automobile rental or leasing										P	P			
automobile repair services and sales, major										P			P	
automobile repair services and sales- car detailing, non-automated, minor									P	P	P			
automobile parking (commercial)									P	P		P	P	
automobile towing and storage services										P				
banks, savings, & loans, or credit union								P	P	P	P			
barber shops									P	P	P			
beauty shops									P	P	P			

**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
boat repairs										P	P		P	
building maintenance services									P	P				
car washes										P				
clothing alterations or repairs									P	P	P			
computer maintenance and repairs									P	P		P	P	
computer services									P	P	P		P	
economic, socio, or educational research								P	P	P	P			
employment agencies, personnel agencies								P	P	P	P			
engineering, architect, or survey services								P	P	P	P			
equipment rental & leasing (no outdoor storage)									P	P	P			
equipment rental & leasing (with outdoor storage)										P			P	
equipment repairs, heavy													P	
equipment repairs; light engine repair, light									P	P				
finance or loan offices								P	P	P	P			
funeral homes or crematoriums								P	P	P				
furniture repair shops									P	P				
hostels or motels									P	P	P			
insurance agencies (no on-site claims insp.)								P	P	P	P			
insurance agencies (carries/on-site claims insp.)									P	P				
Kennels or pet grooming services										P			P	
landscape and horticultural services			P							P				
laundromats, coin operated									P	P	P			



**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
tourist homes (bed and breakfast)		P	P			P	P	P	P	P	P			<b>Note 16</b>
travel agencies								P	P	P	P			
truck driving schools													P	
truck and utility trailer rental & leasing, light										P			P	
truck and utility trailer rental & leasing, heavy													P	
truck washing													P	
veterinary services										P	P			
vocational, business or secretarial schools								P	P	P				
watch or jewelry repair shops									P	P	P			
<b>Retail Trade</b>														
ABC stores (liquor)									P	P	P			
antique stores									P	P	P			
appliance stores									P	P	P			
arts & crafts									P	P	P			
auto/supply sales									P	P	P			
bakeries									P	P	P			
bars									P	P	P			<b>Note 17</b>
boat sales										P				
bookstores									P	P	P			
breweries – approved 03-08-2022									P	P		P	P	<b>Note 35</b>
building supply sales (no storage yard)									P	P	P			
building supply sales (with storage yard)										P				
camera stores									P	P	P			
candy stores									P	P	P			
clothing, shoe and accessory stores									P	P	P			

**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
computer sales									P	P	P			
convenience stores (with gasoline pumps)										P	P			
convenience stores (without gasoline pumps)									P	P	P			
dairy products stores									P	P	P			
department, variety of general merchandise stores									P	P	P			
distilleries – approved 03-08-2022									P	P		P	P	<b>Note 35</b>
drugstores									P	P	P			
fabric or piece goods stores									P	P	P			
flea markets									P	P	P			<b>Note 31</b>
floor covering, drapery or upholstery									P	P	P			
florist									P	P	P			
food stores									P	P	P			
fuel oil sales										P				
furniture sales									P	P	P			
garden centers or retail nurseries			P							P	P			
gift or card shops									P	P	P			
hardware stores									P	P	P			
hobby shops									P	P	P			
home furnishing , miscellaneous									P	P	P			
jewelry stores									P	P	P			
luggage or leather good stores									P	P	P			
manufactured home sales										P				
miscellaneous retail sales									P	P	P			
motorcycle sales										P			P	
musical instrument sales									P	P	P			
newsstands									P	P	P			





**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
tobacco and tobacco products													P	
toys and hobby goods and supplies													P	
wallpaper and paint brushes													P	
<b>Transportation, Warehousing and Utilities</b>														
airports or air transportation facilities													P	
bulk mail and packaging													P	
bus terminals									P	P			P	
communication or broadcasting facilities									P	P			P	Note 33
courier services, central facility													P	
courier service substations									P	P	P		P	
demolition debris landfills, major													P	Note 19
demolition debris landfills, minor			P										P	Note 19
heliports													P	
moving and storage services										P			P	
radio, television or communication towers			P						P	P			P	Note 33
railroad terminals or yards													P	
refuse and raw material hauling													P	
sewage treatment plants													P	
solar energy system-level 2												S	S	Note 34
solid waste disposal (nonhazardous), public													P	
taxi terminals									P	P			P	
trucking or freight, terminals													P	
utility company offices								P	P	P	P		P	
utility equipment and storage yards													P	
utility lines and related appurtenances		P	P	P	P	P	P	P	P	P	P	P	P	
utility service facilities										P			P	

Commented [RD1]: Tower provisions from Hamlet Staff to be Noted here and Note content to be included in Article 7

**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
utility substations		P	P	P	P	P	P	P	P	P	P	P	P	
warehouses (general storage/enclosed)													P	
warehouses (self-storage)									P	P			P	
water treatment plants													P	
<b>Manufacturing and Industrial uses</b>														
aircraft and parts													P	
ammunition, small arms													P	Note 22
animal feeds (including dog & cat)													P	
animal slaughter or rendering													P	
apparel and finished fabric prod.													P	
arms and weapons													P	
asbestos, abrasive and related products													P	
asphalt plants													P	Note 23
audio, video and communications equipment													P	
bakery products													P	
batteries													P	
<del>beverage products (alcoholic)</del> breweries and distilleries approved 03-08-2022 –see Retail Trade												P	P	
beverage products (nonalcoholic)												P	P	
bicycle assembly													P	
bicycle parts and accessories												P	P	
boat and ship building												P	P	
brooms and brushes												P	P	
burial caskets												P	P	
chemicals, paints and allied products													P	
coffee												P	P	

**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
computer and office equipment												P	P	
concrete, cut stone and clay products, ready-mix plants												P	P	
contractors (no outside storage)										P		P	P	
contractors, general building													P	
contractors, heavy construction													P	
contractors, special trade													P	
costume jewelry and notions												P	P	
dairy products												P	P	
drugs													P	
electrical industrial apparatus, assembly												P	P	
electrical industrial apparatus, manufacturing												P	P	
electrical components												P	P	
electrical equipment												P	P	
fabricated metal products (including can manufacturing)													P	
fabricated valve and wire products												P	P	
facts and oils, animal													P	
facts and oils, plant												P	P	
fish, canned, cured or frozen													P	
floor coverings (excluding carpet)													P	
food and related products, miscellaneous												P	P	
furniture framing												P	P	
furniture and fixtures assembly												P	P	
furniture and fixtures												P	P	
glass													P	
glass products from purchased glass												P	P	

**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
grain mill products												P	P	
heating equipment and plumbing fixtures												P	P	
household appliances												P	P	
ice										P		P	P	
industrial and commercial machinery												P	P	
jewelry and silverware (no plating)												P	P	
lighting and wiring equipment												P	P	
logging and wood, raw materials												P	P	
manufactured housing and wood buildings												P	P	
measurement, analysis and control instruments												P	P	
meat/poultry, packing and processing (no rendering)													P	
medical, dental and surgical equipment												P	P	
metal coating and engraving												P	P	
metal fasteners (screws, bolts, etc.)												P	P	
millwork, plywood and veneer												P	P	
mining and quarrying													P	Note 24
motor vehicle assembly													P	
motor vehicle parts and accessories												P	P	
motorcycle assembly												P	P	
musical instruments												P	P	
paper products (no coating or laminating)												P	P	
paper products (coating or laminating)													P	
paperboard containers and boxes												P	P	
pens and art supplies												P	P	

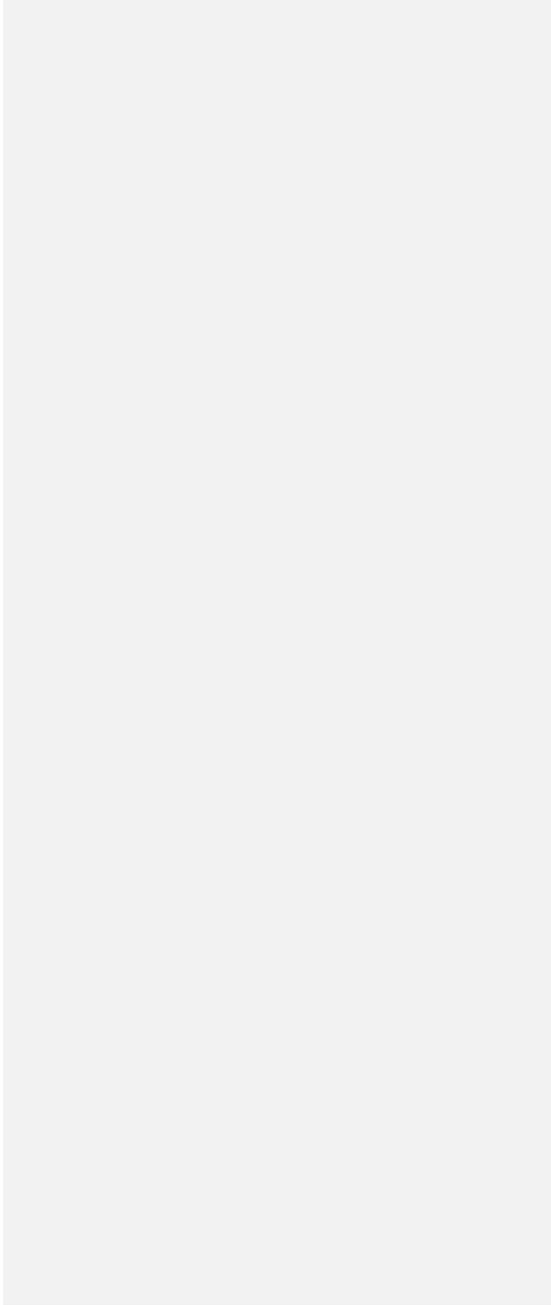
**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
petroleum and related products													P	<b>Note 25</b>
pharmaceutical preparations												P	P	
photographic equipment												P	P	
photographic supplies												P	P	
pinestraw buying/baling stations												P	P	
pottery and related products			P									P	P	
preserved fruits & vegetables (no can manufacturing)												P	P	
primary metal products and foundries													P	
printing and publishing												P	P	
pulp and paper mills													P	
rubber and plastics miscellaneous												P	P	
rubber and plastics, raw													P	
salvage yards auto parts													P	<b>Note 26</b>
salvage yards, scrap processing													P	<b>Note 26</b>
sawmill or planing mills													P	
signs												P	P	
soaps and cosmetics												P	P	
solar energy system-level 3 (special use permit required)		S	S	S	S	S	S	S	S	S	S	S	S	<b>Note 34</b>
sporting goods and toys												P	P	
sugar and confectionary products												P	P	
surface active agents													P	
textile products (no dyeing & finishing)												P	P	
texting products (with dyeing & finishing)													P	
tires and inner tubes													P	
tobacco products													P	
wood containers												P	P	

**Section 6.2 Table of Permitted Uses**

Uses Types	Ref SIC	R-20	RA-20	R-10	R-8	R-6	R-6M	O&I	B-1	B-2	B-3	I-1	I-2	Special Requirements
wood products, miscellaneous												P	P	
<b>Other Uses</b>														
automotive parking (subject to Article VIII)		P	P	P	P	P	P	P	P	P	P	P	P	
christmas tree sales			P						P	P	P	P	P	
outdoor retail sales										P			P	
sexually oriented business										P				<b>Note 28</b>
temporary construction, storage or offices; real estate sales or rental offices (with current building permit for permanent building)		P	P	P	P	P	P	P	P	P	P	P	P	
temporary events, including but not limited to														
arts and crafts shows			P						P	P	P	P	P	
carnivals and fairs			P						P	P		P	P	
concerts, stage shows			P						P	P		P	P	
conventions, trade shows									P	P		P	P	
outdoor religious events			P						P	P		P	P	
yard sales (see accessory uses and structures)									P	P		P	P	<b>Note 30</b>

**Section 6.2 Table of Permitted Uses**



## **ARTICLE VII. SPECIAL REQUIREMENTS NOTES TO THE TABLE OF PERMITTED USES**

The following Notes provide the special requirements for the indicated use as required for the development of that use by the Table of Permitted Uses.

### **Note 1. Mobile Homes on Individual Lots**

- A. Shall be occupied only as a single family dwelling and meet the dimensional and other requirements of the district in which located; mobile home cannot be a recreational vehicle, No mobile home shall be used for storage;
- B. Shall be set up in accordance with the standards established by the North Carolina Department of Insurance;
- C. Shall be constructed according to Class AA mobile home specifications.
- D. Shall meet the following design standards:
  - 1. The pitch of the roof of the mobile home shall have a minimum vertical rise of two (2) feet for each twelve (12) feet of vertical run.
  - 2. The exterior materials shall be of wood, hardboard, hardiplank, vinyl or aluminum, comparable in composition, appearance, and durability to site-built houses in the vicinity.
  - 3. A continuous, permanent masonry foundation unpierced except for required ventilation and access shall be installed under the mobile home; and
  - 4. The tongue, axles, transporting lights, and removable towing apparatus shall be removed subsequent to final placement.

### **Note 2. Mobile Home Parks**

No zoning permit or building permit shall be issued for the development of any mobile home park or the placement of any mobile home in any such park except in accordance with a site plan approved by the Planning Board in accordance with the standards required for the submittal of Preliminary Subdivision Plans. In any case where land is to be conveyed or public street right-of-way or other land is to be dedicated in a Mobile Home Park, a Final Plat may be required by the Article 14 of this Ordinance.

- A. Mobile Home Park Standards
  - 1. Minimum Mobile Home Park site size - 80,000 square feet
  - 2. Minimum Number of Spaces - 6
  - 3. Minimum frontage on a Public Street for site -100 feet
  - 4. Minimum lot areas for each mobile home space - 5,000 square feet
  - 5. Minimum Mobile Home Space Width - 50 feet
  - 6. Minimum number of parking spaces per mobile home space (located on the space) - 2

7. Hard surface walk width required to connect each mobile home to parking spaces - 2 feet
8. Minimum required paved private street width: two-way - 21 feet
9. Maximum number of mobile home spaces driveways connected to public streets - 0
10. Each mobile home to be placed within a new mobile home park and each mobile home intended to replace an existing mobile home within an existing mobile home park shall meet the design standards for Class AA mobile homes on individual lots and shall also meet the design standards for mobile homes on individual lots set forth Article 7, Note 1.D.

**Note 3. Multi-family, Townhouse and Condominium Dwellings**

- A. In the R-20, RA-20, R-6, R-6M and O&I Districts, no multi-family dwelling or series of attached single-family, multi-family buildings or other such arrangements shall exceed a length of two hundred fifty (250) feet when measured along the longest axis of the building or series of attached units when placed in a theoretical straight alignment, provided, however, the Planning Board may permit as a modification a greater length where in the opinion of the Board the greater length will result in a better utilization of the site, better serve the intended occupants, and not; because of its length, adversely affect the value of adjoining property.
- B. An individual multi-family building or a single series of attached dwelling units to be located on an individual lot shall be developed in accordance with the area, yard and height requirements of the district in which located the same as any other individual building on an individual lot. The conveyance of ground space for single-family attached units and for common area or similar purposes shall not preclude development under this subsection. Such conveyances however shall be subject to the requirements of the Subdivision Ordinance and may be subject to the North Carolina. Unit ownership Act.
- C. In any case where more than one multi-family building or more than one series of attached dwelling units are proposed to be constructed on one lot, such development shall be in conformance with the following residential group development standards.
- D. Residential Group Development Standards
  1. No zoning permit or building permit shall be issued for any construction in a group residential development except in accordance with a site plan approved by the Planning Board, in accordance with the standards herein. Site plans shall be submitted in the same manner as that required for Preliminary Subdivision Plans. In any case where land is to be dedicated in a group residential development, a Final Plat may be required by the Subdivision Ordinance. Developments that are proposed to be developed under the North Carolina Unit Ownership Act shall meet the requirements of the Act by recoding the declaration and plan with the Richmond County Register of Deeds. Where land is to be conveyed in accordance with such declaration and plan, the developer shall first comply with the Subdivision Ordinance.
  2. The minimum total lot area for a residential group development of more than two (2) principal buildings in an R-20, R-20A, R-6, R-6M or O-I District shall be 30,000 square feet. Public street right-of-way or land proposed or required for public

street right-of-way shall not be included when calculating the minimum total lot area or in calculating the number of dwelling units.

3. The number of dwelling units per unit of land area shall not exceed the number of dwelling units per unit of land area permitted in the district in which the development is located. Fractional units above one half (1/2) may be rounded to the next highest number once the basic number of units exceeds twenty (20).
4. The front yard, rear yard and side yard; the frontage in feet; and the maximum height of structure shall be as determined by the requirements of the district in which located.
5. The minimum distance between multi-family buildings or between individual series of attached dwellings, or any combination thereof, shall be twenty (20) feet. In addition, in any residential group development of more than two (2) principal buildings any structure which has a façade of two or more stories in height shall comply with the following spacing requirement:  
On the site plan an isosceles triangle (yard space triangle) shall be drawn from each building facade of two (2) stories or more which at its closest point, lies within one hundred (100) feet of a lot line other than a street right-of-way line or within one hundred (100) feet of another building in the development. Facades shall be designated on each building so that a minimum number, normally four, results. The base of the triangle shall be a line connecting the extreme ends of the façade (ignoring one-story storage rooms and other one-story protrusions of one hundred (100) square feet or less, exterior stairways, and docks), and its altitude shall be the length of the base line multiplied by a factor related to the height of the building as shown below:

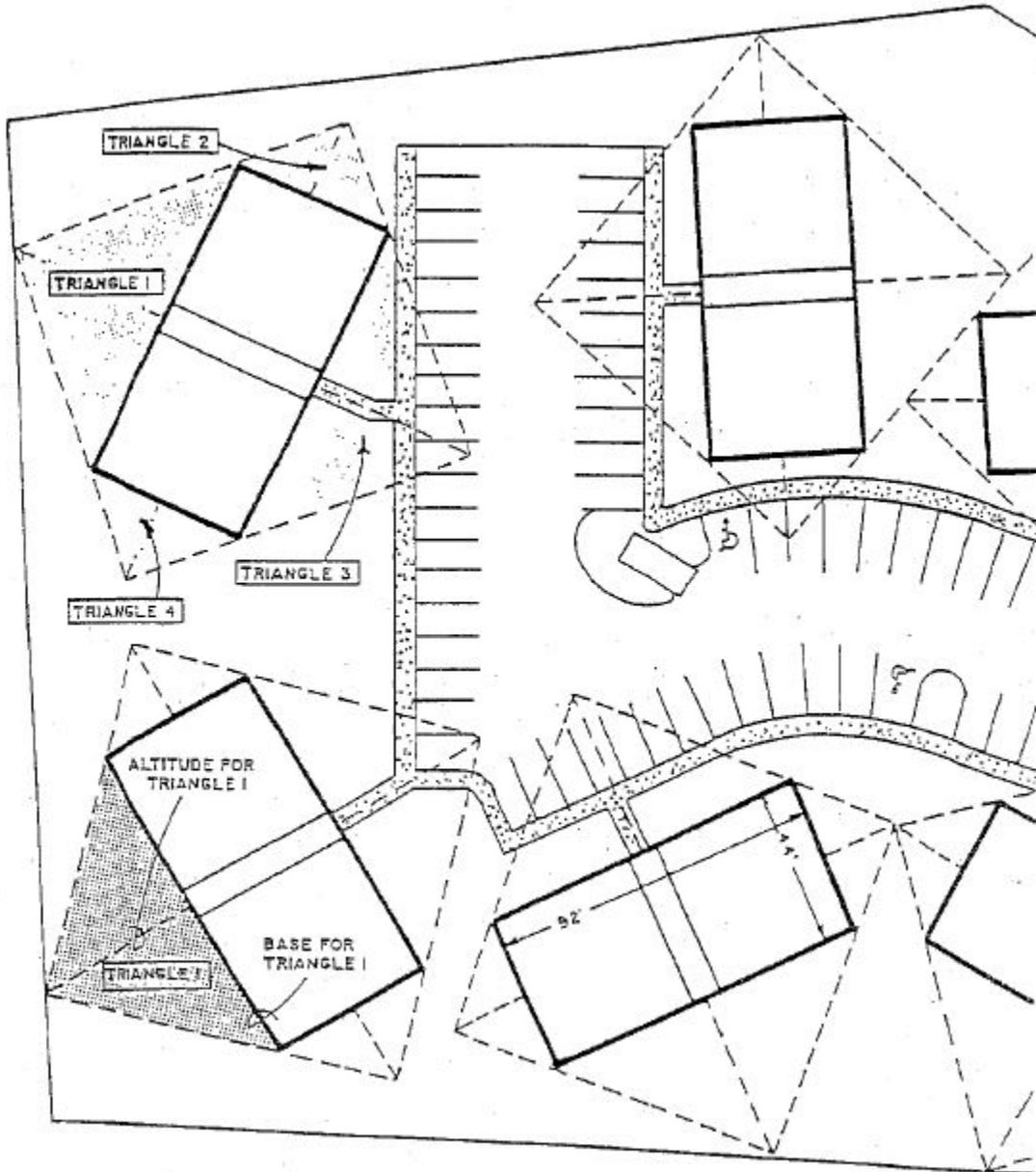
Number of Stories	Altitude Factor
2	0.5
3	0.6
4 or more	0.7

An isosceles triangle thus established shall not overlap any portion of another residential building, another triangle, or another property, unless that property is public parkland, dedicated drainageway and open space, or street right-of-way. (See Exhibit I for an illustration of yard space triangles.)

6. To permit adequate fire protection, all portions of every building or series of attached buildings shall be located within three hundred (300) feet of a public street that furnishes direct access to the property unless the Fire Chief determines that fire hydrants and service drives will offer adequate protection.
7. All common service drives shall have approved two-way traffic circulation and shall be kept available for emergency and public service use. All common service drives shall be paved to withstand anticipated traffic usage.
8. Off-street parking shall be provided in accordance with the standards of this Ordinance.
9. All electric, communications, water and sewer utility lines shall be placed underground.

10. Arrangement of buildings in barracks-like rows shall not be allowed.
11. Stationary sanitary containers shall be located so as not to interfere with sight distance or the free movement of vehicles on streets or service drives and so as to allow collector trucks adequate maneuvering space to empty the containers and to leave the property without excessive backing. Concrete pads in conformance with the public works department's stationary container location standards shall be located beneath of and in the approach to each stationary sanitary container. Where single family attached units make up the total development and are all located along a public street in a manner similar to a typical single-family development, the Public Works Director may approve an individual household pick-up system where such is provided.
12. Storm water drainage shall be provided in the same manner as required in the Subdivision Ordinance.

**EXHIBIT I  
YARD SPACE TRIANGLES**



- In this illustration all buildings are 2 story.
- Refer to Article VII, Note 3 for application.

Scale 1'=40'

Note 4. Accessory Dwelling Units

- A. No accessory dwelling shall be constructed or occupied prior to the construction and occupancy of the principal use structure.

- B. The accessory dwelling shall occupy no more than twenty-five percent (25%) or more than 400 square feet of the heated floor of the principal building.
- C. An accessory dwelling which is contained within the principal structure shall not alter any principal single-family residential structure in such a way as to make the structure appear to be other than a single-family dwelling.
- D. A detached accessory dwelling unit may be:
  - 1. a dwelling unit which is part of an accessory garage; or
  - 2. a freestanding dwelling unit meeting the NC Building Code.
- E. The detached accessory dwelling unit shall:
  - 1. have an approved sewage disposal connection of system;
  - 2. meet all setbacks applicable to the principal building;
  - 3. be erected behind and at least ten (10) feet from the principal building; and
  - 4. not exceed six hundred (600) square feet in floor area.
- F. Temporary family health care structures
  - 1. On lots zoned for single-family detached dwellings (i.e. the R-20, RA-20, R-10, R-8, R-6, R-6M and the O&I zoning districts), a temporary family health care structure shall be regarded as an accessory use to a single-family detached dwelling to the extent authorized and in accordance with the provisions of G.S. 160D-915 (S.L. 2014-94).
  - 2. Prior to installing a temporary family health care structure, the owner must first obtain a zoning permit from the Zoning Enforcement Officer. This permit must be renewed annually. The city may not withhold a permit if the applicant provides sufficient proof of compliance with this subsection and G.S. 160D-915. The owner shall be required to provide proof of compliance on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the city of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of a doctor's certification that the person living in the structure remains physically or mentally impaired, as those terms are used in G.S. 160D-915.

**Note 5. Caretaker Dwellings**

- A. No caretaker dwelling shall be constructed or occupied prior to construction and occupancy of the principal use structure.
- B. No more than one (1) caretaker dwelling is permitted per principal use.

**Note 6. Home Occupations**

- A. There shall be no display of any type and there shall be no commodities sold on the premises.

- B. No person other than those residing on the premises shall be employed in the home occupation.
- C. No electrical or mechanical equipment except that which is used for domestic purposes may be used in the home occupation.
- D. A professional person may use the residence for infrequent consultation, emergency treatment, or performance of religious rites but not for the general practice of the profession.
- E. No accessory structure may be used in connection with the home occupation.
- F. There shall not be created or displayed outside the home any external evidence of the home occupation.

**Note 7. Satellite Dishes**

- A. A Zoning permit and Building Permit are required when installing, moving or substantially constructing or reconstructing a dish antenna.
- B. A dish antenna must be installed in compliance with the manufacturer's specifications at a minimum, but in no case shall the hole for the support post be less than 3 feet deep and filled with less than 400 pounds of dry concrete premixed with water.
- C. In all residential districts dish antennas must be installed on the ground in the rear yard only, except as provided in below.
- D. Large-scale multi-family structures may mount a dish antenna on the roof provided they obtain architect's and engineer's statement verifying:
  - 1. that the roof can support the added weight and
  - 2. that the dish antenna will be anchored so as to withstand wind gusts likely to be experienced in severe local weather.
- E. In the B-1, B-2, B-3, O-1, I-1 and I-2. districts, dish antennas may be installed on the roof of a building. If installed on the roof the dish shall not be larger than twelve feet in diameter, shall not project higher than ten feet above the maximum building height of the zoning district or more than one-third the actual building height above the roof, whichever is less. It shall be set back from the front and sides of the building at least the same distance as one and one-half times the diameter of the dish, and shall not be used for any advertising purpose. In the B-3 and I-1 districts only, a dealer selling dish antennas may have a maximum of one such dish installed in the front of side yard for display purposes providing all other requirements are met.
- F. If a dish antenna is repainted, the only permissible colors are the original color used by the manufacturer, off-white, pastel beige, pastel gray, or pastel gray-green. The paint must have a non-glossy finish and no patterns, lettering, or numerals shall be permitted on the dish surface.
- G. No dish antenna shall be installed in any public right-of-way or in any drainage or utility easement.
- H. The minimum required side yard setback for dish antennas shall be the same as for the

principal building in the same zoning district, except on corner lots, on the side abutting the street, the minimum required setback shall be the same as the required front yard setback along that street.

- I. The minimum required rear yard setback for dish antennas shall be five (5) feet, but in no case shall any part of the antenna come closer than one (1) foot to the property line.
- J. In districts where there are no side yard requirements, a minimum of five (5) feet from the side lot line shall be required, but in no case shall any part of the antenna come closer than one (1) foot to the property line.
- K. No dish antenna shall be located within ten (10) feet of the principal building except as provided in D. above.
- L. In all residential districts the maximum height of dish antennas shall be twenty (20) feet or the height of the principal structure, whichever is less.
- M. In the B-1, B-2, B-3, O-I, I-1, and I-2 districts, dish antennas mounted on the roof of a building shall not project higher than ten (10) feet above the maximum building height of the district or more than one-third of the actual building height above the roof, whichever is less.

**Note 8. Swimming Pools**

- A. Reference Chapter 19 of the City of Hamlet Code of Ordinances.

**Note 9. Amusement or Water Parks, Go-cart Raceways**

- A. Minimum lot size shall be five (5) acres.
- B. No principal buildings or structures shall be located within fifty (50) feet of any property line.
- C. Security fencing, a minimum of six (6) feet in height, shall be provided along the entire boundary of the park activities.
- D. No amusement equipment, machinery, or mechanical device of any kind may be operated within two hundred (200) feet of any residentially zoned property.

**Note 10. Golf Courses and Country Clubs with Golf Courses**

- A. There shall be a fifty (50) foot minimum setback between clubhouses, swimming pools, lighted tennis courts, or athletic fields and adjacent residentially zoned property.
- B. Outdoor swimming pools shall be protected by a fence, or equal enclosure, a minimum of four (4) feet in height and equipped with a self-closing and positive self-latching gate provided with hardware for permanent locking.

**Note 11. Riding Stables, Commercial and Non-Commercial**

- A. The minimum area required for a riding stable shall be fifteen (15) acres in the RA-20 and R-20 Districts.
- B. There shall be a minimum one hundred (100) foot distance between manure storage

areas, barns, or stables and any adjacent residentially zoned property:

- C. All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

**Note 12. Swim and Tennis Clubs**

- A. In any residential district the minimum area shall be two (2) acres unless located in the common area of a development in which case it shall be one (1) acre.
- B. There shall be a fifty (50) foot minimum setback between clubhouses, swimming pools, lighted tennis courts, or athletic fields and adjacent residentially zoned property.
- C. Outdoor swimming pools shall be protected by a fence, or equal enclosure, a minimum four (4) feet in height, and gate equipped with a self-closing and positive self-latching provided with hardware for permanent locking.

**Note 13. Cemeteries, Mausoleums**

- A. A minimum of three (3) contiguous acres shall be required to establish a cemetery or mausoleum not located on the same tract of land as a church.
- B. Primary access shall be to a collector or thoroughfare street.

**Note 14. Congregate Care Facilities; Group Care Facilities; Churches; Colleges or Universities; Hospitals; Museums or Art Galleries; Nursing and Convalescent Homes; Orphanages; and Retreat Centers**

- A. In any residential district:
  - 1. A minimum of one (1) acre shall be required to establish any one of the above uses.
  - 2. All structures including secondary and accessory structures shall be located a minimum of fifty (50) feet from any street line and property line.
  - 3. Any use listed above located in a residential district on a site greater than three (3) acres shall have frontage on a collector or thoroughfare street.
  - 4. Existing uses as described above-- which do not meet the one (1) acre minimum requirement of A. above at the time of the adoption of that provision may expand or be reconstructed provided such expansion or reconstruction meets the minimum dimensional requirements of the district in which located.

**Note 15. Day Care Centers, Adult or Child**

- A. An adult or child day care center with five (5) or fewer attendees may be operated as a home occupation subject to the development standards for a home occupation.
- B. An adult or child day care center with six (6) or more attendees shall be operated as a principal use and subject to the following development standards:

1. An indoor activity area shall be provided equivalent to at least twenty-five (25) square feet per attendee.
2. An outdoor activity area shall be provided equivalent to at least seventy-five (75) square feet per attendee and located outside of the street setback.
3. Outdoor activity area(s) for children shall be enclosed by a security fence at least four (4) feet in height and located outside the street setback.
4. Centers in a residential district on a site greater than three (3) acres shall have frontage on a collector or thoroughfare street.

**Note 16. Tourist Home (Bed and Breakfast)**

- A. In any residential or O&I District:
  1. No tourist home shall be located within four hundred (400) feet of a rooming house, a boarding house, another tourist home.
  2. The maximum number of guest bedrooms shall be six (6).
  3. The Tourist home shall be operated by a resident manager.
  4. The use shall be located in a structure which was originally constructed as a dwelling.
  5. The tourist home shall contain only one (1) kitchen facility. Meals served on the premises shall be only for overnight guests and residents of the facility.
  6. The use of such a facility by any one patron shall be limited to no more than fifteen (15) days per sixty (60) day period.
  7. There shall be no exterior advertising except that which is permitted for a home occupation.

**Note 17. Bars**

- A. No such establishment shall be located within two hundred (200) feet of a church, elementary or secondary school, public park, or residentially zoned property.
- B. The main entrance of the building shall be toward a street zoned predominantly for nonresidential uses.
- C. A minimum six (6) foot high opaque fence shall be erected adjacent to the property line of abutting residences.
- D. Parking areas related to the establishment shall be located no closer than thirty (30) feet to the property line of abutting residences.

**Note 18. Airports or Air Transportation Facilities**

- A. The minimum area shall be fifty (50) acres for Basic Utility stage 1 airport with two thousand (2,000) foot runway. More area is required for larger airports. Airport size and layout shall conform to FAA Advisory Circular 150/5300-4B.

- B. There shall be a minimum three hundred (300) foot distance between airport property and the nearest residence.
- C. Security fencing shall be provided sufficient to control access to runways and taxiways. The fencing shall be a minimum six (6) feet in height.

**Note 19. Demolition Debris Landfills, Major or Minor**

**Demolition Debris Landfills (minor):**

- A. The landfill shall have a maximum area of three (3) acres.
- B. The operation shall be closed out in one-year or less.
- C. Conditions C., D., E., F. and G. of major landfills below shall apply.

**Demolition Debris Landfills (major):**

- A. There shall be a fifty (50) foot minimum distance from any property line.
- B. There shall be a three hundred (300) foot minimum separation from any residence.
- C. Access to the landfill shall be controlled with gates, chains, fences, ditches and/or trees to prevent unregulated dumping.
- D. All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
- E. No filling is permitted in any flood hazard area. No filling is permitted in minor drainageways unless the drainage has been piped or re-routed in accordance with approved plans. No filling is permitted in utility easements.
- F. Landfills shall be closed with a minimum of two (2) feet of clean soil, graded to a maximum slope of three (3) to one (1), and stabilized with vegetation or by other approved means.
- G. An information board sign shall be posted and maintained at the entrance, listing the name and phone number of the current operator, the types of material accepted, and the hours of operation.

**Note 20. RESERVED**

**Note 21. Utility substations**

- A. All buildings shall observe accessory building setbacks. Transformer stations shall observe principal buildings setbacks.
- B. Equipment producing noise or sound in excess of seventy (70) decibels shall be located no closer than one hundred (100) feet to the nearest residence.
- C. Security fencing, a minimum of six (6) feet in height, shall be provided around transformer stations.

**Note 22. Ammunition, Small Arms**

- A. No such facility shall locate within a five hundred (500) foot radius of any residentially or O&I zoned property.
- B. Security fencing shall be provided along the entire boundary of such a facility.
- C. The facility and its operation shall observe all Fire Prevention and Protection requirements.

**Note 23. Asphalt Plants**

- A. Any asphalt plant operations shall be located at least fifty (50) feet from any property line.
- B. Security fencing, a minimum of six (6) feet in height, shall be provided around the perimeter of the operation.
- C. Rehabilitation:
  - 1. Within one (1) year after the cessation of production, all equipment and stock piles incidental to such operation shall be dismantled and removed by and at the expense of the owner.
  - 2. The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public drainageways, nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course.
- D. All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
- E. Access:
  - 1. Access roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and maintained in a dust-free manner.
  - 2. Access roads shall be located no closer than fifteen (15) feet to any property line other than a railroad right-of-way line.
  - 3. A 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 negatively affected by truck traffic. Such routes shall be adhered to.

**Note 24. Mining and Quarrying**

- A. Setback:
  - 1. The edges of any pit where a mining operation is taking place, any equipment used in the processing of rock and gravel, any asphalt plant, or other industrial use operated in conjunction with the mine or quarry shall be located at least fifty (50) feet from any property line.
  - 2. Where the mining operation site is bounded by a railroad right-off-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.

- B. Security fencing, a minimum of six (6) feet in height, shall be provided around the perimeter of both existing and abandoned.
- C. Rehabilitation:
  - 1. Within one (1) year after the cessation of production at all mining operations, all equipment and stock piles incidental to such operation shall be dismantled and removed by and at the expense of the owner.
  - 2. Except in a case where redevelopment for another permitted use is in progress on the site of an abandoned extractive operation, all excavations shall be graded to reduce the surface to gently rolling topography in substantial conformity to the land area immediately surrounding, and shall be planted with a cover of sod, trees, shrubs, legumes, or grasses which will minimize erosion due to wind or rainfall.
  - 3. The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or splitting of neighboring properties or public ways, not to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course.
- D. All operations involving blasting discernible beyond the external property line of a quarry shall only be conducted between the hours of 7:00 am and 6:00 pm.
- E. All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
- F. Access:
  - 1. Access roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and maintained in a dust-free manner.
  - 2. Access roads shall be located no closer than fifteen (15) feet to any property line other than a railroad right-of-way line.
  - 3. A 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 negatively affected by truck traffic. Such routes shall be adhered to.

**Note 25. Petroleum and Related Products (Wholesale or Manufacturing)**

- A. Setback:
  - 1. Storage tanks protected by either an attached extinguishing system approved by the Fire Marshal, or an approved floating roof, shall not be located closer to an exterior property line than a distance of either the diameter or height of the tank, except that such distance need not exceed one hundred and twenty (120) feet.
  - 2. Storage tanks not equipped as indicated in (1) above shall not be located closer to an exterior property line than a distance equal to one and one-half (1 1/2).

times the greater dimension of either the diameter or height of the tank, except that such distance need not exceed one hundred and seventy-five (175) feet.

- B. Storage tanks and loading facilities shall be located a minimum of five hundred (500) feet from any existing residence or residentially zoned property.
- C. Gravel or paved roadways shall be provided to all storage tanks.
- D. Security fencing, a minimum of six (6) feet in height, shall be provided along the entire boundary of such facilities.
- E. Dikes:
  - 1. 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.
  - 2. 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 three (3) feet or more in height shall have a flat section at the top not less than two (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 six (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, drums, or barrels shall be permitted within the diked area.
  - 3. Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed so 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.
- F. Tank Maintenance:
  - 7. All storage tanks shall be maintained in a leak-proof condition with an adequately painted, rust-free exterior surface.
  - 2. A firm substratum shall be constructed under each storage area to eliminate differential subsidence and to prevent the product from seeping.
- G. For wholesale operations in the I-1 District, the product shall be sold in the same form as received and shall not be altered, except that two or more products may be blended. Any other alteration of the product shall be deemed a manufacturing use.
- H. All storage facilities shall comply with the latest edition of the "Flammable and Combustible Liquids Code, NEPA 30" of the National Fire Protection Association.

**Note 26. Salvage Yards, Auto Parts of Scrap Processing**

- A. The minimum area to establish a salvage yard shall be three (3) acres.

- B. The salvage yard shall be screened on the entire periphery with six (6) foot high fencing or equivalent screening devices that provide ninety ( 90) percent opaqueness. Entrances shall be baffled.
- C. Salvage yards shall be operated in such a manner as to prevent excessive dust and tracking of mud and debris onto adjoining streets.

**Note 27. Temporary Events**

- A. All temporary events such as those listed shall require a permit. The purpose of this permit is to authorize a specific use for a defined period of time and to coordinate health, traffic, and other inspections necessary to the safe and healthful operation of the event.
- B. Application for a temporary event permit shall be made to the Enforcement Officer at least three (3) working days prior to the start of the event.
- C. A temporary event permit shall be obtained for nonpermanent facilities and activities with a duration of more than three (3) days for not more than thirty (30) days.
- D. Requirement for Permit Issuance:
  - 1. Ample parking is provided for the event, in addition to required parking for any permanent use or uses located at the event site;
  - 2. Written authorization from the property owner or his agent for the event to take place;
  - 3. Any event held outside of a building and within five hundred (500) feet of any residence shall cease operation by 10:00 pm;
  - 4. Noise shall be controlled so that no adjoining property owner or occupant is unduly disturbed by the event; and
  - 5. Licenses and/or permits required by other agencies have been obtained prior to the issuance of the temporary event permit.
- E. Not more than three (3) temporary event permits may be issued for the same event on the same property. in any one calendar year.

**Note 28. Sexually Oriented Businesses**

- A. No such business shall locate within 1,200 feet of any other sexually oriented business, as measured in a straight line from property line to property line;
- B. No sexually oriented business shall be located within 1000 feet of a church, public or private elementary or secondary school, child day care or nursery school, public park, residentially zoned property, or any establishment with an on-premise ABC license, as measured in a straight line from property line to property line;
- C. The gross floor area of any sexually oriented establishment shall not exceed 3,000 square feet;

- D. Except for an adult motel, no sexually oriented business may have sleeping quarters;
- E. 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.
- F. The main entrance of the building shall be toward a street used predominantly for non-residential uses.
- G. A minimum six (6) foot high opaque fence shall be erected adjacent to the property line of abutting residences.
- H. Parking areas related to the establishment shall be located no closer than thirty(30) feet to the property line of abutting residence.

**Note 29. Electronic Gaming Operations**

The following standards shall be met as minimum standards prior to the approval of any business engaging in electronic gaming operations in the B-2 (General Business) zoning district.

- A. Days/Hours of Operation. Businesses engaging in electronic gaming operations activities may operate from 8:00 am until 12:00 midnight each day, seven (7) days per week.
- B. The maximum number of machines/terminals/computers for any electronic gaming operations business is 2.
  - 1. Minimum off-street parking spaces as defined in Article VIII. Off-Street Parking and Loading
  - 2. One (1) space per every terminal or one (1) space for every one hundred (100) square feet or total floor area, whichever is greater.
  - 3. One (1) handicapped space per every twenty-five (25) or fewer spaces.
  - 4. One (1) additional space per each (1) employee.
- C. The establishment must be a minimum of five hundred (500) feet from any building being used as a dwelling.
- D. The establishment must be a minimum of one thousand (1,000) feet from any other organization engaged in electronic gaming operations business, tattoo and body piercing establishment, or adult and sexually oriented business.
- E. The establishment must be a minimum of one thousand (1,000) feet from any established religious institutions/synagogue, school, daycare center/home; library, public park, recreation area, cemetery, skating rink, video arcade, motion picture theater which shows G or PG-rated movies to the general public or locations frequented by minors.
- F. Measurement of distance separation shall be in a straight line from the closest point of the buildings at which the electronic gaming business is located.

**Note 30. Yard Sales**

- A. Yard sales shall be a permitted use in zoning districts defined as residential by the City of

Hamlet Zoning Ordinance, so long as they are conducted on a tract of land that has an occupied dwelling.

- B. Each yard sale shall be limited to the daylight hours of 2 consecutive days.
- C. Yard sales shall be limited to a maximum of 2 per calendar year per property.
- D. The yard sale operator shall provide parking for his or her yard sales so as to not impede the normal flow of traffic the Roadways in the area around the yard sale.
- E. Yard sales shall not include items purchased elsewhere expressly for resale.
- F. Goods intended for sale shall not be stored or displayed in the front or side yards or a dwelling except on the day(s) of the sale.
- G. Commercial outdoor sales activities are prohibited at yard sales.

**Note 31. Flea Markets**

- A. Flea Markets shall be permitted uses only in non-residential zoning districts or as conditional uses in the Business-2 Districts as defined by the Hamlet Zoning Ordinance.
- B. Off street parking shall be provided at a ratio of 2 spaces per vendor table, exhibit, display or area. Absolutely no off-site parking or parking in the right-of-way shall be permitted.
- C. Flea market operators must have the appropriate business licenses and permits from the City of Hamlet Zoning and Business License Offices.
- D. Flea market operators shall provide sanitary conditions at all times. Permanent restrooms or port-a-johns shall be provided. Running water must be available. Any food vendors shall apply for and receive all appropriate health permits from the Richmond County Health Department.
- E. Flea market operators shall maintain at all times a current list of vendors that are renting space within the Flea Market area. Such list shall include name, address and phone number of the vendor, location (or booth) at which vendor is located, and type of products or material being sold by vendor. Such information shall be kept by the flea market operator for a period of 1 year. The flea market operator shall make such list available to inspection by the Zoning Officer as well as law enforcement agencies at any time during hours of operation.
- F. Flea markets are allowed to operate only 3 days a week.
- G. Flea markets shall operate only during daylight hours.
- H. Flea markets shall comply at all times with all state and local law, and regulations. including (but not limited to) Health Department regulations.

**Note 32. Fencing**

- A. A fence, wall, or shrubbery screen for the purpose of privacy and/or security may be located in any yard provided the following conditions are met:

1. Types of fences allowed, but not limited to:
    - a. Open picket fence
    - b. Post and rail fence
    - c. Wrought iron/Ornamental fence
    - d. Brick or stone (solid or pierced) fence
    - e. Open wire fencing (such as hurricane or chain link)
    - f. Stockade/Privacy Fence
  2. Restriction on placement and dimensions of fences:
    - a. No fence located in the front yard may exceed six (6) feet in height.
    - b. Fences enclosing rear and side yards may be eight (8) feet high.
    - c. No fence, post or hedge, shall be installed so as to obstruct visibility at a street intersection or driveway entrance.
- B. No open wire fence of a type that could inflict injury from casual contact (such as a barbed-wire fence) shall be permitted in the R-6, R-6M, R-8, R-10, and R-20 districts. However, due to the nature of the agriculture use in the RA-20 (Residential/ Agriculture-20) district, barbed-wire fences may be permitted in this residential district only. Barbed-wire fences may also be permitted in the commercial and industrial districts.
- C. Height of a fence or other obstruction shall be measured from the average level of the ground adjacent to the fence or screening.
- D. Guidelines:
1. Fences must be erected with the posts, supports, stringer, and all unfinished materials facing the owners residence and property.
  2. A building permit is required to erect a fence.

**Note 33. Radio, Television or Communication Towers**

- A. General Provisions.
1. Purpose. The City Council of the City of Hamlet finds that the construction of towers may cause unusual problems and hazards to the residents and visitors of the City of Hamlet. The purpose of this Ordinance is to regulate the construction of towers to avoid potential damage to adjacent properties from tower failure, and falling ice or other such debris, to maximize the use of existing and new towers in order to reduce the number of towers needed, to minimize potential hazards to low flying law enforcement and medical helicopters, to restrict towers that adversely detract from the natural beauty of the city by discouraging visual eyesores and to minimize the negative economic impact on tourism.
  2. Jurisdiction. The regulations and the procedures contained herein shall apply to

and govern each and every lot, parcel or tract of land within the city limits and extra-territorial jurisdiction of the City of Hamlet.

B. Regulation of Towers in the City of Hamlet.

1. Permits Required.
  - a. No tower over fifty feet (50') shall be constructed, altered, reconstructed or expanded until a City of Hamlet tower permit is obtained as provided in this Article. No tower permit shall be issued that is not in compliance with this Ordinance. No building permit shall be issued for any tower subject to this ordinance that has not received a tower permit.
  - b. Communication towers are to be placed in the following zoning jurisdictions: B-1 (Central Business), B-2 (General Business), RA -20 (Residential – Agricultural), and I-2 (Heavy Industrial).
2. Enforcement Officer. For purposes of this Ordinance, the City Manager of the City of Hamlet shall designate the Enforcement Officer of this Ordinance. The Enforcement Officer or his or her appointee shall administer and enforce all provisions of this Ordinance.
3. Permit Application. Tower Permit Applications are available from the office of the City Manager of the City of Hamlet.
4. Application Fee. A fee for reviewing tower permit applications shall be established by the City Council.
5. Issuance of Permit. Following his or her approval of any tower permit application not requesting a variance, the Enforcement Officer shall issue a tower permit. All tower permit conditions shall appear on the face of the Site Development Plan. The permittee shall acknowledge and agree to permit conditions approved by the Enforcement Officer. If a building permit is not obtained within twelve (12) months after the tower permit is issued, the tower permit shall expire.
6. Variances.
  - a. Following the final decision by the Enforcement Officer to deny a permit, a tower permit applicant may request that the Board of Adjustment and Planning Board of the City of Hamlet grant a variance from the Tower Approval Standards listed in Subsection D, below.
  - b. Before determining whether to, or not to, grant a variance, the Board of Adjustment and Planning Board shall hold a public hearing. The Board of Adjustment and Planning Board shall grant a variance if and only if it concludes that:
    - (1). Adherence to the Ordinance's development standards will cause extraordinary economic hardship to the applicant;
    - (2). The proposed use of the site will not substantially diminish the public health or safety or be detrimental to the general welfare of the city; and

(3). The proposed use of the site will not substantially detract from the natural beauty of the area and the city's future economic growth and development.

- c. Should the Board of Adjustment and Planning Board grant the requested variance, the Enforcement Officer shall issue a tower permit. The permit applicant shall acknowledge and agree to permit conditions approved by the Board of Adjustment and Planning Board. If a building permit is not obtained within twelve (12) months after the tower permit is issued, the tower permit shall expire.
- d. Should the Board of Adjustment and Planning Board deny the requested variance, the permit applicant may seek review by the Courts as provided by law.

C. Procedures.

1. Application Submission and Review Process.

- a. A completed tower permit application and five (5) copies of all supporting documentation identified in Subsection D- 2, below, shall be submitted to the Enforcement Officer for review.
- b. The Enforcement Officer shall review the completed tower permit application for compliance with Subsection D-2, below. Any application not containing all information required by Subsection D-2, below, shall be deemed incomplete and returned to the applicant for correction and resubmission. If the Enforcement Officer shall provide notice that the application is incomplete in writing to the applicant within ninety (90) days of submission. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. If the Enforcement Officer deems it necessary, he may retain, at the permit applicant's expense, one or more professional engineers to assist him in reviewing any technical requirements.
- c. The Enforcement Officer shall take formal action to approve, or disapprove the tower permit application within ninety (90) working days of the application. However, he or she may take up to sixty (60) additional days (150 days in total from the date the application is submitted), if necessary. If the action is to disapprove the tower permit application, the Enforcement Officer shall include in his notification letter to the applicant the reasons for such action and specific reference shall be made to why the requirements are not met.
- d. The permittee or his agent shall record the Site Development Plan in the Register of Deeds' office before obtaining a building permit for the subject tower.

2. Requirements for Site Development and Preliminary Tower Design Plans. The site development plan and preliminary design plan shall contain the following information and be part of the tower permit application:

- a. The site development plan shall be prepared by a North Carolina Registered Land Surveyor and contain the following:

- (1). The tower applicant's name and property owner's name and their addresses, scale, north arrow, vicinity map, tax parcel identification number, and the tower's latitude and longitude coordinates;
  - (2). The name, address, signature and seal of the surveyor preparing the site development plan;
  - (3). The surveyed boundary lines of the parcel(s) that will contain the proposed tower and its fall area;
  - (4). The name, addresses and tax parcel identification numbers of all owners of property abutting the subject property;
  - (5). All identifiable structures located on the parcel, all private and public roads, highways, and underground and overhead utilities;
  - (6). All existing towers on the property or any towers whose fall area encroaches onto the property;
  - (7). The proposed tower's location, the proposed fall area and the location of all support structures and guy line anchors;
  - (8). The ground elevation of the proposed tower's base, all proposed support structures, property corners, and a permanent site branch mark. All elevations shall be determined by using the National Geodetic Vertical Datum of 1929; and
  - (9). All proposed access roads, easements or rights-of-way on or to the site, and any other improvements to the site.
- b. The preliminary tower design plan shall be prepared by a North Carolina Registered Professional Engineer and contain the following:
- (1). The tower permit applicant's name and address, scale, north arrow, vicinity map and tax parcel identification number;
  - (2). The name, address, signature and seal of the engineer preparing the preliminary tower design plan;
  - (3). A plan showing the base of the tower and the foundations for all guy line anchors and support structures, all proposed buildings and any other proposed improvements including access roads and utility connections within and to the proposed site;
  - (4). A tower elevation showing the proposed lighting, all proposed antennas and other appendages;
  - (5). An elevation of each proposed set of guy line anchors; and
  - (6). The proposed tower design loads.
- c. A map and description showing the service areas(s) for the proposed

tower's antenna(s) and/or other devices.

- d. The applicant shall provide written statements from the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) showing that the proposed tower complies with all permit regulations administered by that agency or evidence that the proposed tower is exempt from those regulations.
- e. The applicant shall identify all other possible alternative considered within the service area for the proposed tower's antenna(s) and/or other devices and explain why the proposed tower is necessary and why existing towers and structures (e.g., Duke Power or Carolina Power & Light transmission towers) cannot accommodate the proposed antenna(s) and/or other devices.
- f. The applicant shall identify any variance(s) to the ordinance, the reason(s) for seeking the variance(s) and any measures that are proposed to mitigate possible adverse affects of the proposed variance(s).

3. Tower Approval Standards.

- a. Any proposed tower shall provide a needed service or benefit to the residents of the City of Hamlet and the surrounding area that cannot otherwise be met.
- b. Towers shall be sited to all ice-fall or debris from tower failure on-site. The designated fall area is 1 ½ times the tower height or a minimum of 100 feet from property lines. A fall area of ½ :1 will be acceptable with a signed and sealed statement by a registered professional engineer licensed by the State of NC indicating such fall area would prevent the tower's fall from encroaching onto adjoining property.
- c. A tower shall be set-back from other on-site and off-site towers and supporting structures, or other arrangements shall be made, such that one tower will not strike another tower or its support if it falls.
- d. Tower lighting shall not exceed the minimum standards of the Federal Aviation Administration (FAA) for a red obstruction lighting system contained in Advisory Circular No. 70/7460-IF, dated September 27, 1978, as amended.
- e. To defeat unauthorized access, the base of the tower shall be surrounded by a fence or wall at least eight (8) feet in height unless the tower is constructed entirely on a building over eight (8) feet in height.
- f. Any telecommunications tower shall be engineered and constructed to accommodate two (2) additional antennas that are at least as large as the largest proposed antenna identified in Section D-2.b(4).
- g. Tower permit approval is conditional subject to the owner(s)' agreeing to allow future collocation of other antenna(s) or transiting devices. This agreement shall be submitted in writing and recorded in the Register of Deeds' office.

- h. No tower shall exceed two hundred feet (200') in height.
  - i. Towers shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable Federal or State regulations.
  - j. The tower and equipment shall be located, designed, and/or screened to blend with the existing natural, or build surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community.
  - k. Any tower not in use for two (2) continuous years shall be removed within 120 days after the tower owner and the current property owner have received written notice by the Enforcement Officer of the City Manager. The written notice, mailed return receipt requested, shall be delivered to both the tower owner identified on the tower permit application and the current property owner.
  - l. Property located within the tower's fall area shall not be subdivided as long as the tower is standing.
  - m. A sign identifying the owner(s) and/or operator(s) of the tower and an emergency telephone number shall be displayed in a clearly visible location on the tower's premises.
- D. Collocation of small wireless facilities.
- 1. Except as expressly provided in this Section, the City shall not prohibit, regulate, or charge for the collocation of small wireless facilities.
  - 2. The city may not establish a moratorium on (i) filing, receiving, or processing applications or (ii) issuing permits or any other approvals for the collocation of small wireless facilities.
  - 3. Small wireless facilities that meet the height requirements of G.S. 160D-936(b)(2) shall only be subject to administrative review and approval under subsection (d) of this section if they are collocated (i) in a city right-of-way within any zoning district or (ii) outside of city rights-of-way on property other than single-family residential property.
  - 4. The City of Hamlet may require an applicant to obtain a permit to collocate a small wireless facility. The city shall receive applications for, process, and issue such permits subject to the following requirements:
    - a. The city may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this section, "services unrelated to the collocation," includes in-kind contributions to the city such as the reservation of fiber, conduit, or pole space for the city.
    - b. The wireless provider shall complete an application as specified in form and content by the city. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.

- c. A permit application shall be deemed complete unless the city provides notice otherwise in writing to the applicant within 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 city fails to approve or deny the application within 45 days from the time the application is deemed complete or a mutually agreed upon time frame between the city and the applicant.
- e. A city may deny an application only on the basis that it does not meet any of the following:
  - (1) The city's applicable codes,
  - (2) Local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment,
    - (a) Public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way, or
    - (b) The historic preservation requirements in G.S. 160D-936(i). The city 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 city denies an application. The applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paying an additional application fee. The city shall approve or deny the revised application within 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.
- f. An application shall include an attestation that the small wireless facilities must be collocated on the utility pole, city utility pole, or wireless support structure and that the small wireless facilities must be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- g. An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of the city shall be allowed, at the applicant's discretion, to file a consolidated application for no more than



8. The city shall not require an application or permit or charge fees for:
  - (a) routine maintenance,
  - (b) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller, or
  - (c) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or city utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the city rights-of-way and who is remitting taxes under G.S. 105-164.4(a)(4c) or G.S. 105-164.4(a)(6).
9. Nothing in this section shall prevent a city from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the city right-of-way.

E. Use of public right-of-way.

1. A city shall not enter into an exclusive arrangement with any person for use of city rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.
2. Subject to the requirements of G.S. 160D-935, a wireless provider may collocate small wireless facilities along, across, upon, or under any city right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, city utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any city right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and city utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any city right-of-way shall be subject only to review or approval under G.S. 160D-935(d) if the wireless provider meets all of the following requirements:
  - a. Each new utility pole and each modified or replacement utility pole or city utility pole installed in the right-of-way shall not exceed 50 feet above ground level.
  - b. Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, city utility pole, or wireless support structure on which it is collocated.
3. Nothing in this section shall be construed to prohibit a city from allowing utility poles, city utility poles, or wireless facilities that exceed the limits set forth in subdivision (1) of subsection b. of this section.
4. Applicants for use of a city right-of-way shall comply with a city's undergrounding requirements prohibiting the installation of above-ground structures in the city rights-of-way without prior zoning approval, if those requirements (i) are nondiscriminatory with respect to type of utility, (ii) do not prohibit the replacement of structures existing at the time of adoption of the requirements, and (iii) have a waiver process.

5. Notwithstanding subsection (d) of this section, in no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, city utility pole, or wireless support structure exceed 40 feet above ground level, unless the city grants a waiver or variance approving a taller utility pole, city utility pole, or wireless support structure.
6. Except as provided in this Part, a city may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider, subject to the restrictions set forth under G.S. 160A-296(a)(6). In addition, charges authorized by this section shall meet all of the following requirements:
  - a. The right-of-way charge shall not exceed the direct and actual cost of managing the city rights-of-way and shall not be based on the wireless provider's revenue or customer counts.
  - b. The right-of-way charge shall not exceed that imposed on other users of the right-of-way, including publicly, cooperatively, or municipally owned utilities.
  - c. The right-of-way charge shall be reasonable and nondiscriminatory.
7. Nothing in this subsection is intended to establish or otherwise affect rates charged for attachments to utility poles, city utility poles, or wireless support structures. At its discretion, a city may provide free access to city rights-of-way on a nondiscriminatory basis in order to facilitate the public benefits of the deployment of wireless services.
8. Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately owned utility pole or wireless support structure or to 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.
9. A city may require a wireless provider to repair all damage to a city right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, city utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the city within a reasonable time after written notice, the city may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The city may maintain an action to recover the costs of the repairs.
10. This section shall not be construed to limit local government authority to enforce historic preservation zoning regulations consistent with Part 4 of Article 9 of this Chapter, the preservation of local zoning authority under 47 U.S.C. § 332(c)(7), the requirements for facility modifications under 47 U.S.C. § 1455(a), or the National Historic Preservation Act of 1966, 54 U.S.C. § 300101, et seq., as amended, and the regulations, local acts, and city charter provisions adopted to implement those laws.
11. A wireless provider may apply to a city to place utility poles in the city rights-of-way, or to replace or modify utility poles or city utility poles in the public rights-of-way, to support the collocation of small wireless facilities. A city shall accept and

process the application in accordance with the provisions of G.S. 160D-935(d), applicable codes, and other local codes governing the placement of utility poles or city utility poles in the city rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application.

- F. Access to city utility poles to install small wireless facilities.
1. The city may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on city utility poles. A city shall allow any wireless provider to collocate small wireless facilities on its city utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars (\$50.00) per city utility pole per year. The North Carolina Utilities Commission shall not consider this subsection as evidence in a proceeding initiated pursuant to G.S. 62-350(c).
  2. A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the city to be reimbursed by the wireless provider. In granting a request under this section, a city shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.
  3. If the city that operates a public enterprise as permitted by Article 16 of Chapter 160A of the General Statutes has an existing city utility pole attachment rate, fee, or other term with an entity, then, subject to termination provisions, that attachment rate, fee, or other term shall apply to collocations by that entity or its related entities on city utility poles.
  4. Following receipt of the first request from a wireless provider to collocate on a city utility pole, a city shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the city utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.
  5. In any controversy concerning the appropriateness of a rate for a collocation attachment to a city utility pole, the city has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.
  6. The city shall provide a good-faith estimate for any make-ready work necessary to enable the city utility pole to support the requested collocation, including pole replacement, if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a city utility pole necessary for the city utility pole to support a

small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

7. The city shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.
8. Nothing in this Part shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended, or under G.S. 62-350.
9. This section shall not apply to an excluded entity. Nothing in this section shall be construed to affect the authority of an excluded entity to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles, city utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of G.S.62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in G.S. 62-350, are governed solely by G.S. 62-350. For purposes of this section, "excluded entity" means (i) a city that owns or operates a public enterprise pursuant to Article 16 of Chapter 160A of the General Statutes consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits, but which is exempt from regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended.

G. Applicability.

1. The city shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic facility owned or otherwise controlled by the city. This subsection does not prohibit the enforcement of applicable codes.
2. Nothing contained in this Part shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.
3. Except as provided in this Section or otherwise specifically authorized by the General Statutes, a city may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or city rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or city rights-of-way and may not regulate any communications services.
4. Except as provided in this Part or specifically authorized by the General Statutes,

a city may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.

5. The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Part 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 right-of-way.

#### **Note 34. Solar Energy Systems**

##### **A. General.**

1. **Purpose.** The purpose of these regulations is to facilitate the construction, installation, and operation of Solar Energy Systems (SESs) in the City of Hamlet in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas. It is the intent to encourage the development of SESs that reduce reliance on foreign and out-of-state energy resources, bolster local economic development and job creation, support the diversification of the state's energy portfolio, strengthen energy and grid security, reduce greenhouse gas emissions, reduce local air and water pollution, and aid North Carolina in meeting its Renewable Portfolio Standard. These regulations are not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions herein shall not be deemed to nullify any provisions of local, state or federal law.
2. **Applicability.**
  - a. This ordinance applies to the construction of any new SES within the planning and zoning jurisdiction of the City of Hamlet.
  - b. An SMS permitted prior to the effective date of this ordinance shall remain exempt, except that modifications to an existing SES that increases the SES area by more than 5% of the original footprint or changes the solar panel type (e.g., photovoltaic to solar thermal) shall be subjected to this ordinance.
  - c. Maintenance and repair are not subject to this ordinance.
  - d. This ordinance does not supersede regulations from local, state, or federal agencies. Some important examples of such regulations include, but are not limited to:
    - (1) **Building/Electrical Permits Required.** Nothing in this ordinance modifies already established building standards required to construct a SES;
    - (2) **Onsite Wastewater System Avoidance.** Nothing in this ordinance modifies already established Department of Health and Human Services requirements. A SES shall not be constructed over onsite waste water systems (e.g. septic systems) unless approved by the Department of Health and Human Services;

- (3) Stormwater Permit Required. Nothing in this ordinance modifies the requirements or exempts any SES of complying with the various stormwater jurisdictions and regulations established by the Department of Environment and Natural Resources. North Carolina statute requires the acquisition of stormwater permits for construction projects that impact stormwater runoff; and
- (4) Historic Districts. Nothing in this ordinance modifies already established State Historic Preservation Office requirements. May require additional permitting (certificates of appropriateness) to install solar in Historic Districts.

3. Permits Required

- a. Level 1 Solar Energy System. Roof mounted— Zoning Compliance Permitted Use
- b. Level 2 Solar Energy System.
  - (1) Light Industrial (1-1): SES of any size — Special Use Permit
  - (2) Heavy Industrial (1-2): SES of any size — Special Use Permit
- c. Level 3 Solar Energy System. Systems that do not satisfy the parameters for a Level 1 or Level 2 Solar Energy System =Special Use Permit

B. Parcel Line Setbacks. The Special Use Permit shall determine the parcel line setback to fencing for ground mounted SES equipment, excluding any poles, and wires necessary to connect to facilities of the electric utility. The setbacks shall be measured from the exterior of the fencing and gates which are required around the perimeter of all solar energy systems.

C. Height Limitations. The height of systems will be measured from the highest natural grade below each solar panel and shall be limited as follows:

Table 1

Level 1 Roof Mounted	Shall not project vertically above the peak of the sloped roof to which it is attached; or projected vertically more than 5 feet above a flat roof installation. May not exceed the maximum height for the zoning district.
Level 2 Light Industrial	20'
Level 2 Heavy Industrial	20'

D. Aviation Notification. (See Subsection I. for more information related to Airports)  
The requirements below apply only to Level 1, 2, & 3 systems over half (1/2) an acre in size:

- 1. A map analysis showing a radius of five (5) nautical miles from the center of the SES with any airport operations within this area highlighted shall be submitted with permit application.
- 2. For consideration of potential impacts to low altitude military flight paths,

notification of intent to construct the SES shall be sent to the NC Commanders Council at least 30 days before the SUP hearing for Level 3 SESs and at least 45 days before starting construction for applicable Level 1 & Level 2 SESs. Notification shall include location of SES (i.e., map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application.

3. The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used per its user's manual to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the zoning administrator, shall be sent to the authority indicated below at least 30 days before the SUP hearing for Level 3 SESs and at least 45 days before starting construction for Level 1 & Level 2 SESs. Proof of delivery of notification and date of delivery shall be submitted with permit application:
  - a. Airport operations at airport in the National Plan of Integrated Airport Systems (NPIAS) within 5 nautical miles of the center of SES: provide required information to the Federal Aviation Administration's (FAA) Airport District Office (ADO) with oversight of North Carolina.
  - b. Airport operations at airport not in the NPIAS, including military airports, within 5 nautical miles of the center of SES: provide required information to the NC Commanders Council for military airports and to the management of the airport for non-military airports.
4. Any applicable SES design changes (e.g., module tilt, module reflectivity, etc.) after initial submittal shall be rein in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in 7.b.i and 7.b.ii above for accurate records of the as-built system.

E. Level 1 Solar Energy System Requirements

1. Level 1 SESs are a permitted use provided they meet the applicable height, setback, aviation notification, and related district standards.
2. Ground-mounted solar panels may be installed for educational purposes provided that,
  - a. The primary purpose of the panels is educational and not commercial in nature;
  - b. The panels are installed as an accessory use to a school; and
  - c. The area of the installed panels is no greater than fifteen (15) feet by twenty (20) feet.

F. Levels 2 & 3 Solar Energy System Requirements. The following requirements are in addition to height, setback, aviation notification, and applicable district standards:

1. Site Plan. A site plan shall be submitted to the Zoning Administrator demonstrating compliance with:
  - a. Setback and height limitations established in Table subsection B and Table 1.

- b. Applicable zoning district requirements such as lot coverage, and
- c. Applicable solar requirements per this ordinance.

2. Safety Fencing.

- a. All SESs in Levels 2 and 3 shall be fenced around the exterior of the SES with as opaque or semi opaque fence of earth tone colors which shall be at least 6 feet in height and which shall additionally have at least 3 strands of barbed wire run above such six feet.
- b. All fencing shall be constructed so as to substantially lessen the likelihood of entry into a SES by unauthorized individuals.
- c. The fencing and barbed wire required hereunder shall be maintained in good condition. Failure to maintain the fencing and barbed wire required hereunder shall constitute a violation of this ordinance.
- d. The fencing and barbed wire requirements specified hereunder shall continue notwithstanding the fact that a SES is no longer operational and/or falls into disuse unless and until the SES is dismantled and removed from the parcel or parcels of land upon which it was constructed.

3. Gates and Locks.

- a. All gates to the fences of all SESs shall be at least 6 feet in height and which shall additionally have at least three strands of barbed wire run above such six feet.
- b. All gates to the fences of all SESs shall be equipped with locks and shall remain locked at all times except for those times when the owner and/or operator, or their respective agents is/are using the gate for ingress and/or egress or is/are otherwise present and monitoring the solar energy system.
- c. All gates to fences of all SESs shall be constructed so as to substantially lessen the likelihood of entry into a SES by unauthorized individuals.
- d. The gates and barbed wire required hereunder shall be maintained in good condition. Failure to maintain the gates required hereunder shall constitute a violation of this ordinance.
- e. The gate, barbed wire and lock requirements specified hereunder shall continue notwithstanding the fact that a SES is no longer operational and/or falls into disuse unless and until such SES is dismantled and removed from the parcel or parcels of land upon which it was constructed.

4. Evergreen Vegetative Buffer.

- a. A continuous evergreen buffer shall be present and maintained at all times around the perimeter of the exterior of the fencing and gates which are required for all SESs in Levels 2 and 3. Nothing contained herein

shall be construed so as to require such continuous evergreen vegetative buffer to block reasonable access to SES.

- b. The evergreen vegetative buffer shall be composed of evergreen trees or shrubs of a type which at planting shall be a minimum of 4 feet in height and which shall be maintained at maturity at a height of not less than 6 feet in height. The evergreen trees or shrubs shall be spaced no more than ten feet apart (from the base of tree or shrub to the base of tree or shrub).
  - c. The evergreen vegetative buffer shall be carefully planted and shall be maintained in good condition. Failure to maintain the evergreen vegetative buffer shall constitute a violation of this ordinance.
  - d. The evergreen vegetative buffer requirements specified hereunder shall continue notwithstanding the fact that a SES is no longer operational and/or falls into disuse unless and until such SES is dismantled and removed from the parcel or parcels of land upon which it was constructed.
5. Electrical Disconnect Switch. The electrical disconnect switch shall be clearly identified and unobstructed, and the owner must file a map with the City of Hamlet Police Department and City of Hamlet Fire Department showing where the disconnect switch is located. Owner must supply all current emergency contact information to the Police and Fire Departments. Owner shall update emergency contact information as soon as emergency contact information changes.
  6. Signage. A sign not to exceed 2.25 square feet shall be attached to the fence adjacent to the main access gate and shall list the facility name, owner and phone number. All other signage shall be prohibited.
  7. Noise. The inverter noise of the SES shall not exceed 40dBA at the property line.
  8. Completion. Construction must be completed within 18 months of Zoning Compliance Issuance date. Should delays occur, permit extensions must be approved by the City of Hamlet in the same manner they were originally approved by the City.
  9. Decommissioning (See Subsection G: Decommissioning Plan and Subsection H. for abandonment clause and information on decommissioning).
    - a. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with permit application -
      - (1) Defined conditions upon which decommissioning will be initiated (i.e., end of land lease, no power production for 6 months, etc.).
      - (2) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations.
      - (3) Restoration of property to condition prior to development of the SES.

- (4) The timeframe for completion of decommissioning activities.
  - (5) Description of any agreement (e.g., lease) with landowner regarding decommissioning.
  - (6) The party currently responsible for decommissioning.
  - (7) Plans for updating this decommissioning plan.
- b. Before final electrical inspection, provide evidence decommissioning plan was recorded with the Richmond County Register of Deeds.
10. Annual Reporting. The owner of the SES will provide annually on July 1<sup>st</sup> to the City of Hamlet an Energy Production Report from their purchaser to verify continued energy production.

G. Decommissioning Plan

1. Decommissioning will occur as a result of any of the following conditions:
  - a. The land lease ends
  - b. The system does not produce power for 6 months
  - c. The system is damaged and will not be prepared or replaced
2. The owner of the Facility, as provided for in its lease with the landowner, will do the following as a minimum to decommission the project.
  - a. Remove all non-utility owned equipment, conduits, structures, fencing, and foundations to a depth of at least three feet below grade.
  - b. Remove all graveled areas and access roads unless the owner of the leased real estate requests in writing for it to stay in place.
  - c. Restore the land to a condition reasonably similar to its condition before SES development, including replacement of top soil removed or eroded.
  - d. Revegetate any cleared areas with warm season grasses that are native to the Sandhills region, unless requested in writing by the owner of the real estate to not revegetate due to plans for agricultural planting.
3. All said removal and decommissioning shall occur within 6 months of the facility ceasing to produce power for sale.
4. The owner of the Facility, currently, is responsible for this decommissioning. Nothing in this plan relieves any obligation that the real estate property owner may have to remove the facility in the event the operator of the farm does not fulfill this obligation.
5. The owner of the Facility will provide the City of Hamlet Zoning Department and

the Richmond County Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner.

6. This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the City of Hamlet Zoning Department and the Register of Deeds by the party responsible for decommissioning.
- H. Abandonment Clause. A SES ceases to produce energy on a continuous basis for 6 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the SES provides substantial evidence (updated every 6 months after 6 months of no energy production) to the Zoning Administrator of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the Parcel to its condition prior to development of the SES (including removal of gravel, roads, and fencing).
1. Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible they must remove the SES and restore the site to its condition prior to development of the SES within one hundred and eighty (180) days of notice by the Zoning Administrator.
  2. If the responsible party (or parties) fails to comply, the Zoning Administrator may remove the SES, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the SES and restore the site to a non-hazardous condition.
- I. Airport. A new FAA interim policy (published 10-23-2013) for on-airport solar development requires the use of this glare assessment tool and defines the below criteria to assess acceptable risk of glare. The proposed solar energy system meets the following standards:
1. No potential for glint or glare in the existing or planned Airport Traffic Control Tower (ATCT) cab, and
  2. No potential glare or "low potential for after-image" along the final approach path for existing landing threshold or future landing thresholds (including any planned interim phases of the landing thresholds) as shown on the current FAA-approved Airport Layout Plan (ALP). The final approach path is defined as two (2) miles from fifty (50) feet above the landing threshold using a standard three (3) degree glidepath.

The following are recommended steps required to complete the aviation notification requirement in the template solar ordinance for NC for SESs near an airport

3. OFF AIRPORT solar project-
  - a. Determine if you are required to submit a filing with the Federal Aviation Administration (FAA) in accordance with CFR Title 14 Part 77.9 & follow instructions.  
(<https://oeaaa.faa.gov/oeaaa/external/gisTools/gisAction.jsp?action=showNoNoticeRequiredToolForm>)

- b. Use internet/software mapping tool (such as Google Earth or Google Map) to identify airports within 5 nautical miles of the center of the proposed solar project site.
- c. If search results indicate no airport within 5 nautical miles of the project site, append research results to the permit application.
- d. If research results indicate airport(s) within 5 nautical miles of the project site, go to [www.faa.gov/airports/planning\\_capacity/npias/reports/media/2013/npias2013AppendixB Part4.pdf](http://www.faa.gov/airports/planning_capacity/npias/reports/media/2013/npias2013AppendixB Part4.pdf) to determine if it is in the National Plan of Integrated Airport Systems (NPIAS), i.e., an FAA “obligated” airport. If you are unable to determine if the airport is in the NPIAS or require assistance, contact the FAA’s local ADO.
  - (1) Notification of airports in the NPIAS should be sent to the local ADO.
  - (2) Notification of military airports should be sent to the NC Commander’s Council via mail or email.
  - (3) Notification of all other airports should be sent to the management of the airport.
- e. Run the latest version of the SGAHT according to the user manual. Unless otherwise directed in the user’s manual, use the tool to assess for glare hazards at:
  - (1) the Airport Traffic Control Tower (ATCT) cab, and
  - (2) the final approach path for any existing landing threshold or future landing thresholds (including any planned interim phases of the landing thresholds) as shown on the current FAA-approved Airport Layout Plan (ALP). The final approach path is defined as two (2) miles from fifty (50) feet above the landing threshold using a standard three (3) degree glidepath.

On airport solar projects at FAA obligate airports must follow FAA requirements. The following are recommended steps to facilitate meeting the FAA requirements.

#### 4. ON AIRPORT Solar Projects

- a. Contact the ADO to discuss big picture concept (type of system, siting, size, environmental requirements, FAA Form 7460, etc.). This way FAA can give the proponent a general “roadmap” for the way forward (General FAA areas of concern, introduce the SGAHT Tool, if an on-airport project; give a feel for which areas ON AIRPORT can be considered for siting (per FAA safety & design standards); lease requirements on obligated airports, etc. Also, the ADO can facilitate contact between the solar proponent, the sponsor (and NCDOA if project location is on or near a State Block airport. In this case the ADO will be available to support NCDOA as requested.
- b. If the preliminary discussion, the solar proponent is still interested,

collaborate with the FAA (or NCDOA) until conceptual agreement by all parties with the FAA's lease requirements.

- c. Develop National Environmental Policy Act (NEPA) documentation to support siting alternatives & run the SGHAT Tool for all site alternatives carried forward for analysis.
  - d. Submit 7460 with Proposed Lease, NEPA analysis & SGHAT Tool Results attached to FAA ADO Review & acceptance via Obstruction Evaluation/Airport Airspace (OE/AAA) filing.
- J. Water Infiltration. The prevailing interpretation of ground-mounted solar energy systems is that the solar arrays do not count towards impervious allowance. In other words, the solar arrays are pervious. The State definition of built-upon area states built-upon area does not include a wooden slatted deck or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material. Therefore, if the solar panels can be constructed in such a manner as to promote the effective infiltration of rainfall then they could be considered pervious, similar to a slatted deck or pervious pavement. The following criteria could be used at a minimum in establishing a solar panel pervious cover:
- 1. Panels must be positioned to allow water to run off their surfaces.
  - 2. Soil with adequate vegetative cover must be maintained under and around the panels.
  - 3. The area around the panels must be adequate to ensure proper vegetative growth under and between the panels.

**Note 35. Brewery and Distillery**

- A. A Brewery or Distillery shall comply with all provisions of the ABC Commission; and
- B. A Brewery or Distillery establishment that receives a permit from the ABC Commission as a private club shall be considered a bar/tavern and shall meet all requirements for that use.  
(Approved by Council 03-08-2022)

**ARTICLE VIII. OFF-STREET PARKING AND LOADING**

**Section 8.1 Off-Street Parking Requirements**

There shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding Dwelling Units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to another, permanent off-street parking space in the amount specified by this Section. Such parking space may be provided in a parking garage or properly graded open space.

**A. Certification of Minimum Parking Requirements**

Each application for a Zoning Permit submitted to the Zoning Enforcement Officer as provided for in this Ordinance shall include information as to the location and dimensions of off- street parking and the means of entrance and exit to such space. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether or not the requirements of this Section are met.

**B. Definition of a Parking Space**

The storage space of one (1) automobile. The size of a parking space shall be in accordance with generally accepted geometric design principles for the type space and angle. (See Table 1, Geometric Design Standards).

**C. Minimum Off-Street Parking Requirements**

The following off-street Parking Space shall be required:

Classification	Off-Street Parking Requirement
<b>Residential</b>	(Any fractional space e.g., 47.3 shall be considered the next whole number, e.g., 48)
Housing designed for and used by the elderly	1 space per 4 dwelling units
Incidental Home Occupations	1 space in addition to the residential requirement
Multi-family residences	1.5 spaces per Dwelling unit
Rehabilitation homes	1 space per two beds
Congregate Care	1 space per 2 Dwelling units
Single-family and Two-Family residences (may be in a single drive with one car behind the other)	2 spaces per dwelling unit
<b>Commercial and Industrial</b>	
Auto service station and or repair shop	4 spaces per service bay, plus 1 space per wrecker or service vehicle
Auto sales	1 space per 400 square feet of building area devoted to sales
Bank and Consumer financial services	1 space per 200 square feet of gross floor area
Barber shop and other personal services	2 spaces per operator
Beauty shops	3 spaces per operator
Car washes	1 space per 2 employees
Delivery, ambulance and other similar services	1 space per vehicle, plus 1 space for each 2 employees

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Drive-through service such as banks, automobile service stations, dry cleaners, car washes and similar uses (in addition to use Requirements)	Stacking for 4 vehicles at each bay, window or lane
Dry cleaners or laundries (self-service)	1 space per 4 rental pieces of equipment
Eating establishments and night clubs serving meals	10 spaces, plus 1 for every 3 seats.
Fire Stations	1 space per Person on Duty on a normal shift
Hotel, motel, motor court and similar uses	1 space per unit, plus 2 spaces per 3 employees on a normal shift
Mobile home sales	5 spaces, plus 1 space per 10,000 square feet of gross area
Manufacturing, industrial, warehousing and wholesaling	1 space per 3 employees on the largest shift
Post offices	1 space per 200 square feet of public service, area, plus 2 spaces per 3 employees on the largest shift.
Retail sales except those listed below	1 space per 200 square feet of gross floor area.
Retail sales of bulky items which require high rates of floor space to the number of items offered for sale such as antiques, appliances, art, bicycles, carpet, floor covering, furniture, motorcycles, paint, upholstery, and similar uses	1 space per 300 square feet of gross floor area.
Retail uses dealing primarily in service and/or repair	1 space per 200 square feet of gross floor area.
Designed shopping centers	5 spaces per 1,000 square feet of gross floor area (optional to computing parking on a store by store basis).
Radio, TV stations	2 spaces per 3 employees on the largest shift
Transportation terminals such as airports, bus terminals and railroad passenger stations	1 space per 4 seating accommodations for waiting passengers, plus 1 space for each 2 employees on the largest shift.
Wholesale with related retail	1 space per 3 employees on the largest shift, plus additional spaces per square foot of gross floor area devoted to retail sales as applicable from "retail sales" schedule above.
<b>Office and Institutional:</b>	
Child care and kindergarten less than 6 children	1 space per teacher or staff, plus space for 1 car dropoff and pickup.
Child care and kindergarten, more than 6 children	1 space per teacher or staff, plus stacking for 4 cars for drop off and pick-up or stacking for 1 car per 10 children, whichever is greater.
Churches	1 space per 4 seats in the largest assembly room.
Dormitories	1 space per 4 beds.
Fraternity, sorority houses	1 space per 2 beds.
Elementary and junior high schools	5 spaces, plus 1 space per teacher or staff.
Funeral homes	1 space per 4 seats in the main chapel.
General Offices	1 space per 200 square feet of net rentable area (net rentable area shall be considered to be 80% of gross floor area unless otherwise shown by applicant).
Hospital, nursing and convalescent homes	1 space per 2 beds, plus 1 space per staff doctor.
Library, museum, and art galleries	1 space per 300 square feet of gross floor area.
Medical, dental, and similar offices	7 spaces per doctor or practitioner.
Nursing, convalescent homes designed and used primarily for the elderly	1 space per 3 beds, plus 1 space per staff doctor.
Orphanage, juvenile homes	1 space per 2 beds.

Senior high schools, trade and vocational schools, college or university campus	7 spaces per classroom.
Auditoriums, stadiums, assembly halls and gymnasiums located on a high school, college or university campus	1 space per 12 fixed seats and 1 space per 12 movable seats in the largest assembly room.
<b>Recreation:</b>	
Amusement, dance halls, nightclubs not serving meals	1 space per 3 persons in designed capacity, plus 2 spaces per 3 employees on the largest shift.
Auditoriums, stadiums, assembly halls, convention centers, gymnasiums, fraternal or social clubs or lodges, community recreation center	1 space per 3 fixed seats and 1 space per 3 movable seats in the largest assembly room.
Bowling alleys	4 spaces per lane.
Golf courses	4 spaces per tee.
Indoor movie theaters	1 space per 3 fixed seats and 1 space per 3 movable seats.
Public swimming pools	1 space per 100 square feet of water area and deck.
Recreation uses such as golf driving range, miniature golf, tennis, billiards or pool centers or similar recreation uses	1 space per tee, green, court and/or other method of participation however styled.
Recreation facilities such as community center, swimming pool, tennis courts, and similar activities when located in conjunction with a townhouse, condominium, group housing or homeowner association development	1 space per 25 memberships or tenants.

**D. Combination of Required Parking Spaces**

The required parking spaces for any number of separate uses may be combined in one lot or parking structure, but the required parking spaces assigned to one use may not be assigned to another use at the same time.

**E. Day Time/Night Time Assignments**

One-half (1/2) of the required parking spaces for churches, theaters, or assembly halls whose peak attendance is at night or Sundays may be assigned to a use which will be closed at night or Sundays.

**F. Lighting**

If parking areas are lighted, the lighting fixtures shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference of any kind.

**G. Remote Parking**

On all off-street parking lots, the required space shall be provided on the same plot with the use or on a lot separated therefrom by not more than four hundred (400) feet, except for residential uses which must be provided on the same plot.

Where provision of required off-street parking for a building or other uses established subsequent to the adoption of this Section involves one (1) or more parcels or tracts of land that are not a part of the plat on which the principal use is situated, the applicant for a permit for the principal use shall submit with his application for a Zoning Permit an

instrument duly executed and acknowledged, which subjects the parcels or tracts of land to parking uses in connection with the principal use for which it is made available. The applicant shall cause said instrument to be registered in the office of the Register of Deeds upon the issuance of a Zoning Permit.

Parking one Zoning District in connection with a use not permitted in that District shall be permitted in accordance with the following:

1. Business and Office and Institutional uses may park in Industrial Districts.
2. Industrial and Office and Institutional uses may park in Business Districts.
3. Residential uses may park in Business, Office and Institutional and Industrial Districts.

In addition, any use located in one Zoning District which is also a permitted use in another Zoning District may also park in such other Zoning District in which the use is permitted.

### **Section 8.2 Parking Lot Improvement, Design and Locational Requirements**

All off-street parking lots including exits, entrances, drives and parking areas shall:

- A. Be designed to allow for traffic movement in accordance with generally accepted geometric design principles;
- B. Have physical access to a public street;
- C. Be so designed that all access to public street is by forward motion;
- D. Be graded, properly drained, stabilized and maintained to prevent dust and erosion;
- E. Be continuously provided and maintained as long as the use which they serve exists.

No parking lot designed or provided for more than six (6) cars shall be located in the required front yard within the R-10 or R-8 Residential Districts.

Within the O-I Office and Institutional District, parking lots may be located in the front yard but lots of six (6) or more cars shall not be located within 10 (ten) feet of any public right-of-way line. When a parking lot with space for more than ten (10) cars adjoins any plot zoned for residential purposes, a screening device as defined in article X shall be provided to protect residences from light, glare, noise and fumes.

Any open-air parking lot which provides twenty-five (25) or more parking spaces shall set aside, in addition to any required screens, setbacks or buffers, ten (10) percent of the total area of the parking lot in planted, permeable landscaped areas such as median strips and islands. Parking spaces must be shaded by trees (either retained or planted by the developer) that have or will have when fully mature, a trunk at least twelve inches in diameter. Trees shall be evenly distributed throughout vehicle accommodation areas so as to maximize the number of parking spaces that receive shade. When trees are planted by the developer to satisfy the requirements of this subsection, the developer shall choose trees that meet the standards set forth in the City of Hamlet Tree Ordinance (See Appendices; Appendix A). and must be approved by the City Horticulturist or officer as designated by the City Manager.

Each tree of the type described in this subsection shall be presumed to shade a circular area having a radius of fifteen feet with the tree as the center, and there must be sufficient trees so that, using this standard, twenty percent of the vehicle accommodation will be shaded.

**Section 8.3 Commercial Motor Vehicle Parking Prohibited**

The parking of commercial motor vehicles is prohibited on all residential lots and other residential properties. This subsection shall not prevent (i) a vehicle from being parked while being loaded or unloaded; (ii) the temporary parking of a vehicle being used by persons working at a residence (for example an electrician's or carpenter' s van, or a landscaping truck and trailer); or (iii) the temporary parking of a vehicle driven to and from work, provided that such vehicle does not meet the definition of "commercial motor vehicle."

**Section 8.4 Off-Street Loading Requirements**

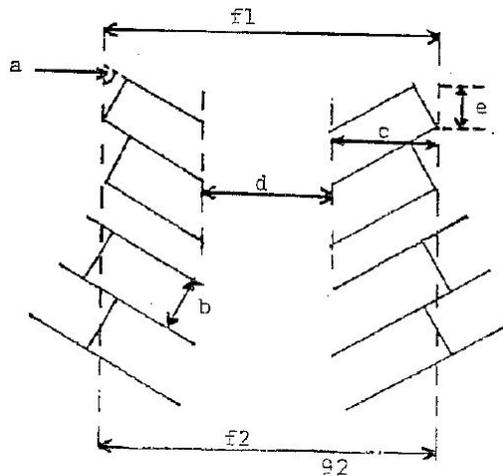
Every structure or building used for trade, business or industry hereafter erected shall provide space as indicated herein for the loading, unloading and maneuvering space of delivery vehicles off the street or public alley. Such space shall have access to a public alley, private driveway, or if such cannot reasonably be provided, to a public street. For the purpose of this Section an off-street loading space (exclusive of adequate access drives and maneuvering space) shall have a minimum dimensions of twelve (12) feet by forty (40) feet and an overhead clearance of fourteen (14) feet in height above the alley or street grade.

Type of Use	Required Off-Street Loading Spaces
Retail Business	1 space for each 20,000 square feet of gross floor area or fraction thereof
Wholesale and Industries	1 space for each 20,000 square feet of gross floor area or fraction thereof
Office and Institutions	1 space for each 50,000 square feet of gross floor area or fraction thereof

Table 1 Geometric Design Standards						
a	b	c	d	e	f1	f2
Parking Angle (Degrees)	Stall Width (ft)	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	8.5	8.5	12.0	23.0	29.0	-
	9.0	9.0	12.0	23.0	30.0	-
	9.5	9.5	12.0	23.0	31.0	-
	10.0	10.0	12.0	23.0	32.0	-
30	8.5	16.9	11.0	17.0	44.8	37.4
	9.0	17.3	11.0	18.0	45.6	37.8
	9.5	17.8	11.0	19.0	46.6	38.4
	10.0	18.2	11.0	20.0	47.4	38.7
45	8.5	19.4	13.5	12.0	52.3	46.3
	9.0	19.8	13.0	12.7	52.6	46.2
	9.5	20.1	13.0	13.4	53.2	46.5
	10.0	20.5	13.0	14.1	54.0	46.9
60	8.5	20.7	18.5	9.8	59.9	55.6
	9.0	21.0	18.0	10.4	60.0	55.5
	9.5	21.2	18.0	11.0	60.4	55.6
	10.0	21.2	18.0	11.5	61.0	56.0
90	8.5	19.0	25.0	8.5	63.0	-
	9.0	19.0	25.0	8.5	63.0	-
	9.5	19.0	24.0	9.5	62.0	-
	10.0	19.0	24.0	10.0	62.0	-

(\*) 8.5' Minimum

(\*) 9.0' Recommended



## ARTICLE IX SIGN REGULATIONS

### Section 9.1 Purpose

- A. The purpose of this Article shall be to coordinate the type, placement, and physical dimensions of signs within the different land-use zones; to recognize the commercial communication requirements of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment under the law through accurate record keeping and consistent enforcement. These shall be accomplished by regulation of the display, erection, use and maintenance of signs. No sign shall be permitted as a main or accessory use except in accordance with the provisions of this Article.
- B. Refer to Article II, Section 2.2, "Definitions," for terms relating to signage.

### Section 9.2 General Requirements

- A. Unless otherwise provided by this Article, all signs shall require a sign permit and the payment of an application fee in accordance with the fee schedule set by the City Council.
- B. No permit is required for the maintenance of a sign or for a change of copy on painted, printed, or marquee signs.
- C. Application for a permit for the erection, alteration, or relocation of a sign shall be made to the zoning officer upon a form provided by the zoning officer and shall include the following information:
  - 1. Name and address of the owner of the sign;
  - 2. Street address or location of the property on which the sign is to be located, along with the name and address of the property owner;
  - 3. The type of sign or sign structure as defined in this Ordinance;
  - 4. A site plan showing the proposed location of the sign along with the locations and square footage areas of all existing signs on the same zoning lot; and
  - 5. Specifications and scale drawings showing the materials, design, dimensions, structural supports, and electrical components of the proposed sign.
- D. All applications for permits filed with the zoning officer shall be accompanied by a payment of the permit fee for each sign according to the fee schedule as set by the City Council.
- E. All signs shall be constructed in accordance with the requirements of the North Carolina State Building Code.
- F. Anchoring
  - 1. No sign, permanent or temporary, shall be suspended by non-rigid attachments that will allow the sign to swing in the wind.

2. All free-standing permanent signs shall have a self-supporting structure erected on or permanently attached to a foundation.
  3. All temporary signs on display shall be braced or secured to prevent motion.
- G. Solid signs, other than wall signs, and skeleton signs shall be designed to withstand a wind load as required by the North Carolina State Building Code.
- H. Additional Construction Specifications
1. No sign shall be erected, constructed or maintained so as to obstruct any fire escape, required exit, window or door opening used a means of egress.
  2. No sign shall be attached in any form, shape, or manner which will interfere with any opening required for ventilation, except that signs may be erected in front of and may cover transom windows when not in violation of the provisions of the North Carolina State Building Code.
  3. Signs shall be located in such a way as to maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the North Carolina State Building Code.
  4. Signs and their supporting structures shall maintain clearance and noninterference with all above ground and underground facilities and conduits for water, sewage, gas, electricity, or communications equipment or lines. Furthermore, placement shall not interfere with natural or artificial drainage, of surface or underground water.
  5. No sign or sign structure shall impair the visibility of intersecting streets and driveways.
  6. Setbacks. All signs shall be placed in accordance with the setback regulations of each zone found in the Hamlet Zoning Ordinance.
- I. All signs shall be properly maintained. Exposed surfaces shall be clean and painted, if paint is required. Defective parts shall be replaced.
- J. Any sign causing a public nuisance may be summarily abated in accordance with the process set forth in Hamlet Code of Ordinances Chapter 17, Article III, "Nuisances." Temporary signs placed on City-owned property or in the right-of-way of a City-maintained public street may be summarily removed, unless said signs are lawfully placed in accordance with this Article. All other violations of this Article shall be enforced in accordance with Section 11.5 of this ordinance.

### **Section 9.3 Exemptions**

The following types of signs are exempt from permit requirements but must be in compliance with all other requirements of this ordinance:

- A. Sign unlighted, not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, and the name of the owner or occupant of the zoning lot. Such signs shall not exceed two (2) feet in area per occupant. If more than one (1) sign or nameplate is required, the total allowable sign area shall not exceed eight (8) square feet for each zoning lot.

- B. Any flag in the R-20, RA-20, R-10, R-8, R-6, or R6-M zoning districts, provided that it does not exceed a total area of 100 square feet (100) square feet or a height of thirty-five (35) feet. Any flag in O-I, B-1, B-2, B-3, I- I , or 1-2 zoning districts, provided that it does not exceed a total area of 200 square feet or a height of fifty (50) feet.
- C. Legal notices and warning, traffic, and other regulatory signs erected by any public agency or utility.
- D. Integral decorative or architectural features of buildings, including signs which denote only the building name, date of erection or street number.
- E. Signs directing and guiding traffic and parking on public or private property.
- F. The repair and maintenance of a conforming sign including replacement of copy which otherwise conforms with this ordinance.
- G. Historical markers or plaques.
- H. Temporary signs painted or displayed on the interior or exterior of buildings located in the B- I, B-2, B-3, O-I, I-1, and 1-2 zoning districts.
- I. Temporary signs, subject to the following restrictions:
  - 1. No more than five (5) temporary signs may be placed on a property at one time;
  - 2. Temporary signs shall not be greater than eight (8) square feet in size;
  - 3. Temporary signs shall not be lighted or have digital copy;
  - 4. Temporary signs may be two-sided;
  - 5. No temporary sign may be placed on a property for more than sixty (60) days within a single four-month period;
  - 6. Temporary signs are allowed on property only with the permission of the property owner or the owner's agent;
  - 7. All temporary signs are prohibited from flashing; and
  - 8. This subsection shall be preempted by applicable State and federal law.

This subsection is in addition to temporary signs authorized with a permit pursuant to section 9.5 of this ordinance.
- J. Political Signs in NC DOT Rights-of-Way. Temporary political signs are subject to the same regulations as other temporary signs except that they may be placed in the right-of-way of the State highway system (i.e. in NC DOT rights-of-way) in accordance with G.S. § 136-32(b)-(f).
- K. Temporary Signs for Special Events.
  - 1. In addition to other temporary signs authorized by this ordinance, a zoning lot may have temporary signs and associated decorations for special events such as grand openings and holiday celebrations. Although this subsection primarily

regulates special event signs, other content may be utilized on any sign permitted by this subsection.

2. Signs permitted under this subsection include portable signs, banners, and changeable copy signs.
  3. The area of a sign permitted by this subsection shall not exceed thirty-two (32) square feet.
  4. Only one (1) sign shall be allowed for each 100 lineal feet of road frontage. Such signs shall be securely anchored so as to prevent motion and comply with all the applicable NC State Building Code requirements.
  5. No flashing lights may be used as part of or otherwise in connection with a sign.
  6. Signs and associated decorations may be erected for no more than twelve (12) weeks in a single year, with the year period beginning on the date the sign is erected.
  7. No permit shall be required for these signs, but a log sheet for each sign shall be kept in the office of the code enforcement officer. It shall be the responsibility of property owner or tenant to notify the office of the code enforcement officer when one (1) of the twelve (12) weeks is to be used. Such notification shall be twenty-four (24) hours prior to the erection of the sign.
  8. Signs (i) placed in the public right-of-way, (ii) attached to utility poles, (iii) posted in excess of the authorized twelve-week period, and/or (iv) posted without the required twenty-four hour advance notice shall be deemed illegal and may be removed by the code enforcement officer immediately. Upon removal, the code enforcement officer shall hand deliver notice of such removal to the property owner or tenant. The code enforcement officer shall make a good-faith effort to securely store all removed signs for a minimum of thirty (30) days, but the city has no obligation to do so and said signs may be summarily disposed of. Moreover, the city shall have no liability whatsoever for damage to signs removed pursuant to this subsection. A storage and administrative fee shall be charged for each sign retrieved from the city.
- L. Signs Erected While a Building or Other Structure is Under Construction.
1. In addition to the other signs authorized by this ordinance, during the construction of a building or other structure, in residential zoning districts a property may have one (1) sign not exceeding thirty-two (32) square feet in area on each street frontage of the property.
  2. In addition to the other signs authorized by this ordinance, during the construction of a building or other structure, in all other zoning districts a property may have one (1) sign not exceeding sixty four (64) feet square feet in area on each street frontage of the property. Such signs must be removed two (2) days following completion of construction.
- M. Pursuant to G.S. 160D-908, fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation until the certificate of occupancy is issued for the final portion of any construction at that site or twenty-four (24)

months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of twenty-four (24) months from the time the fence wrap was installed, the fence wrapping shall be subject to regulation under this Article but fence wrapping materials shall continue to be allowed to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

### **Section 9.4 Permitted Signs**

- A. Signs are allowed as follows in residential zones:
  - 1. One (1) freestanding sign per entrance to any subdivision. Such signs shall not exceed forty (40) square feet in area, shall have a maximum height of six (6) feet, and shall be set back a minimum of ten (10) feet from any public right-of-way.
  - 2. In addition to the sign authorized by subsection 9.4.A.1, above, non-residential uses allowed in residential areas including, but not limited to, churches and synagogues- may also have one (1) wall mounted sign not to exceed fifteen (15) square feet in sign area.
  
- B. Signs are allowed as follows in the general business (B-2), neighborhood commercial (B-3), and office (O-I) zones:
  - 1. Freestanding Signs.
    - a. One (1) freestanding sign per zoning lot, not to exceed fifty (50) square feet in sign area. Such signs may not exceed a height of twenty (20) feet. All freestanding signs within a vehicular area must be protected by a curbing, landscape area or other similar type permanent barrier.
    - b. Where a lot is on a corner or has more than one main street frontage, one (1) additional freestanding sign will be allowed on the additional frontage, not to exceed the size of the other allowed freestanding sign.
    - c. A freestanding sign shall have a minimum setback of five (5) feet from any public right-of-way.
  - 2. An establishment may have one (1) wall sign per street frontage. Each wall sign may have a square footage of up to sixty (60) percent of the number of linear feet of building frontage, provided that no sign may be greater than one hundred square feet. The sign shall not exceed the height or the width of the building wall on which it is attached. Wall signs shall conform to the North Carolina State Building Code and all applicable City Codes.
  - 3. One (1) under canopy sign per establishment, not to exceed six (6) square feet in sign area and maintains a clear distance of at least eight (8) feet between the sidewalks and the bottom of the sign.
  - 4. Any zoning lot having more three (3) establishments may also have one (1) additional freestanding, wall, or marquee style sign, the area of which shall not exceed 300 square feet.
  
- C. Signs are allowed as follows in the central business (B-1) zone:

1. One (1) permanent, freestanding-sign is permitted for each lot. The area of the sign shall not exceed sixty (60) square feet. Any such freestanding sign shall not exceed twenty (20) feet in height. The sign shall not be located in the public right-of-way.
  2. Wall signs mounted against the facade of a principal building may cover up to twenty percent (20%) of the total area of each facade.
  3. One (1) sign projecting from a building facade per street frontage shall be allowed for each business establishment in the absence of flat-mounted wall signs. Such sign shall not project more than five (5) feet from the building facade and shall not exceed twenty-five (25) square feet in area for each side. Projecting signs, where permitted, shall not extend above the top of the building facade. Such sign shall maintain a clear distance of at least eight (8) feet above the sidewalk.
  4. One sign per establishment may be suspended from or attached to the underside of a canopy or marquee, provided such sign does not exceed six (6) square feet in area and maintains a clear distance of at least eight (8) feet between the sidewalk and the bottom of the sign.
- D. The following signs are allowed in industrial zones (the I-1, and I-2 zones):
1. Freestanding Signs.
    - a. One (1) freestanding sign per zoning lot, not to exceed 200 square feet in sign area. Such signs shall not exceed a height of thirty-five (35) feet.
    - b. Where a zoning lot has in excess of 150 feet of street frontage, one additional freestanding sign will be allowed for each additional 150 feet of street frontage or portion thereof.
    - c. Such signs shall be subject to the size and height limitations of the first allowed freestanding sign and may be placed no closer than 150 feet to any freestanding sign on the same zoning lot.
    - d. Where a zoning lot has more than one (1) street frontage, one (1) additional freestanding sign and additional wall signs are allowed on the additional frontage, not to exceed the size limitations of other allowed wall and freestanding signs. All freestanding signs located on the corner lot shall be separated by 150 linear feet.
    - e. All freestanding signs must have a sixteen-foot clearance from the ground which is utilized by vehicular traffic. This minimum clearance shall be waived by the code enforcement officer if the freestanding sign is protected by barriers, such as landscaping, curbing, or other such permanent barriers.
    - f. A projecting sign may be used instead of any allowed wall or freestanding sign, not to exceed a sign area of one (1) square foot for each linear foot of any occupancy's building frontage up to a maximum of thirty (30) square feet.
    - g. All allowed freestanding signs shall have a minimum setback of twenty (20) feet from any street right-of-way.

2. An establishment may have one (1) wall sign per street frontage. Each wall sign may have a square footage of up to sixty (60) percent of the number of linear feet of building frontage, provided that no sign may be greater than one hundred square feet. The sign shall not exceed the height or the width of the building wall on which it is attached. All wall signs must comply with NC State Building Code and all applicable city codes.
3. One (1) under canopy sign per establishment, not to exceed six (6) square feet in sign area.
4. Any zoning lot having more than three (3) establishments may also have one (1) additional freestanding, wall, or marquee style sign, the area of which shall not exceed 300 square feet.
5. Outdoor Advertising Signs.
  - a. Signs in the I-1 and I-2 Districts. New and existing outdoor-advertising signs shall be permitted in industrial zones (the I-1 and I-2 zones). Such signs shall meet all building setbacks and yard requirements of the zoning district and in addition shall not be closer than one hundred (100) feet to a residential zone and at least 200 feet from a residence. Three hundred (300) feet shall separate one (1) outdoor advertising sign from another on the same side of the street or around a corner. On an unoccupied lot, one (1) outdoor advertising sign is permitted for each three hundred (300) feet of street frontage or portion thereof. One (1) Outdoor advertising sign shall not exceed three hundred square feet in area and shall not exceed thirty-five (35) feet in height.
  - b. Signs in the B-2 District. New outdoor advertising signs are prohibited in the general commercial zone (the B-2 zone). Outdoor advertising signs existing as of the effective date of this ordinance are permitted to remain, but they are hereby declared to be lawful nonconformities, which must comply with the requirements of section 9.7, "Nonconforming Signs."
  - c. To the extent that the North Carolina Outdoor Advertising Control Act, G.S. 136-126, et. seq., preempts the regulation of an outdoor advertising sign by the City, then the requirements of the Outdoor Advertising Control Act and applicable State regulations shall control.
- E. Gas Price Signs. An establishment located in the general commercial, neighborhood commercial, heavy industrial zones (the B-2, B-3, and I-2 zones), may have one additional sign with changeable copy. One (1) such sign is permitted for each frontage on a public street, provided it does not exceed eight (8) square feet in area. Any such sign shall be affixed to a permitted freestanding identification sign, to a canopy support, or flat-mounted against the wall of a building. The primary purpose of this subsection is to allow this display of information that changes regularly, such as gasoline prices, but the content of this sign shall not be restricted and may include content other than gas prices.
- F. Entertainment and Recreation Venues. Signs may be placed on fencing at entertainment and recreation venues, provided that (i) the cumulative area of said signs does not exceed 60% of the total area of the fencing and (ii) the signs are directed toward persons inside the venue and are not primarily intended to be seen by persons outside of the venue.

G. Special Regulations for Hospitals.

1. A hospital, regardless of the zoning district in which it is located, may utilize the signage requirements for uses located within the B-2 zoning district, or it may use the alternative signage requirements set forth in this subsection. A hospital may not use both standards simultaneously. A hospital may have the following signs:
  - a. One (1) permanent, freestanding sign with a maximum height of twelve (12) feet and a maximum width of twenty-four (24) feet, six (6) inches. The sign may have two faces and shall not be located in a public right-of-way;
  - b. One (1) permanent, freestanding sign with a maximum height of seven (7) feet, six (6) inches and a maximum width of thirteen (13) feet. The sign may have two faces and shall not be located in the public right-of-way;
  - c. One (1) permanent, freestanding sign with a maximum height of six (6) feet and a maximum width of five (5) feet, five (5) inches. The sign may have two faces and shall not be located in a public right-of-way;
  - d. Two (2) permanent, freestanding signs, each with a maximum height of four (4) feet and a maximum width of three (3) feet, one (1) inch. The signs may have two faces and shall not be located in a public right-of-way;
  - e. One (1) permanent, wall sign a maximum of eleven (11) feet, two (2) inches in height and a maximum of twenty-six (26) feet, four (4) inches in width. The wall sign may be located anywhere on the hospital building at or below the highest point on the building; and
  - f. Such other incidental traffic and wayfinding signs as may be necessary to direct traffic to and away from hospital building entrances and parking areas.
2. Hospital signs may be internally lit, provided that such lighting is designed to minimize glare that escapes the property.
3. All hospital signage, including internal wayfinding signage, shall have a consistent, unified design and color scheme.

**Section 9.5 Illumination**

Unless otherwise specified by this ordinance, all signs may be illuminated. However, no sign regulated by this Ordinance may utilize:

- A. An exposed incandescent lamp with an external reflector and without a sunscreen or comparable diffusion.
- B. A revolving beacon light.
- C. All signs illuminated under the provisions of this section shall be constructed to meet the requirements of the North Carolina State Building Code.

- D. A sign located in the B-2, B-3, I-1, or I-2 zoning district which maintains a clearance of sixteen (16) feet above the adjacent ground level may utilize flashing, intermittent, or moving lights. Otherwise, such lights are prohibited.
- E. Self-illuminated signs shall be limited to those lights enclosed by glass or plastic faces bearing the advertisement.
- F. All illuminated signs shall be shielded so as to prevent direct rays from being cast into a residential area or district and/or vehicles approaching on a public right-of-way from any direction. Such lighting shall also be shielded as to prevent direct view of the light source from a residence or residential district and/or vehicles approaching on a public right-of-way from any direction.

### **Section 9.6 Prohibited Signs**

The following types of signs are prohibited in all districts:

- A. Signs imitating or resembling official traffic or government signs or signals.
- B. Signs which, because of their location, nature, color, shape, or message would tend to be confused with, or obstruct the view of, traffic and emergency signals of signs.
- C. Snipe signs or signs attached to trees, utility poles and/or their supporting guide wires, public benches, and or light poles, even if these items are located on private property.
- D. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign (This does not apply to allowed temporary signs or to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).
- E. Signs which rotate or otherwise move either by mechanical means or other means including wind, water, or solar.
- F. Roof signs, unless such a roof sign is specifically designed so that the sign is an integral part of the roof structure or the applicant can provide the necessary information to illustrate that the roof structure can and will support said sign. In no instance shall the top of the sign extend higher than the highest point of the roof.
- G. Signs located within a B-2, I-1, or I-2 zoning district or which do not maintain a sixteen (16) foot clearance from ground level, which contain, include or are lighted by any flashing, intermittent or moving lights are prohibited, except those portions of signs providing a noncommercial message. such as, but not limited to, time, temperature, and date.
- H. Permanent off-premises signs.

### **Section 9.7 Nonconforming Signs**

- A. Existing signs which were lawfully erected but do not conform to the current provisions of this Article shall be deemed lawful nonconformities, provided that such signs shall lose their lawful nonconforming status if:
  - 1. The sign is relocated or replaced; or
  - 2. The structure or size of the sign is altered in any way except towards compliance with this Article. This does not refer to change of copy or normal maintenance.

- B. A nonconforming sign is subject to all of the requirements of this Article regarding safety, maintenance, and repair. However, if the sign suffers more than 50% percent appraised damage or deterioration, it must be brought into conformance with this code or removed.

## ARTICLE X. SCREENING REQUIREMENTS

### Section 10.1 Screening Requirements for Non-Residential Zoning Districts

Any non-residential use located in either the B-1, B-2, B-3 Business Districts, the O-I Office and Institutional District, or the I-1 and I-2 Industrial Districts and located on property abutting any RA-20, R-20, R-10, R-8, R-6, or R-6M Residential Districts, unless separated by a public street or railroad right-of-way, shall provide a screening device as described below. Such screening device shall be provided along the full length of any common property line and shall be maintained as long as the conditions requiring the original installation exists. The requirement for the installation of a screening device shall be initiated by the occurrence of any one or more of the Following activities on the non-residential property:

- A. The initial use, development or occupancy of the non- residential property;
- B. Any change in use or occupancy of the non-residential property which results from a change in the zoning classification of the non-residential property; and/or
- C. Any building expansion that increases the floor area of the non-residential use or any addition of parking that provides ten (10) or more spaces, whether required or not.

The screening device shall be provided by the non-residential use even if the abutting residentially zoned property is vacant.

**Screening Device** - A screen that is at least ninety percent (90%) opaque from the ground to a height of at least six (6) feet. The screen is intended to exclude completely all visual contact between uses and to create a strong impression of spatial separation.

The screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation.

In any case where vegetation, either existing or proposed, is to be used as the required screening device, if the vegetation is to be less than ten (10) feet in width (thickness), a fence, wall or similar device at least fifty (50) percent opaque and six (6) feet in height shall be used in combination with the vegetation. In all cases, the screen must be at least ninety (90) percent opaque in all seasons of the year.

## ARTICLE XI. ADMINISTRATION, ENFORCEMENT AND PENALTIES

### Section 11.1 Zoning Enforcement Officer

This Ordinance shall be administered and enforced by the Zoning Enforcement Officer who shall be appointed by the City Manager. The Zoning Enforcement Officer may appoint agents to act on their behalf. The Zoning Enforcement Officer shall be responsible for the following:

A. Inspections

The Zoning Enforcement Officer is authorized to enter any premises within the jurisdiction of the City of Hamlet at all reasonable hours for the purposes of inspection or other enforcement action upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

B. Notice of Violation

When the Zoning Enforcement Officer determines work or activity has been undertaken in violation of a development regulation, other local development regulation, or any State law delegated to the City for enforcement purposes in lieu of the State, or in violation of the terms of a development approval, a written notice of violation may be issued.

1. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property.
2. The notice shall include a description of the violation and its location, the measures necessary to correct the violation, the possibility of civil penalties and judicial enforcement action if the violation is not corrected, and notice of right to appeal the violation. The notice shall also state the time allowed, if any, to correct the violation, which time may vary depending on the nature of the violation and knowledge of the violator.
3. The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to G.S. 160D-405 and Article XII, Section 12.1.

C. Revocation of Development Approval

In addition to initiation of enforcement actions pursuant to G.S. 160D-404, development approvals may be revoked by the City by notifying the owner in writing stating the reason for the revocation. The City shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications for refusal or failure to comply with the requirements of any applicable development regulation or any State law delegated to the City for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in

securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by City staff may be appealed to the Board of Adjustment pursuant to G.S. 160D-405 and Article XII, Section 12.1. If an appeal is filed, the provisions of G.S. 160D-405(e) and Section 12.1.E regarding stays apply.

D. Determinations

The Zoning Enforcement Officer shall be responsible for making decisions and determinations regarding the implementation of development regulations contained within this Ordinance. Within 14 days after a decision on an administrative determination is made, a copy of the decision shall be provided to the property owner or party seeking determination, if different from the owner via written notice by personal delivery, electronic mail, or first-class delivery. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner. A copy of the decision shall also be filed with the Zoning Enforcement Officer, where it shall be available for public inspection during regular office hours.

E. Development Approvals

The Zoning Enforcement Officer must issue development approvals, including permits, in print or electric form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this ordinance attach to and run with the land.

F. Conflict of Interest

The Zoning Enforcement Officer shall not make a final decision on an administrative decision if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship.

G. Administrative Modifications

Occasionally, unanticipated circumstances require changes to approved development plans and permits, including developer agreements and site-specific vesting plans. In accordance with NCGS 160D-403.(d), the City of Hamlet allows for minor modifications to be administratively approved, however, all major modifications require the same procedures to be followed as were completed for the original approval. This administrative flexibility reduces the need for a full approval process to accommodate a limited change to the plans for a project.

1. Major Modifications

The following are considered major modifications and shall not be approved administratively. These changes must follow the same process as the original approval.

- a. Any change in land use.

- b. Any change in density.
- c. When there is introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access.
- d. When the total floor area of a commercial or industrial classification is increased more than ten percent (10%) beyond the total floor area last approved by City Council.
- e. A change in the type of proposed dwelling unit (eg. SF detached to Townhouse)
- f. When the number of existing trees to be preserved is decreased more than ten percent (10%) beyond the number of trees shown on the approved plans.
- g. Any change that would increase traffic beyond the levels projected in the approved Transportation Impact Analysis (TIA)
- h. Any increase the stormwater impact beyond what was identified in the approved stormwater analysis for the project.
- i. Any change which alters the basic development concept of the approval.
- j. Any net reduction in the area of a buffer or a reduction in width of more than ten (10%) percent of the approved width.
- k. For developer agreements, any change in deadlines or completion dates in excess of three (3) months.
- l. Any minor modification beyond the permitted number of modifications for a specific approval.

2. Minor Modifications

The Zoning Enforcement Officer is authorized to review and approve (or deny) administratively a minor modification to an approved Special Use Permit, Major Subdivision, Site Plan, or Vesting Plan, subject to the following limitations.

a. General Limitations

The minor modification shall meet the following:

- (1). Does not involve a change in the uses permitted or the density of overall development permitted.
- (2) Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and
- (3) In compliance all other ordinance requirements.
- (4) Limited to one (1) modification per development approval in a six (6) month period, unless one (1) single site issue necessitates

more than one modification. In no instance, however, shall there be more than four (4) modifications for the life of the project.

- (5) Is necessitated due only to an unanticipated site condition discovered during construction, a change in availability of a construction-related product, extraordinarily weather or other forces of nature, or a change on an off-site condition to which the applicant had no prior knowledge.

b. Site Design

Site design minor modifications are limited adjustments to the terms or design of an approved development plan or plat, including a site plan attached as a condition to a special use permit. In addition to the general limitations for minor modifications, a site design minor modification must:

- (1) Comply with underlying zoning standards and other applicable conditions of the approval;
- (2) Be limited to a minor change such as, without limitation, a minor adjustment to road configuration or internal circulation, a minor adjustment to building or internal driveway location, or a minor adjustment to right-of-way location.

c. Dimensional Standards

Dimensional standard minor modifications are adjustments to the dimensional standards of the zoning ordinance. In addition to the general limitations for minor modifications, dimensional standard minor modifications are limited to:

- (1) An adjustment to parking requirements up to the greater of five (5) spaces or ten (10) percent.
- (2) An adjustment to setback requirements up to greater of five (5) feet or ten (10%) percent of the standard setback.
- (3) An adjustment to landscape standards up to ten (10%) percent of required landscaping.

## **Section 11.2 Zoning Permit**

No land shall be used or occupied and no building hereafter structurally altered, erected, or moved, shall be used, or its use changed until a Zoning Permit shall have been issued by the Zoning Enforcement Officer stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance. No Building Permit shall be issued and no building shall be occupied until that Permit is approved. A record of all Permits shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished, on request, to any persons having a proprietary or tenancy interest in the building erected. The Zoning Enforcement Officer shall collect such fees for the issuance of Zoning Permits as are authorized by the fee schedule as adopted by the City Council. The issuance of a valid Zoning Permit shall come with it the right to undertake and complete the development and/or use of property under the terms and conditions of such Permit provided that such action as authorized by the

permit is commenced within one hundred eighty (180) days of issuance and provided that all other permits are obtained. Otherwise the Permit shall be void.

**A. Application Procedures**

Applications shall be submitted by the landowner, a lessee or person holding an option or contract to purchase or lease land, or a person acting on the behalf of the landowner with their authorization and consent. Each application for a Zoning Permit shall be accompanied by a plan in duplicate, drawn to scale, one (1) copy of which shall be returned to the Owner upon approval. For Radio, Television or Communication Tower permitting, see Article 7, Note 33.C.

The plan shall show the following:

1. The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;
2. The location of the said lot with respect to adjacent rights-of-way;
3. The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;
4. The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;
5. The location and dimensions of off-street parking and the means of ingress and egress to such space: and
6. Any other information which the Zoning Enforcement Officer may deem necessary for consideration in enforcing the provisions of this Ordinance.

**B. Right of Appeal**

If the Zoning Permit is denied, the applicant may appeal the action of the Zoning Enforcement Officer to the Board of Adjustment pursuant to G.S. 160D-405 and Article XII, Section 12.1.

**Section 11.3 Duties of Zoning Enforcement Officer, Board of Adjustment, Courts and City Council to Matters of Appeal**

It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Zoning Enforcement Officer and that such questions shall be presented to the Board of Adjustment only on appeal from the Zoning Enforcement Officer's decision; and from the decision of the Board of Adjustment recourse shall be to the courts as provided by law. It is further the intention of this Ordinance that the duties of the City Council in connection with the Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as herein set out in the Ordinance, and that the duties of the City Council in connection with this Ordinance shall be 'only the duty of considering and passing upon any proposed amendment or repeal of the Ordinance as provided by law.

Preliminary and final plat approvals are administrative in nature. Pursuant to NCGS 160D-1403, any party aggrieved by the decision to approve or deny a preliminary or final play plat may seek to have the

decision reviewed by filing an action in the Richmond County Superior Court seeking appropriate declaratory or equitable relief. Such an action must be filed within the time frame specified in NCGS 160D-406 for petitions in the nature of certiorari. Thirty (30) days from receipt of the written notice of the decision, which notice shall be made as provided in G.S. 160D-403(b).

**Section 11.4 Vested Rights**

**A.** The zoning vested right is a right, established pursuant to N.C.G.S.160D-108, which precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations. As such, amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

1. Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.
2. Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.
3. A site-specific vesting plan pursuant to G.S. 160D-108.1 and Subsection H, below.
4. A multi-phased development pursuant to Subsection D.
5. A vested right established by the terms of a development agreement

**B. Duration of Vested Rights**

1. Upon issuance of a development permit, the vesting granted for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid. Unless otherwise specified, building permits expire after six (6) months and development permits expire one (1) year after issuance unless work authorized by the permit has substantially commenced.
2. Except where a longer vesting period is provided by statute or land development regulation, the vesting granted expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The vesting period for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months.

**C. Multiple Permits.**

Where multiple local development permits are required to complete a development

project, the applicant may choose the version of each of the local land development regulations applicable to the project, upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit.

**D. Multi-Phased Developments.**

A multi-phased development is a development containing at least twenty-five (25) acres that is both submitted for a development approval to occur in more than one phase and subject to a master development plan with committed elements showing the type and intensity of each phase.

1. A multi-phased development 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.
2. A right which has been vested as provided for herein remains vested for a period of seven (7) years from the time a site plan approval is granted for the initial phase of the multi-phased development.

**E. Continuing Review.** Following issuance of a development permit, a local government may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original approval.

**F. Process to Claim Vested Right.**

A person claiming a vested right may submit information to the zoning administrator, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under G.S. 160D-405 and Article XII, Section 12.1. 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 and Article XII, Section 12.1, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

**G. Runs with the Land.**

Vested rights run with the land except for the use of land for outdoor advertising governed by G.S. 136-136.1 and G.S. 136-131.2 in which case the rights granted by this section run with the owner of the permit issued by the North Carolina Department of Transportation.

**H. Site Specific Vesting Plans**

1. A site-specific vesting plan consists of a plan submitted to the City in which the applicant requests vesting, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. For purposes of this section the following plans or approvals qualify as site-specific vesting plans:
  - a. Preliminary Plat

- b. Minor Subdivision
- c. Major Subdivision
- d. Special Use Permit

**2. Establishment of Vested Right.**

A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting . Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site- specific vesting plan, including any amendments thereto.

**3. Approval Process for a Site-Specific Vesting Plan**

- a. Each site-specific vesting plan shall include the information required by the City Council for the underlying type of development application.
- b. Each site-specific vesting plan shall provide the notice and hearing required for the underlying type of development application. If the vesting plan is not based on such an approval, a legislative hearing as required by NCGS 160D-602 shall be held.
- c. A local government may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare.
- d. A site- specific vesting plan is deemed approved upon the effective date of the City Council's decision approving the plan
- e. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government in the same manner as required for the underlying type of development plan. Minor modifications may be approved administratively in accordance with Section 11.1.G.

**4. Duration and Termination of a Vested Right**

- a. A vested right for a site-specific vesting plan remains valid for two (2) years. Upon following the same process as required for the original approval, the City Council or the Administrator may extend the vesting of a site-specific vesting plan up to three years (with total length of vesting not to exceed five years) upon finding that:
  - (1) The permit has not yet expired;
  - (2) Conditions have not changed so substantially as to warrant a new application; and,

- (3) The extension is warranted in light of all other relevant circumstances—including, but not limited to the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations.
- b. Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.
- c. A right vested as provided in this section 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.

**5. Changes and Exceptions.**

- a. A vested right precludes any zoning action by a local government which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under the following conditions outlined in NCGS Section 160D.108.1
- b. The establishment of a vested right does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do 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 development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations become effective upon the expiration or termination of the vesting rights period of the site-specific plan.
- c. Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of a local government to adopt and enforce development regulations governing nonconforming situations or uses.

**I. Annexation Declaration**

Whenever the city acquires jurisdiction over a territory that theretofore has been subject to the jurisdiction of another local government, any person who has acquired vested rights in the surrendering jurisdiction may exercise those rights as if no change of jurisdiction had occurred. The city acquiring jurisdiction may take any action regarding such a development approval, certificate, or other evidence of compliance that could have been taken by the local government surrendering jurisdiction pursuant to its development regulations. Except as provided in this subsection, any building, structure, or other land use in a territory over which the city has acquired jurisdiction is subject to the development regulations of the city.

**Section 11.5 Permit Choice**

If an applicant submits an application for any type of development and a rule or ordinance is amended,

including an amendment to any applicable land development regulation, between the time the development application was submitted and a decision is made, or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies. The applicant may choose which adopted version of the rule or ordinance will apply to the development and use of the building, structure, or land indicated on the application. If the applicant chooses the version of the rule or ordinance applicable at the time of the application, the applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

- A.** When a development required multiple permits under the development regulations of this ordinance, the applicant may choose the regulations applicable to the project at the time of their initial permit application. The applicant must submit the subsequent applications within eighteen (18) months of approval of the initial permit in order to claim permit choice.
- B.** If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. The provisions contained in G.S 143-755 apply.
- C.** If a permit application is placed on hold for six (6) or more consecutive months at the request of the applicant, or the applicant fails to respond to comments or provide additional information reasonably requested by City staff for a period of six (6) consecutive months or more, then permit choice is waived and the rules in effect at the time of resuming consideration of the application shall apply.

#### **Section 11.6 Penalties for Violation**

- A.** Violations of this Ordinance shall constitute either a misdemeanor as provided by G.S. 14-4, or, at the election of the City, shall subject the offender to a civil penalty upon the issuance of a citation for said violation as hereinafter provided. The civil penalty, if not paid to the City of Hamlet within fifteen (15) days of the issuance of a citation, may be recovered by the City in a civil action in the nature of debt. Said civil penalties shall be in the amount of \$50.00 (fifty dollars) for each violation and each day any single violation continues shall be a separate violation for purposes of the penalties and remedies specified in this section.
- B.** In addition to the civil penalties set out above, any provision of this Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the City for equitable relief that there is an adequate remedy at law.
- C.** In addition to the civil penalties set out above, any provision of this Ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by General Court of Justice. When a violation of such a provision occurs, the City may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or order of abatement commanding the violator to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

- D.** In addition to an injunction, the court may enter an order of abatement as part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt, and the City may execute the order of abatement. The City shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.
- E.** The provision of this Ordinance may be enforced by one, all or a combination of the remedies authorized and prescribed by this section and G.S. 160A-175.
- F.** Upon determination of a violation of any section of this Ordinance, the penalty for which is a civil penalty, the City of Hamlet shall cause a warning citation to be issued to the violator. Such citation shall set out the nature of the violation, the section violated, the date of the violation, and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated.
- G.** An appeal from a warning citation shall be taken within ten (10) thirty (30) days from the date of said warning citation to the Board of Adjustment. Notwithstanding other powers as may be granted, the Board of Adjustment, in considering such an appeal, shall only have the power only in the manner of administrative review and interpretation where it is alleged that the Zoning Enforcement Officer has made an error in the application of the Ordinance, in the factual situation as it relates to the application of the Ordinance, or both.
- H.** Where the City determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or Consent Agreement, the City may amend the warning citation to provide for additional time. The warning citation shall specify that a second citation shall incur a civil penalty, together with costs, and attorney fees.
- I.** Upon failure of the violator to obey the warning citation, a civil citation shall be issued by the Zoning Enforcement Officer or the City of Hamlet and either served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the City or obtained from the violation at the time of issuance of the warning citation, The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to appear before the City Manager of the City of Hamlet, or his designee, within fifteen (15) days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid,

otherwise further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

- J. If the violator fails to respond to a citation within fifteen (15) days of its issuance, and pay the penalty prescribed therein, the City of Hamlet may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law.
- K. Whenever any work or activity subject to regulation pursuant to this Ordinance or any State law delegated to the City for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or City ordinance, or in a manner that endangers life or property, the City may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) in the same manner as NOVs in Section 11.1.B. The person or persons delivering the stop work order shall certify to the City Council that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud. The certification may be in the form of an affidavit per 160D-404(b).

#### **SECTION 11.7. Establishment, Powers and Duties of Boards**

##### **A. Planning Board**

The establishment and the duties of the Planning Board shall be as listed in Code of Ordinances, Article II, Section 2-127 and to:

1. Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in those conditions.
2. Establish principles and policies for guiding action in the development of the area within the city;
3. Prepare and recommend to the City Council ordinances promoting the orderly development of the City;
4. To advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S.160D-604.
5. Determine whether specific proposed development conform to the principles and requirements of the Comprehensive Plan and/or Zoning Ordinance for the growth and improvement of the area;
6. To keep the City council and the general public informed and advised as to these matters, and;
7. To perform any other duties which may lawfully be assigned to it such as Zoning Ordinance review and/or Subdivision review.

##### **B. Zoning Board of Adjustment**

**1. Establishment of the Board of Adjustment**

The Hamlet Planning Board shall serve as the Zoning Board of Adjustment. The terms of the members and officers of the Board of Adjustment shall be the same as for the members and officers of the Planning Board, as outlined in Article II, Division 2 of the Code of Ordinances.

**2. Meetings**

The Planning Board shall sit as the Board of Adjustment and shall meet on an as-needed basis. All meetings of the Board shall be open to the public. Evidentiary hearings and quasi-judicial proceedings shall be followed in accordance with Section 12.4.

**3. Duties.** It shall be the duty of the Zoning Board of Adjustment to:

- a. Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination of the Zoning Administrator or Building Inspector in accordance with Section 12.1,
- b. Decide any matter on which the Board is required to consider under the Zoning Ordinance, and,
- c. Hear and decide variances in accordance with the requirements of Section 12.2.

**C. City Council**

It shall be the duty of the City Council to hear and decide Special Use Permits in accordance with the requirements in Section 12.3. The Planning Board and Zoning Board of Adjustment shall have no role in considering or making recommendations about Special Use Permits to ensure the integrity of the evidentiary hearing.

## ARTICLE XII QUASI-JUDICIAL PROCEEDINGS

### Section 12.1 Appeal of Administrative Decisions

- A. **Appeals.** Appeals of administrative decisions are governed by G.S. 160D-405. Except as provided in G.S. 160D-1403.1, appeals of administrative decisions made by the City staff under this ordinance shall be made to the Board of Adjustment, unless a different board is provided by statute.
- B. **Standing.** Any person who has standing under G.S. 160D-1402(c) or the City of Hamlet may appeal an administrative decision to the board. An appeal is taken by filing a notice of appeal with the Zoning Administrator. The notice of appeal shall state the grounds for the appeal.
- C. **Time to Appeal.** The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- D. **Record of Decision.** The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- E. **Stays.** An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board 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 the development regulation. In that case, 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 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 the development regulation does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or local government may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.
- F. **Alternative Dispute Resolution.** The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution.
- G. **No Estoppel.** G.S. 160D-1403.2, limiting the City's use of the defense of estoppel, applies to proceedings under this section.

### Section 12.2 Variances

- A.** When unnecessary hardships would result from carrying out the strict letter of this ordinance, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:
- 1.** Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
  - 2.** 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;
  - 3.** 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; and
  - 4.** The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.
- B.** No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

### **Section 12.3 Special Use Permits**

- A.** Special uses are land uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.
- B.** Special Use Permits: The City Council shall hold an evidentiary hearing. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard. Upon reviewing all of the pertinent information, the City Council may approve, deny or approve with conditions the Special Use Permit by a majority vote.
- 1.** The City Council shall not grant a Special Use Permit unless the Council finds that, in the particular case in question, the use for which the Special use permit is sought will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood, and meets the following:
    - a.** The proposed special use conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site.
    - b.** The proposed use will not cause undue traffic congestion or create a traffic hazard.

- c. Adequate utilities (water, sewer, drainage, electric, etc.) are available for the proposed use.
  - d. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
  - e. The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property.
  - f. The proposed use is consistent with the officially adopted plans and policies of the City of Hamlet.
2. In granting such a permit, the City Council may designate such conditions in connection therewith as will, in its opinion, assure that the proposed use will conform to the requirements and spirit of the Zoning Ordinance if the applicant and/or owner of the property concur with the conditions by written consent. City Council must not impose conditions on Special Use Permits that the City does not otherwise have statutory authority to impose.

#### **Section 12.4 Quasi-Judicial Procedure**

Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, variances, or any other quasi-judicial decision.

- A.** Notice of Hearing. Notice of an evidentiary hearing shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner is not the applicant; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice. In the absence of evidence to the contrary, the City may rely on the county tax listing to determine owners of property entitled to mailed notice. 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. Within that same time period, the City shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.  
  
The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.
- B.** Administrative Materials. The Administrator shall transmit to the board all applications, reports, and written material relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
- C.** Presentation of Evidence. The applicant, the City, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

Objections regarding jurisdictional and evidentiary issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

- D. Appearance of Official New Issues. The official who made the decision or the person currently occupying that position if the decision-maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the City would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.
- E. Oaths. The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.
- F. Subpoenas. The board making a quasi-judicial decision through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person persons with standing under G.S. 160D-1402(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.
- G. Conflict of Interest. A member of any board exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.
- H. Appeals in Nature of Certiorari. When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160D-1402(k).
- I. Voting. As required by G.S. 160D-406(i), the concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

- J.** Decisions. The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or by first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the local government that proper notice has been made and the certificate shall be deemed conclusive in the absence of fraud.
- K.** 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).

## **ARTICLE XIII        Amendment Procedure**

The City Council may amend, supplement or change the Zoning Ordinance text and Zoning District boundary lines and designations according to the following procedure.

### **Section 13.1    Amendment Initiation**

Applications to change, supplement or amend this Ordinance, including map or text may be initiated by:

- A.**     The City Council;
- B.**     The Planning Board;
- C.**     Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.

However, no amendment to the zoning regulations or the zoning map, that down-zones property, shall be initiated written consent is obtained from all landowner(s) whose property is the subject of the down-zoning amendment, or the down-zoning amendment is initiated by the City.

### **Section 13.2    Submittal**

All applications for amendments to this Ordinance shall be in writing, signed and filed with the Secretary to the Planning Board. Such fees as are established by the City Council shall be paid to the City of Hamlet at the time any application for amendment is submitted.

The Secretary shall, before scheduling any amendment on the application for consideration by the Planning Board, ensure that it contains all the required information as specified in this Ordinance and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall not be scheduled by the Secretary, but shall be returned to the applicant with a notation of the deficiencies in the application.

Completed applications shall be received a minimum of twenty-five (25) days prior to the Planning Board meeting at which the proposed amendment is scheduled to be considered.

- A.**     Applications for zoning map amendments shall contain all of the following:
  - 1.     The name, address, and phone number of the applicant.
  - 2.     A map drawn to a scale of not less than four hundred (400) feet to the inch and not more than twenty (20) feet to the inch showing the land covered by the proposed amendment.
  - 3.     A metes and bounds description of the area proposed to be changed.
  - 4.     The names and addresses of all the property owners included in the change as shown on the latest tax list.
  - 5.     The names and addresses of all abutting property owners, including across any street or other transportation corridor, as shown on the latest tax list.
- B.**     Applications for zoning text amendments shall contain all of the following:

1. The name, address, and phone number of the applicant.
  2. A summary of the specific objective of any proposed change in the text of this chapter.
  3. A concise statement of the reasons why the petitioner believes the proposed amendment would be in the public interest
- C.** Applications for conditional zoning district amendments shall contain all of the following:
1. Subsection (1) through (5) as required for zoning map amendments under Section 13.2.A above.
  2. A written application for a conditional zoning district indicating the section (district) of the Zoning Ordinance to which the Conditional Zoning District rezoning is sought, the conditions to be applied and/or a site plan showing the conditions. The application shall include written consent of the applicant/landowner to the conditions provided.

**Section 13.3 Planning Board Action**

- A.** The Secretary shall present any properly completed application for amendment to the Planning Board at its next regularly scheduled meeting occurring at least twenty-five (25) days after filing of such application with the Planning Department or according to a schedule duly adopted by the Planning Board or the City Council, whichever is later. The Planning Board may receive comments from any interested party.
- B.** The Planning Board shall either recommend in favor of an amendment or in opposition to an amendment by simple majority vote of those present and voting. A tie vote on a proposal shall be considered to be in opposition to such amendment. If the Planning Board should fail to act on any proposed amendment within sixty (60) days after it is presented to the Board such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.
- C.** Any recommendation on a proposed amendment other than a favorable recommendation shall be considered to be a recommendation for denial from the Planning Board. .
- D.** All recommendations from the Planning Board shall be accompanied by a written statement on whether the proposed amendment is consistent with the Comprehensive Plan, Land Use Plan, Thoroughfare Plan, or other applicable plans officially adopted by the City Council. The Planning Board shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board. If no written report is received by the City Council from the Planning Board within thirty (30) days after that Board makes its final decision on the proposed amendment, the City Council may proceed in its consideration of the amendment without the Planning Board report. The City Council is not bound by the recommendations, if any, of the Planning Board.
- E.** Except for a City-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply the applicant shall certify to the Planning Board that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing.

**Section 13.4 City Council Action**

- A.** The Secretary shall present all proposed amendments to the City Council at its next regular scheduled meeting at which it hears zoning amendment proposals. The Secretary shall transmit to the City Council the Board's record on the proposed amendments.
- B.** The City Council shall take such lawful action on such proposals as it may deem advisable provided that no zoning amendment shall be adopted until after a public hearing shall have been held and public notice given as required by law. A member of City Council shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member of City Council shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- C.** A notice of the public hearing on any ordinance that amends the provisions of this zoning ordinance (including zoning map amendments) shall be published once a week for two successive weeks in a newspaper having general circulation in the Hamlet area. All notifications and adoption shall be conducted per the requirements of G.S. 160D-601. The notice shall be published for the first time not less than ten days nor more than twenty-five days before the date fixed for the hearing. This period is to be computed in accordance with G.S. 160D-601, which provides that the date of publication is not counted but the date of the hearing is.
- D.** With respect to all map amendments, the Zoning Administrator or staff shall mail, by first class mail, written notice of the public hearing to the record owners of all properties whose zoning classification is changed by the proposed amendment as well as the owners of all properties abutting any portion of the property rezoned by the amendment, including any property abutting a right-of-way that abuts the property proposed for rezoning. For purposes of this section the term "owners" shall mean the persons shown as owners on Richmond County's computerized land records system. The notices required by this subsection shall be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The staff member mailing such notices shall certify to the City Council that the notices have been mailed, and such certificate shall be deemed conclusive in the absence of fraud.
- E.** The first class mail notice required under subsection (C) of this section 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, and the City elects to use the expanded published notice provided for in this subsection. In this instance, the City may elect to either make the mailed notice provided for in subsection (C) of this section or may, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-602, but provided that each advertisement shall not be less than one-half(1/2) 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 Richmond County property tax listing for the affected property, shall be notified according to the provisions of subsection (C) of this section.
- F.** For proposed zoning map amendments, the Zoning Administrator shall prominently post a notice of the public hearing on the site proposed for a rezoning or 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 planning staff shall post sufficient notices to provide reasonable notice to interested persons.

- G.** The notice required or authorized by this section (other than the posted notice required by subsection (F)) shall:
1. State the date, time, and place of the public hearing.
  2. Summarize the nature and character of the proposed change.
  3. State that the full text of the amendment can be obtained from the town clerk.
  4. State that substantial changes in the proposed amendment may be made following the public hearing.
- H.** The Zoning Administrator shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the Board's intention that the notice requirements set forth in this section that are not required by state law shall not be regarded as mandatory, and therefore a failure to comply with such requirements shall not render any amendment invalid.
- I.** Except for a City-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply the applicant shall certify to the City Council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing.
- J.** For all other amendments the person or persons required to provide notice (typically the Zoning Administrator) shall certify to the City Council that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud.
- K.** Actual notice of the proposed amendment and a copy of the notice of public hearing required under this section shall be by any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f) (2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j)(1). This subsection applies only to an application to request a zoning map amendment where the application is not made by the owner of the parcel of land to which the amendment would apply. This subsection does not apply to a city-initiated zoning map amendment.
- L.** The Secretary shall present all proposed amendments to the City Council at its next regular scheduled meeting at which it hears zoning amendment proposals. The Secretary shall transmit to the City Council the Board's record on the proposed amendments.
- M.** Prior to adopting or rejecting any zoning amendment, the City shall adopt a statement describing whether its action is consistent with the Comprehensive Plan, Land Use Plan, Thoroughfare Plan, or other applicable plan officially adopted by the Council and explaining why the Council considers the action taken to be reasonable and in the public interest. This statement is not subject to judicial review. If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall

have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required.

**Section 13.5 Maximum Number of Applications**

No application for the same zoning district applicable to the same property or any part thereof shall be filed until the expiration of one year from:

- A.** The date of final determination by the City Council; or
- B.** The date of denial if not appealed within ten (10) days of non- favorable action by the Planning Board; or
- C.** The date of the public hearing or scheduled public hearing if such application is withdrawn later than nineteen (19) days prior to such public hearing. Applications withdrawn in writing prior to that time may be resubmitted without waiting one year. Fees submitted for withdrawn cases are not refundable.

## **ARTICLE XIV GENERAL LEGAL PROVISIONS**

### **Section 14.1 Interpretation, Purpose, Conflict**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction or imposes higher standards than those required by other ordinances, rules, regulations, or by easements, covenants, or agreements the provisions of this Ordinance shall govern so that, in all cases, the most restrictive limitation or requirement, or the requirement causing the highest standard of improvements, shall govern.

### **Section 14.2 Repeal and Reenactment of Existing Zoning Ordinance**

The rewriting of this Ordinance in part carries forth by reenactment some of the provisions of the existing Zoning Ordinance of the City of Hamlet and it is not intended to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the Zoning Ordinance which are not reenacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of the Zoning Ordinance in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance, but shall be prosecuted to their finality the same as if this Ordinance had not been adopted; and any and all violations of the existing Ordinance, prosecutions for which have not been instituted, may be filed and prosecuted; and nothing in this Ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending and/or which may have been instituted or prosecuted.

### **Section 14.3 Effects Upon Outstanding Permits.**

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Inspector prior to the time of passage of this Ordinance or any amendment thereto; provided, however, that where construction is not begun under such outstanding permit within a period of one hundred eighty(180) days subsequent to the passage of this Ordinance or any amendment thereto, or where it has not been prosecuted to completion within eighteen (18) months subsequent to passage of this Ordinance or any amendment thereto, any further construction or use shall be in conformity with the provisions of this Ordinance or any such amendment.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any Conditional Use Permit which has been previously granted by the Board of Adjustment prior to the date of any amendment, deleting any such Conditional Uses from the Table of Permitted and Conditional Uses or by any legislative update converting Conditional Use approvals to Special Use Permits, provided that a Building Permit has been obtained and construction begun within one hundred eighty (180) days of the date of the approval of such Permit by the City Council and provided that such Building Permit is prosecuted to completion as provided for above. Such valid Conditional Uses, hereinafter referred to as Special Use Permits, including those already existing may be constructed, continued and reconstructed the same as any permitted use subject to such use limitations and other conditions as provided for in the original issuance of the Conditional Use Permit. Any such previously Conditional Use that is changed to any permitted use for any period of time shall resume as a permitted use.

### **Section 14.4 Validity**

If any Section, Subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be

invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each Section, Subsection, clause, and phrase thereof, irrespective of the fact that any one or more Sections, subsections, sentences, clauses or phrases be declared invalid.

**Section 14.5 Effective Date**

This Ordinance shall become effective upon its adoption by the City Council of the City of Hamlet, North Carolina

## **SUBDIVISION AND LAND DEVELOPMENT REGULATIONS**

### **Part 1: General Provisions**

#### **Section 1.1 Purpose and Authority**

As required by NCGS 160D-804, the purpose of establishing this Article is to ensure the orderly growth and development of the City and extraterritorial jurisdiction, including the requirement that adequate public facilities are available to serve new subdivisions of land; to ensure the protection of environmentally sensitive areas; to provide for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; to provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood or within the subdivision; to provide rights-of-way or easements for street and utility purposes including the dedication of rights-of-way; to provide for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare; and to provide that the final plat show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line easement boundary line, and other property boundaries to appropriate accuracy and in conformance with good survey practices.

#### **Section 1.2 Applicability**

- A.** The requirements of this Article shall apply to any subdivision or land development activity, as defined in Section 1.59 of this Ordinance, within the corporate limits of the City or the extraterritorial jurisdiction.
- B.** Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be bought within the scope of these regulations to further the purposes of this Ordinance. However, all existing preliminary plats that were approved under the prior Ordinance shall remain valid unless or until the approval expires. Nonconforming lots of record shall be governed by Zoning Ordinance Section 4.2 and the other applicable provisions of Zoning Ordinance Article IV.

#### **Section 1.3 Authority and Jurisdiction**

- A.** The Planning and Zoning Board shall be vested with the authority to review, approve, conditionally approve and disapprove applications for preliminary plats.
- B.** The City Manager or his designee shall be vested with the authority to review and approve sketch plans, and to approve, conditionally approve and disapprove applications for final plats of minor subdivisions and final plats of major subdivisions.
- C.** The City Manager or his designee in coordination with the Director of Public Works and the Fire Chief shall be vested with the authority to review and approve construction plans and financial guarantee agreements.
- D.** The City Council shall be vested with the authority to accept all public dedications including, but not limited to rights-of-way, easements, park facilities, and open space.

#### **Section 1.4: Subdivision Plat Required**

- A.** From and after the effective date of this ordinance, the owner or proprietor of any tract of land who desires to subdivide land shall be required to submit a plat of such subdivision to the City Manager or his designee, whom is hereby charged with the responsibility for coordinating the processing of such plats. The subdivision plat submitted to the City Manager or his designee shall be made in

accordance with the regulations set forth in this Ordinance and comply with the standards set forth in Appendix B (Mapping Standards).

- B.** No person shall create a subdivision of land without making and recording a plat and complying fully with the provisions of this Article and other state and local laws and regulations applying to subdivisions.
- C.** No person shall sell or transfer ownership of any lot or parcel of land by reference to a plat of a subdivision before such plat has been duly recorded with the Richmond County Register of Deeds, unless such subdivision was created prior to the adoption of this Ordinance and any other subdivision ordinance applicable thereto.
- D.** No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of this Ordinance, and no construction of any public or private improvements shall be commenced, except in conformity with the requirements of this Ordinance.
- E.** A final subdivision plat shall be approved by the City Manager or his designee before the subdivision of a parcel may be recorded. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the City Manager or his designee in accordance with these regulations.

**Section 1.5            Subdivision Plat Not Required**

- A.** The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the City as set forth in this Ordinance.
- B.** The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
- C.** The public acquisition by purchase of strips of land for the widening or opening of streets.
- D.** The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in this Ordinance.
- E.** The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Plats for proposed subdivisions of land exempted from the requirements of this ordinance pursuant to NCGS 160D-802 must still be reviewed by the city and the review officer to verify that the proposed subdivision is exempt.

**Section 1.6            Recordation of Unapproved Plat Prohibited**

- A.** The Richmond County Register of Deeds shall not file or record any subdivision plat required by this Ordinance until such plat shall have been approved, and such approval evidenced thereon, in accordance with the regulations set forth in this Ordinance.
- B.** The approval of any final plat shall be contingent upon such plat being recorded at the Richmond County Register of Deeds within sixty (60) days after the date the Certificate of Approval is signed by the City Manager or his designee.

**Section 1.7            Sale of Property in Violation of this Ordinance Prohibited**

No land described in this Section shall be subdivided or sold, or transferred until the subdivider or his agent has submitted and obtained approval of the sketch plat, a preliminary plat (when required), and a final plat as provided in this Ordinance; and the subdivider or his agent files the final plat with the Richmond County Register of Deeds.

**Section 1.8 Enforcement and Penalties for Violation of this Ordinance**

- A.** Violation a Misdemeanor. Violations of any provision of this ordinance, including but not limited to violations of any condition imposed on the approval of a preliminary or final plat, shall constitute a misdemeanor, punishable as provided in NCGS 14-4.
- B.** Violation Punishable by Civil Penalty
  - 1. Any act constituting a violation of the provisions of this ordinance or a failure to comply with any of its requirements, including but not limited to violations of any condition imposed on the approval of a preliminary or final plat, shall also subject the offender to a civil penalty of Fifty 00/100 Dollars (\$50.00) per day per violation.
  - 2. A notice of civil penalty shall inform the violator that the penalty is due upon receipt of the notification and, if applicable, that successive civil penalties shall accrue each day that the violation continues. The notice shall also inform the violator that if the civil penalty is not paid within ten (10) days of receipt of the notice, the penalty may be recovered by the city in a civil action in the nature of debt.
- C.** Each day's continuing violation shall be a separate and distinct offense.
- D.** This ordinance may also be enforced by any appropriate equitable action including but not limited to injunction and orders of abatement.
- E.** Additional remedies for transferring lots in an unapproved subdivision.
  - 1. Any person who subdivides his or her land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved pursuant to this ordinance and recorded in the Richmond County Register of Deeds office, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty.
  - 2. The city may also bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this ordinance.
  - 3. Building permits required pursuant to NCGS 160D-1110 may be denied for lots that have been illegally subdivided.
  - 4. In addition to other remedies, the city 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.
  - 5. The provisions of this subsection shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved, provided that the owner or its agent complies with the requirements of NCGS 160D-807.

- F. Any one, all, or combination of the foregoing penalties and remedies may be used to enforce this ordinance.

**Section 1.9 Appeals.**

- A. Appeals of plat decisions. Preliminary and final plat approvals under this ordinance are administrative in nature. Pursuant to NCGS 160D-1403, any party aggrieved by the decision to approve or deny a preliminary or final plat may seek to have the decision reviewed by filing an action in the Richmond County Superior Court seeking appropriate declaratory or equitable relief. Such an action must be filed within thirty (30) days from receipt of the written notice of the decision, which notice shall be made as provided in G.S. 160D-403(b).
- B. Appeals of other matters. Any other matters, including an appeal of a civil penalty levy, shall be appealed to the Hamlet Board of Adjustment in the manner provided in Zoning Ordinance Article XII.

**Part 2: Minor Subdivisions**

**Section 1.10 Minor Subdivision Defined**

- A. A minor subdivision shall be defined as a division of land that creates not more than three (3) lots (excluding the parent tract) where no new street right-of-way dedication is required, and all resultant lots conform to the requirements set forth in this Ordinance.
- B. Not more than a total of three (3) lots shall be created from one tract by means of the minor subdivision approval process within a five (5) year period.

**Section 1.11 Sketch Plan**

A subdivider shall submit a sketch plan of the proposed subdivision to the City Manager or his designee for a conceptual review and determination as to whether the minor subdivision approval process is applicable and as to whether modifications are necessary to comply with the requirements of this Ordinance. The subdivider shall provide any information deemed relevant by the City Manager or his designee in order for such determinations to be made. The City Manager or his designee shall advise the subdivider of any pertinent issues that may affect final plat approval.

**Section 1.12 Final Plat**

- A. No preliminary plat review and approval shall be required for minor subdivisions.
- B. Only a final plat submittal will be required for these expedited subdivisions meeting the following criteria:
  - 1. The tract or parcel to be divided is not exempted under G.S.160D-802(a).
  - 2. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
  - 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 result from the division.
  - 5. After division, all resultant lots comply with all of the following:

- a. All lot dimension size requirements of the applicable land-use regulations, if any.
  - b. The use of the lots is in conformity with the applicable zoning requirements, if any.
  - c. A permanent means of ingress and egress is recorded for each lot.
- C. Following the review of the sketch plan, the subdivider shall proceed to prepare and submit a final plat that complies with all requirements set forth in this Ordinance to the City Manager or his designee. The final plat shall be prepared in accordance with the requirements set forth in Appendix B (Mapping Standards). The City Manager or his designee shall review and approve the proposed subdivision plat unless the proposed subdivision plat does not comply with any applicable requirements set forth in this Ordinance.
- D. If the proposed subdivision plat is disapproved, the City Manager or his designee shall promptly furnish the subdivider with a written statement of the reason(s) for disapproval.

**Part 3: Major Subdivisions**

**Section 1.13 Major Subdivision Defined**

All divisions of land that are not exempted by state statute or do not meet the criteria for a minor subdivision as set forth in this Ordinance shall be processed as a major subdivision.

**Section 1.11 Sketch Plan**

A subdivider shall submit a sketch plan of the proposed subdivision to the City Manager or his designee for a conceptual review and determination as to whether modifications are necessary to comply with the requirements of this Ordinance. The subdivider shall provide any information deemed relevant by the City Manager or his designee in order for such determinations to be made. The City Manager or his designee shall advise the subdivider of any pertinent issues that may affect preliminary plat approval.

**Section 1.15 Preliminary Plat**

- A. Following the review of the sketch plan, the subdivider shall proceed to prepare and submit a preliminary plat to the City Manager or his designee for consideration by the Planning and Zoning Board. The preliminary plat shall be prepared in accordance with the requirements set forth in Appendix B (Mapping Standards).
- B. The Planning and Zoning Board shall hold a public hearing on the proposed subdivision. Notification of such public hearing shall follow the procedural requirements set forth in Zoning Ordinance.
- C. The Planning and Zoning Board shall review and approve, conditionally approve, or deny the preliminary plat. The City Manager or his designee shall notify, in writing, the subdivider of any action taken by the Planning and Zoning Board.

**Section 1.16 Construction Plans**

- A. Following approval of the preliminary plat, the subdivider shall have prepared, by a professional engineer, registered in the State of North Carolina, construction plans, consisting of complete construction drawings and specifications for all easements, streets, traffic control devices, street lights, sanitary sewer, storm water facilities, water system facilities, sidewalks and other required improvements set forth in this Ordinance.

- B. Construction plans shall be submitted to the City Manager or his designee, who shall coordinate the review of such plans with other City departments. Where approval of construction plans is required by other public agencies, the subdivider shall be responsible for obtaining such approval, and shall provide written documentation of such approval to the City Manager or his designee.
- C. Approval of the construction plans shall authorize the subdivider to proceed with construction of the required improvements. No construction, including but not limited to grading, shall be commenced without approval of the construction plans.

**Section 1.17 Completion of Required Improvements**

All installations of improvements shall conform to the approved construction plans. If the subdivider chooses to make modifications in design and/or specifications prior to construction such changes shall first be approved by the City Manager or his designee in advance of any of the changes to be made from the approved drawings. In the event that actual construction work deviates from that shown on the approved construction plans, such unapproved work shall constitute a violation of this Ordinance. The subdivider shall be required to correct the installed improvements to conform to the approved construction plans.

**Section 1.18 As-Built Drawings**

Prior to final plat approval, the applicant shall submit to the City Manager or his designee two (2) sets of as-built engineering drawings for each of the required improvements that have been completed. Such as-built drawings shall be signed and sealed by a licensed engineer.

**Section 1.19 Financial Guarantee in Lieu of Immediate Installation for Approval**

As authorized by NCGS 160D-804.1, performance guarantees assure the successful completion of the required improvements. In lieu of requiring the completion, installation and inspection of all or any part of the required improvements as described in these regulations prior to final plat approval, the City may accept a financial guarantee whereby the subdivider shall agree to complete all required improvements. Once the security required herein is provided, the final plat may be approved if all other requirements of these regulations are met. To secure this procedure, the subdivider shall provide either of, or a combination of, the following guarantees to cover the costs of the proposed improvements:

- A. The subdivider shall post a surety bond by any company authorized to do business in NC, deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the City or in escrow with a financial institution. The type of guarantee used shall be at the election of the developer. The amount of deposit shall be equal to one hundred and twenty-five percent (125%) of the estimated cost, as approved by the City Manager, of responsibility of the subdivider and certified by his engineer, but the approval of the final cost estimate shall be made by the City Manager.
- B. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the City an agreement between the financial institution and himself guaranteeing the following:
  1. that said escrow account shall be held in trust until released by the City and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and
  2. that in the case of a failure on the part of the subdivider to complete said improvements within the time allotted, the financial institution shall, upon notification by the City and submission by the City to the financial institution of an estimate of the amount needed to complete the improvements, immediately either pay to the City the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the City and other instruments readily convertible to cash, fully endorsed or otherwise made payable in full to the City.

**Section 1.20 Duration of Financial Guarantees**

A. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the local government, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements.

**Section 1.21 Default**

Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as specified in the guarantee agreement, the surety or the financial institution holding the financial account shall, if requested by the City, at its discretion, may expend such portion of said funds as deemed necessary to complete all or any portion of the required improvements. The City shall return to the subdivider any funds not spent in completing the improvements. Default on a project shall not release the subdivider from liability/responsibility, financial or otherwise, for the completion of the improvements.

**Section 1.22 Release of Guarantee Security**

The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement of the City Manager that the improvements are complete. Prior to such release the subdivider shall provide the City Manager with a set of 'as built' drawings certified by his engineer. The City shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to local government acceptance. When required improvements that are secured by a bond are completed, the local government shall timely provide written acknowledgement that the required improvements have been completed.

**Section 1.23 Warranty Against Defects**

Prior to the approval of the final plat or acceptance by the City of any improvements in any development, the developer shall furnish to the City a written warranty against defects, which shall guarantee the material and workmanship for a period of not less than one year from the date of such acceptance. Upon the failure of an improvements to perform within the generally accepted standards for the type improvement as determined by the City Manager, the subdivider shall be notified and given a reasonable period of time to correct the defects. Should the subdivider fail to act, fail to act in a timely manner, or otherwise fail to correct the defect(s), the subdivision shall be deemed to be in violation of this ordinance.

**Section 1.24 Final Plat Approval**

Final plats shall be submitted to the City Manager or his designee, who shall in turn approve or deny the final plat. No final plat shall be approved for recording until all required improvements are installed and approved, or until the subdivider provides an appropriate Financial Guarantee as set forth in these regulations. In addition, no final plat shall be approved for recording unless such a plat is in substantial agreement, as determined by the City Manager or his designee, with the approved preliminary plat. Final plats not in substantial agreement shall be resubmitted as preliminary plats. Final plats shall be prepared in accordance with the requirements set forth in Appendix B (Mapping Standards).

**Section 1.25 Dedication of Improvements**

- A. Approval and recording of the final plat shall constitute an offer of dedication by the subdivider of the right-of-way of each public street and utility and drainage easements shown on such plat. Such dedication, however, shall not constitute acceptance by the City of such right-of-way, nor shall it constitute acceptance for maintenance or for other purposes of the improvements within such rights-of way and easement such as pavements, sidewalks, drainage facilities and other utility lines. Such right-of-way and improvements may be accepted by the City Council by resolution upon completion by the subdivider and inspection by the appropriate City staff or by the City actually exercising control and maintaining such facilities. In addition, land designated on an approved and recorded final plat as public open space and similar public purposes shall be considered to be offered for dedication until the City has by resolution accepted such dedication and such land is deeded to the City. Until such offer of dedication has been accepted, land so offered may be used for open space purposes by its owner or his designees and the City shall be held harmless of any liability involving such land. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use without the express approval of the City Council.
- B. Rights-of-way in subdivisions constructed in the extraterritorial jurisdiction shall be either offered for dedication to the State of North Carolina or constructed and maintained as private roads in accordance with the requirements of this ordinance.

**Section 1.26 Completing Development in Phases**

If a subdivision or land development activity is to be constructed in phases, then the requirements set forth in the Ordinance shall apply to each phase as if it were the entire development. A phasing plan shall be submitted that clearly delineates the boundaries of the various phases proposed as part of the overall subdivision or land development activity.

**Section 1.27 Guaranteeing Completion of Work**

Entering into an agreement with the City guaranteeing the completion of the required work may take the place of or be combined with a performance guarantee. The agreement is to be binding on subsequent purchasers of the property and is subject to approval by the City Council at a legislative hearing pursuant to G.S. 160D-1005. All development agreements must be completed in conformance of the requirements outlined in Article 10 of G.S. 160D. The developer shall record the agreement with the register of deeds in the county where the property is located within 14 days after the City and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The agreement shall provide that satisfactory security be furnished guaranteeing the completion of the necessary improvements before each section is developed.

**Part 4: Design Standards**

**Section 1.28 Appropriate to Physical Conditions**

- A. The general design of the development shall take advantage of and be adjusted to the contour of the land so as to produce usable building sites and streets of reasonable gradients. Development plans shall be drawn in consideration of the suitability of the land its capability to support and maintain the proposed development. Due consideration shall be given to such factors as topography, soil conditions, flood damage prevention, erosion control, wetland preservation, storm water management, solar energy, tree preservation, noise and pollution control, habitat for endangered species, areas of historical, archaeological or architectural significance, and land use relationships in addition to other factors including those prescribed by this ordinance.

- B. Land which has been determined by the permit-issuing authority, on the basis of engineering surveys or other expert reports, to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider demonstrates that the necessary measures to eliminate said dangers will be taken. The permit-issuing authority may accept a sealed report from an engineer or other qualified expert as conclusive evidence of the adequacy of any proposed measure.
- C. Land that has been used for disposal of solid waste shall not be subdivided unless tests by the Richmond County Health Department, a structural engineer or a soils expert determine that the land is suitable for the purpose proposed.

**Section 1.29 Street Classifications**

- A. All streets within and adjoining a proposed development shall be classified according to function by the Planning and Zoning Board during the preliminary plat review and approval process. Each street segment shall be classified as one of the following types:
  1. Arterial: A major street in the City's street system that serves as an avenue for the circulation of traffic into, out, or around the city. An arterial street typically carries high volumes of traffic usually in excess of 8,000 trips per day.
  2. Collector: A street whose principal function is to carry traffic between minor, local, and subcollector streets and arterial streets, but that may also provide direct access to abutting properties. A collector street typically carries volumes of traffic between 3,000 and 8,000 trips per day.
  3. Subcollector: A street whose principal function is to provide access to abutting properties, but is also designed to connect minor and local streets with collector and arterial streets. A subcollector street typically carries volumes of traffic between 1,000 and 3,000 trips per day.
  4. Local: A street whose sole function is to provide access to abutting properties. A local street typically carries volumes of traffic between 300 and 1,000 trips per day.
  5. Minor: A street whose sole function is to provide access to abutting properties. A minor street typically carries volumes of traffic less than 300 trips per day.
- B. The classification of a street segment shall determine the cross-section and minimum design specifications to which that proposed street segment shall be designed and constructed.

**Section 1.30 Street Design Standards and Specifications**

- A. All streets offered for acceptance by the city shall comply with the standards of this section. Streets constructed in the city's extraterritorial jurisdiction and offered for acceptance by the State of North Carolina shall comply with the NCDOT Subdivision Roads Minimum Construction Standards Manual and any other applicable standards.
- B. All streets shall be designed and constructed to meet the minimum specifications set forth in Table 1-A below.

**Table 1-A: Schedule of Street Design and Minimum Specifications**

<b>Street Classification</b>	<b>Minimum ROW Width (in feet)</b>	<b>Minimum Pavement Width (in feet)</b>	<b>Curb &amp; Gutter Required</b>	<b>Sidewalk Required</b>	<b>Stopping Site Distance (in feet)</b>	<b>Minimum Center Line Radius (in feet)</b>	<b>Minimum sight Distance on Vertical Curve (in feet)</b>	<b>Design Speed (mph)</b>
<b>Collector</b>	<b>60</b>	<b>28</b>	<b>Yes</b>	<b>Both sides</b>	<b>400</b>	<b>500</b>	<b>200</b>	<b>35</b>
<b>Subcollector</b>	<b>60</b>	<b>24</b>	<b>Yes</b>	<b>Both sides</b>	<b>250</b>	<b>300</b>	<b>200</b>	<b>30</b>
<b>Local Residential</b>	<b>50</b>	<b>22</b>	<b>Yes</b>	<b>No</b>	<b>200</b>	<b>200</b>	<b>150</b>	<b>25</b>
<b>Local Nonresidential</b>	<b>50</b>	<b>24</b>	<b>Yes</b>	<b>No</b>	<b>325</b>	<b>300</b>	<b>150</b>	<b>30</b>
<b>Minor Residential</b>	<b>40</b>	<b>20</b>	<b>Yes</b>	<b>No</b>	<b>200</b>	<b>150</b>	<b>150</b>	<b>25</b>
<b>Minor Nonresidential</b>	<b>50</b>	<b>24</b>	<b>Yes</b>	<b>No</b>	<b>325</b>	<b>200</b>	<b>150</b>	<b>30</b>

- C. All streets shall be constructed with either standard 90-degree concrete curb and gutter or roll-type concrete curb and gutter. Street pavement width shall be measured from curb face to curb face where 90-degree curb is installed, and from the center of the curb where roll type curb is installed.
- D. Sidewalks shall be constructed to NCDOT specifications and shall comply with all applicable ADA requirements.
- E. All permanent dead end streets (as opposed to temporary dead end streets as set forth in Section 1.28) shall be developed as cul-de-sacs. Cul-de-sacs shall not exceed eight hundred (800) feet in length unless necessitated by topography, property accessibility or other extenuating circumstances as determined by the Planning and Zoning Board. Such measurement shall be made from the point where the centerline of the cul-de-sac street intersects with the centerline of a general circulation street to the center of the turnaround of the -cul-de-sac. For the purposes of this subsection, the general circulation street used to determine the length of the cul-de-sac shall be the street from which the cul-de-sac originates. Where one cul-de-sac extends from another cul-de-sac, the end of each cul-de-sac shall be no more than eight hundred (800) feet from a general circulation as measured by the centerline of the streets.
- F. The minimum radius for the right-of-way of a cul-de-sac shall be fifty (50) feet. The minimum radius of the paved portion of the cul-de-sac shall be thirty-five (35) feet. If a landscape island is provided in the center of the cul-de-sac, then the pavement around the landscape island shall be a minimum of eighteen (18) feet in width.
- G. Half streets (i.e., streets of less than the full required right-of-way and pavement width) shall not be permitted except where such streets, when combined with a similar street (developed previously or simultaneously) on property adjacent to the subdivision, creates or comprises a street that meets the right-of-way and pavement requirements set forth herein.

- H. Blocks shall not be less than four hundred (400) feet nor more than twelve hundred (1,200) feet in length except as the Planning and Zoning Board considers necessary to secure efficient use of land or desired features of street patterns.

**Section 1.31                    Coordination with Surrounding Streets**

- A. The street system of a subdivision shall be coordinated with existing, proposed, and anticipated streets outside the subdivision. Except where the Planning and Zoning Board determines a different scheme is more appropriate, the proposed street system shall extend existing streets at no less than the required minimum width for such street classification as set forth herein.
- B. Whenever connections to anticipated or proposed surrounding streets are required by the Planning and Zoning Board, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the Planning and Zoning Board may require temporary turnaround to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicle. Notwithstanding the other provisions of this subsection, no temporary dead-end street in excess of one thousand (1,000) feet may be created unless no other practicable alternative is available.

**Section 1.32                    Access to Lots**

- A. Every lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.
- B. Except as otherwise provided in this section, all lots created after the effective date of this Ordinance shall abut a public street at least to the extent necessary to comply with the access requirement set forth in subsection (A) above. For purposes of this subsection, the term "public street" includes a preexisting public street or a street created by the subdivider that meets the public street standards of this Ordinance and is dedicated for public use. Unless the recorded subdivision plat clearly shows a street to be private, the recording of such a plat shall constitute an offer of dedication of such street to the public.
- C. A subdivision in which the access requirement of subsection (A) is satisfied by a private road that does not meet the public street standards may be developed so long as, since the effective date of this Ordinance not more than three (3) lots have been created out of that same tract; and not more than three (3) single family detached units are or will be accessed via such private road. Subdivisions for the development of other types of residential or nonresidential uses that would tend to generate more traffic than that customarily generated by three single-family detached residences and are accessed by a private road that does not meet the public street standards shall be prohibited.
- D. Private roads shall meet or exceed the minimum construction set forth in Section 503 of the North Carolina Fire Prevention Code.
- E. No final plat in which the resultant lots created are served by a private road shall be recorded without the following notations:

*"Further subdivision of any lot shown on this plat served by a private road shall be prohibited pursuant to the City of Hamlet Subdivision Ordinance."*

**Section 1.33      Restriction of Access**

- A. Reserve strips and non-access easements adjoining street rights-of-way for the purpose of preventing access to or from adjacent property shall be permitted only upon the approval of the Planning and Zoning Board.
- B. Where a major subdivision abuts or contains an existing or proposed arterial street, the Planning and Zoning board may require marginal access streets, through lots with screen plantings or a landscaped berm contained in a non-access reservation along the rear property line, or such other treatment as may be necessary in order to ensure adequate separation of through and local traffic and to minimize points of ingress and egress to arterial streets.

**Section 1.34      Street Intersections**

- A. Streets shall intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than sixty (60) degrees.
- B. Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centerline offset occurs at an intersection, the distance between centerlines of the intersecting streets shall be no less than two hundred (200) feet.
- C. Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than four hundred (400) feet measured from centerline to centerline of the intersecting streets. When intersected street is an arterial, the distance between intersecting streets shall be at least one thousand feet (1,000) feet.
- D. Streets crossing streams shall cross at or as near right angles as possible within the limits of the topographic conditions.

**Section 1.35      Sight Distance at Intersections**

- A. At no-stop intersections, the intersection shall be constructed so that a person standing at a location on the centerline of any street ninety (90) feet from the intersection of the street centerlines has an unobstructed view to a point located on the centerline of the intersecting street ninety (90) feet (in either direction) from the intersection of the street centerlines.
- B. Subject to subsection (C) below, at stop intersections, the intersection shall be constructed so that a person standing ten (10) feet back of the intersection of right-of-way lines on the stop street has an unobstructed view to a point on the right-of-way line of the intersecting through street located seventy (70) feet from the intersection of the right-of-way lines.
- C. At stop intersections where a residential street intersects with a state-maintained primary road, the intersection shall be constructed so that a person standing thirty (30) feet back of the intersection of right-of-way lines on the stop street has an unobstructed view to a point on the centerline of the through street located one hundred fifty (150) feet from the intersection of the street right-of-way lines.

### **Section 1.36 Entrance to Streets**

All driveway entrances and other openings onto streets within the city's planning jurisdiction shall be designed and constructed so that:

- A. Vehicles can enter and exit from the property in question without posing any substantial danger to themselves, pedestrians, or vehicles traveling on abutting streets; and
- B. Interference with the free and convenient flow of traffic on abutting or surrounding streets is minimized.

### **Section 1.37 Pedestrian Access Easements**

Whenever, the Planning and Zoning Board determines that a means of pedestrian access is necessary or desirable from the proposed subdivision to schools, parks, playground, streets, or other facilities and that such access is not conveniently provided by sidewalks adjacent to streets, the subdivider may be required to reserve an unobstructed easement of at least ten (10) feet in width to provide such access.

### **Section 1.38 Road and Sidewalk Requirements in Unsubdivided Developments**

- A. Within unsubdivided developments, all private roads and access ways shall be designed and constructed to facilitate the safe and convenient movement of vehicular and pedestrian traffic. The Parking Regulations set forth in Article 8 of the Zoning Ordinance shall determine the width of roads, use of curb and gutter, and paving specifications. To the extent that the requirements set forth in this ordinance may be relevant to the roads in unsubdivided developments, the requirements of this ordinance may be applied to satisfy the standard set forth in the first sentence of this subsection.
- B. Whenever a road in an unsubdivided development connects two or more public streets in such a manner that any substantial volume of through traffic is likely to make use of such road, then such road shall be dedicated. In other cases when roads in unsubdivided developments within the city are constructed in accordance with the specifications for subdivision streets, the city may accept an offer of dedication of such streets.
- C. In all unsubdivided residential development, sidewalks shall be provided linking dwelling units with other dwelling units, the public street, and on-site activity centers such as parking areas, laundry facilities, and recreational areas and facilities. Notwithstanding the foregoing, sidewalks shall not be required where pedestrians have access to a road that serves not more than nine (9) dwelling units.
- D. Whenever the permit-issuing authority finds that a means of pedestrian access is necessary from an unsubdivided development to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the roads, the developer may be required to reserve an unobstructed easement of at least ten (10) feet to provide such access.
- E. The sidewalks required by this section shall be at least four (4) feet wide and constructed according to the specifications set forth in Appendix C, Specifications for Street Construction, except that the permit-issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that:
  - 1. Such walkways would serve the residents of the development as adequately as concrete sidewalks; and

2. Such walkways could be more environmentally desirable or more in keeping with the overall design of the development.

**Section 1.39 Development Entrance Markers and Landscaped Medians**

The Planning and Zoning Board may permit development entrance markers and landscape medians within the public right-of-way subject to the following conditions and any additional conditions the Planning and Zoning Board may find to be appropriate in the individual circumstance:

- A. The City will not be responsible for maintenance.
- B. An entity responsible for maintenance shall be created.
- C. No such improvements shall interfere with sight distances or with normal maintenance requirements or otherwise pose a hazard to vehicular or pedestrian traffic.
- D. In the event of loss, damage, or lack of improvements, the City may remove all improvements and maintain the area in accordance with City standards.

**Section 1.40 Street Construction Standards and Specifications**

Construction standards and specifications for streets, sidewalks, and curb and gutters are contained in Appendix C, Specifications for Street Construction, and such facilities shall be completed in accordance with such standards. Streets, sidewalks, and curb and gutters constructed in the city's extraterritorial jurisdiction and offered for acceptance by the State of North Carolina shall comply with the NCDOT Subdivision Roads Minimum Construction Standards Manual and any other applicable standards.

**Section 1.41 Bridges**

All bridges shall be constructed in accordance with the standards and specifications of the North Carolina Department of Transportation, except that bridges on roads not intended for public dedication may be approved if designed and certified by a licensed engineer.

**Section 1.42 Lighting Requirements**

- A. All public streets, sidewalks, and other common areas or facilities in subdivisions created after the effective date of this Ordinance shall be sufficiently illuminated to ensure the security of property and the safety of person using such streets, sidewalks, and other common areas or facilities.
- B. All roads, driveways, sidewalks, parking lots, and other common areas and facilities in unsubdivided developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities.
- C. All entrances and exits in substantial buildings used for nonresidential purposes or residential developments (except single family detached) shall be adequately lighted to ensure the safety of persons and the security of the buildings.
- D. Streets lights shall be installed on all streets intended for public dedication adequate to illuminate the intersection for safe use by vehicular and pedestrian traffic. Additional fixtures shall be placed at approximately 400 feet intervals proceeding from points of intersection. When single block

lengths are between 600 feet and 1000 feet, a fixture shall be located as close to a center of the block as is feasible.

- E. Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if it clearly exceeds the standards set forth herein or if the standards set forth herein could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.

#### **Section 143 Street Naming and Numbering**

- A. The Planning and Zoning Board shall have the authority to assign street names. Proposed streets that are in alignment with existing streets shall be given the same name. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the city's jurisdiction, regardless of the use of different suffixes.
- B. Street names shall include a suffix such as but not limited to "street", "avenue", "circle", "court", "place", "way", "loop", or "trail".
- C. The Richmond County Addressing Department shall assign building numbers for those properties inside the city limits and those properties inside the extraterritorial jurisdiction.
- D. The City Council shall have the authority to change existing street names upon a recommendation by the Planning and Zoning Board.

#### **Section 1.44 Utility Ownership and Easement Rights**

In any case in which a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

#### **Section 1.45 Lots Served by Governmentally Owned Water or Sewer Lines**

- A. Whenever it is legally possible and practicable in terms of topography to connect a lot with a city water or sewer line by running a connecting line not more than two hundred (200) feet from the lot to such line, then no use requiring water or sewage disposal service shall be made of such lot unless connection is made to such line.
- B. Connection to such water or sewer line is not legally possible if, in order to make connection with such line by a connecting line that does not exceed two hundred (200) feet in length, it is necessary to run the connecting line over property not owned by the owner of the property to be served by the connection, and, after diligent effort, the easement necessary to run the connecting line cannot reasonably be obtained.
- C. For purposes of this article, a lot is "served" by a city-owned water or sewer line if connection is required by this section.
- D. Sewage disposal systems and water supply systems, including but not limited to when and how such systems must be connected to the City of Hamlet sewer and water systems, shall also be governed by Code of Ordinances Article 21, "Water and Sewers."

**Section 1.46 Sewage Disposal Facilities Required**

- A. Every principal use and every lot within a subdivision shall be served by a sewage disposal system this is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.
- B. Primary responsibility for determining whether a proposed development will comply with the standard set forth in subsection (A), often lies with an agency other than the city, and the developer must comply with detailed standards and specifications of such other agency. Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed sewage disposal system, the authority issuing a permit under this Ordinance may rely upon a preliminary review by such agency of the basic design elements of the proposed sewage disposal system to determine compliance with subsection (A). However, construction of such system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.
- C. Sewage disposal systems, including but not limited to when and how such systems must be connected to the City of Hamlet sewer system, shall also be governed by Code of Ordinances Article 21, "Water and Sewers."

**Section 1.47 Water Supply System Required**

- A. Every principal use and every lot within a subdivision shall be served by a water supply system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.
- B. Primary responsibility for determining whether a proposed development will comply with the standard set forth in subsection (A), often lies with an agency other than the city, and the developer must comply with detailed standards and specifications of such other agency. Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed water supply system, the authority issuing a permit under this Ordinance may rely upon a preliminary review by such agency of the basic design elements of the proposed sewage disposal system to determine compliance with subsection (A). however, construction of such system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.
- C. Water supply systems, including but not limited to when and how such systems must be connected to the City of Hamlet water system, shall also be governed by Code of Ordinances Article 21, "Water and Sewers."

**Section 1.48 Approval of Water and Sewage System Required**

- A. Any entity proposing to build sanitary sewers to connect directly or indirectly into the city's sanitary sewerage system or water lines to connect to the City water supply system shall conform its plans and specifications to the requirements of this and other applicable statutes, regulations and ordinances. An engineer licensed in the state or North Carolina shall prepare the plans and specifications. The developer shall be required to obtain the approval of any and all local, county and state authorities having jurisdiction over such proposed system.
- B. The following administrative procedures shall be followed:

1. Submit preliminary construction plans to the City Manager or his designee in sufficient detail to indicate location, system layout, line sizes, service connections, flows, character of sewage, relationship with and connection to the City's system, pump station location and specifications, and other information deemed relevant by the City Manager or his designee.
  2. Receive preliminary approval from the City Manager or his designee and other jurisdictional agencies.
  3. Prepare construction drawings and documents for approval by City Manager or his designee.
  4. Secure all other necessary agency approvals of construction drawings and contact documents.
  5. Upon receipt of required approvals, proceed with construction notifying the permitting authority of construction schedules.
  6. Provide the City Manager or his designee with permission for on-site inspection during construction.
  7. Furnish to the City Manager or his designee a certificate of completion, instrument of conveyance, and warranty together with such other legal documents as may be required for annexation, reimbursement and similar special provisions.
- C.** Construction of the proposed sewerage system or water system shall be accomplished by a registered contractor licensed under the laws of the State of North Carolina who shall have paid all business licenses required by the City of Hamlet.
- D.** Public bids must be received and tabulated for any portion of the proposed system, which qualifies for reimbursement from the City. These tabulated bids must be submitted to and approved by the City Manager or his designee before award of construction contracts.
- E.** Upon completion of construction, the engineer employed by the developer shall inspect and furnish to the permitting authority at no cost to the City, his certificate of completion indicating that the subject system has been constructed in accordance with the approved plans and specifications, and shall provide two (2) copies of "As Built" drawings.
- F.** The developer or his authorized agent shall submit a warranty, which is a legal instrument in which the developer warrants the materials, equipment, and construction of the system for twelve (12) months. The developer shall further warrant to the City Manager or his designee that all fees have been paid by him such that there is not outstanding indebtedness remaining and holding the City harmless in each instance.
- G.** All known sewer taps and water taps shall be made during construction and the location of all taps shall be recorded on the "As Built" drawings.
- H.** All sewerage system and water system extensions must be compatible with present and future plans and needs of City.
- I.** When all other requirements of this Ordinance have been met and approved, the developer shall prepare and submit to the City Manager or his designee an Instrument of Conveyance, conveying the constructed system to the City, at no cost to the City, and the system shall thereafter be owned,

operated and maintained by the City as provided for in this Ordinance. The Instrument of Conveyance shall also include permanent easements and rights-of-way fully described and duly recorded at the appropriate authority.

#### **Section 1.49 Fire Hydrants**

- A.** Every development (subdivided or unsubdivided) that is served by a public water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located or intended to be located within such development.
- B.** The presumption established by this ordinance is that to satisfy the standard set forth in subsection (A), fire hydrants must be located so that all parts of every building within the development may be served by a hydrant by laying not more than five hundred (500) feet of hose connected to such hydrant. However, the fire chief may authorize or require a deviation from this standard if in his professional opinion another arrangement more satisfactorily complies with the standard set forth in subsection (A).
- C.** The Fire Chief shall determine the precise location of all fire hydrants, subject to the other provisions of this section. In general, fire hydrants shall be placed six (6) feet behind the curb line of publicly dedicated streets.
- D.** The Fire Chief shall determine the design standards of all hydrants based on fire flow needs. Unless otherwise specified by the Fire Chief, all hydrants shall have two 2 ½-inch hose connections and one 4 ¼-inch hose connection. The 2 ½-inch hose connections shall be located at least 21 ¼-inches from the ground level. All hydrant threads shall be national standards threads.
- E.** Water lines that serve hydrants shall be at least six-inch lines, and, unless no other practicable alternative is available, no such lines shall be dead-end lines.

#### **Section 1.50 Electric Power**

Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

- A.** If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.
- B.** If the use is a subdivision or is not located on a lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric utility service provider must review the proposed plans and certify to the city that it can provide service that is adequate to meet the needs of the proposed used and every lot within the proposed subdivision.

#### **Section 1.51 Underground Utilities**

All electric power lines, (excluding transformers or enclosures containing electrical equipment such as switches, meters, or capacitor which may be pad mounted), telephone, gas distribution, and cable television lines in subdivisions constructed after the effective of this Ordinance shall be installed underground.

**Section 1.52 Utilities To Be Consistent With Internal and External Development**

- A. Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments, such utility facilities (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication or service.
- B. All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

**Section 1.53 Dumpster Pad and Screening Requirements**

Every development that utilizes a dumpster for the purpose of solid waste collection shall comply with the following requirements:

- A. Each dumpster shall be located so as to facilitate collection and minimize any negative impacts on persons occupying the development site, neighboring properties, or public rights-of way.
- B. Each dumpster shall be located on a concrete pad with three-sided screening constructed in accordance with the specifications set forth in Appendix D.

**Section 1.54 Reservation of Open Space Required**

- A. Except as provided for in subsection (B) (C) and (D), every residential development shall be required to reserve a minimum of seven (7) percent of the gross development area as permanent usable open space. An area shall constitute usable open space if such area:
  - 1. Is not encumbered with any substantial structure;
  - 2. Is not devoted to use as a roadway, parking area, or sidewalk, or other impervious surface area;
  - 3. Is left (as of the date development begins) in its natural or undisturbed state if wooded, except for the cutting of trail for walking or jogging; or if not wooded at the time of development, is landscaped for ball fields, picnic areas, or similar facilities, or is properly vegetated and landscaped with the objective of creating a wooded or natural area;
  - 4. Is capable of being used and enjoyed for purposes of informal and unstructured, passive recreation and relaxation;
  - 5. Is legally and practically accessible to the residents of the development from which the required open space is reserved, or to the general public if dedicated to the Coty;
- B. Residential subdivisions, where less than twenty-five (25) lots are created from the original parent tract within a ten (10) year period shall be exempt from the requirements for the reservation of open space.
- C. Residential subdivisions, where the average lot size is one (1) acre or more shall be exempt from the requirements for the reservation of open space.

- D. Unsubdivided residential developments containing less than ten (10) units shall be exempt from the requirements for the reservation of open space.
- E. The permit-issuing authority shall be authorized to permit deviations from the requirements for the reservation of usable open space when it determines that peculiarities in the proposed subdivision or development eliminate the need for or make the reservation of open space not feasible.

**Section 1.55 Ownership and Maintenance of Required Open Space and Common Areas**

- A. Except as otherwise provided for herein, open space reserved pursuant to the requirements of this Ordinance shall be owned and maintained by the developer (or his successor), a homeowners' association, or similar type organization.
- B. The entity identified in subsection (A) above as having the right of ownership and control over such recreational facility shall be responsible for the continuing upkeep and proper maintenance of such open space. Proper maintenance shall constitute the removal of litter, refuse, and debris; and weeding and mowing.
- C. Homeowners' associations or similar legal entities that are responsible for the maintenance and control of open space and /or common areas shall be established in such a manner that:
  - 1. Provisions for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
  - 2. The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;
  - 3. The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities; and
  - 4. The association will establish a capital fund for the maintenance and upkeep of common areas and facilities and a method of contributing to that fund which will spread the costs of said maintenance and upkeep to the residents over a number of years.
- D. Open space reserved in residential subdivisions shall be clearly delineated as a separate parcel(s) and identified on the final plat with the notation "*Reserved as Open Space. Development prohibited pursuant the authority of the City of Hamlet Planning and Zoning Board*". The subdivider may offer such open space for dedication to the City, but the City shall not be obligated to accept such open space.

**Section 1.56 Storm Water Management**

- A. To the extent practicable, all development shall conform to the natural contours of the land, and natural and preexisting man-made drainage ways shall remain undisturbed.
- B. To the extent practicable, lot boundaries shall be made to coincide with natural and preexisting man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainage ways.

- C. 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:
  - 1. The retention is the intentional result of a technique, practice or device deliberately installed as part of an approved sedimentation or storm water runoff control plan; or
  - 2. 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.
- D. No surface water may be channeled or directed into a sanitary sewer.
- E. Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.
- F. Private roads and access ways within unsubdivided developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner or if other sufficient reasons exist to require such construction.
- G. 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:
  - 1. 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 unreasonable causing substantial damage to such higher adjacent properties; and
  - 2. No development may be constructed or maintained so that surface waters from such development are unreasonable collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

**Section 1.57                    Sedimentation and Erosion Control**

- A. No zoning or special use permit shall be issued and no construction plan for subdivisions shall be approved for any development that would cause land disturbing activity subject to the jurisdiction of the N.C. Department of Environmental Quality – Sedimentation Control Commission, until the commission has certified to the city, either that:
  - 1. An erosion control plan has been submitted to and approved by the commission; or
  - 2. The commission 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 drawing. However, in this case, construction of the development may not begin (and no building permits shall be issued) until the commission approves the erosion control plan.
- B. For the purposes of this section, land disturbing activity means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, and highway and road construction and maintenance that results in a change in the natural cover or topography to

one (1) acre or more of land and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

- C. If land disturbing activities occur on land that is less than once (1) acre in area, the applicant or developer shall take such action necessary to prevent any undue erosion or sedimentation of the soil, especially if the sedimentation would migrate onto neighboring lands or adjacent streams, by use of hay bales, silt fences, or other acceptable means.

## **Part 5: Definitions and Interpretation**

### **Section 1.59 Interpretation of Certain Words and Phrases**

- A. Words in the present tense include the future tense.
- B. Words or phrases not specifically defined herein shall have their customary meanings as defined in a standard dictionary.
- C. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- D. The word "lot" shall include the words, "plot," "parcel," or "tract."
- E. The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

### **Section 1.59 Basic Terms Defined**

Unless otherwise specifically provided or clearly required by the context, the words and phrases defined in this Article shall have the meaning indicated below:

#### **Abutting.**

Having property or district lines in common. For example, two lots are abutting if they have property lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a railroad, street, alley, or other transportation corridor. The terms "adjacent", "adjoining", and "contiguous" shall be interchangeable with the term abutting".

#### **Access.**

A way of approaching or entering a property. The term "access" shall be interchangeable with the terms "ingress", "egress", and "access way".

#### **Block.**

A tract of land of a lot or group of lots bounded by streets, public parks, golf courses, railroad right-of-way, water courses, lakes, unsubdivided land, or a boundary line or lines of the county or its towns or any combination of the above.

#### **Buffer.**

A strip of land established to protect one type of land use from another.

#### **Building Setback Line.**

A line parallel to the property line. No structure shall be erected closer to property boundary than the setback line. The front building setback line shall be measured from the street/road right-of-way line.

**Built-Up-on Area.**

Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: wooden slatted decks and the water area of a swimming pool is considered pervious.)

**City.**

Unless the context clearly discloses a contrary intent, the word "City" shall mean the City of Hamlet.

**City Council.**

The City Council of the City of Hamlet

**Code of Ordinances.**

The City of Hamlet Code of Ordinances.

**Condominium.**

The term condominium shall apply to residential and commercial development where portions of buildings are separately owned and where land and other improvements are held in undivided interested.

**Contour Line.**

A contour line is an imaginary line on the surface of the earth that connects all points that are of equal height above some reference plane, usually sea level.

**Contour Map.**

A contour map is a drawing which shows the location of the contour lines for a particular parcel of land which, in turn, show the topography of the parcel.

**Dedication.**

The offer to transfer property from private to public ownership. Such transaction is not completed unless and until the appropriate public agency accepts the offer.

**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 on that property.

**Development.**

Unless the context clearly indicates otherwise, the term means any of the following:

- A. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- B. The excavation, grading, filling, clearing, or alteration of land.
- C. The subdivision of land as defined in G.S. 160D-802.
- D. The initiation or substantial change in the use of land or the intensity of use of land.

(May also be referred to as "land development activity").

**Driveway.**

That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

**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, except that for purposes of Article 12 of GS 160D, it 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.

**Easement.**

A right given by the owner of land to another party for specific limited use of that land. For example, a property owner may give an easement on his property to allow utility facilities, like power lines or pipelines; to allow light to reach a neighbor's windows; or to allow access to another property.

**Effective Date of this Ordinance.**

Whenever this Ordinance refers to the effective date of this Ordinance, the reference shall be deemed to include the effective date of any amendments to this Ordinance if the amendment, rather than this Ordinance as originally adopted, creates a nonconforming situation.

**Erosion.**

The wearing away of land surface by the action of wind, water, gravity or any combination thereof.

**Family.**

1) An individual; 2) two (2) or more persons related by blood, marriage, or adoption living together in a dwelling unit, and (unless the dwelling contains an accessory dwelling unit) may also include not more than two (2) unrelated persons; or 3) a group of not more than four (4) persons who need not be related by blood, marriage, or adoption living together in a dwelling unit. A family may include five (5) or fewer foster children placed in a family foster home licensed by the State but shall not include fraternities, sororities, boarding or rooming houses, tourist homes, or family care homes.

**Land Development Activity.**

See "development".

**Land Disturbing Activity.**

Per NCGS 113A-52(6), any use of the land by any person in residential, commercial, industrial, educational or institutional development, highway and road construction and/or maintenance that results in a change in the natural cover or topography of the land that may cause or contribute to sedimentation.

**Lot.**

A parcel of land which is either a "lot of record" or a "zoning lot."

**Lot Area.**

The total area circumscribed by the boundaries of a lot, except that when the legal instrument creating a lot shows the boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel thirty (30) feet from the center of the traveled portion of the street, and in a residential district, when a private road that serves more than three (3) dwelling units is located along any lot boundary, then the lot

boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

**Lot, Corner.**

A lot located at the intersection of two (2) or more streets.

**Lot Coverage.**

The portion of a lot covered by building(s) or roofed structures(s), excluding allowed projected eaves, balconies, and similar features.

**Lot Depth.**

The distance between the front lot line and the rear lot line, measured from the midpoint of the front lot line to the midpoint of the rear lot line.

**Lot Frontage.**

The distance along which the front boundary of the lot and the street lines or right-of-way lines are coincident. On a corner lot the principal frontage shall be the shorter of the street frontages, measured from the point of intersection of the lot lines abutting such street. Where two (2) such frontages are equal in length, the owner shall designate which is the front for building purposes.

**Lot Interior.**

A lot other than a corner or reversed corner lot.

**Lot Line, Rear.**

The rear lot line is that opposite to the front lot line. Where lot lines are irregular, the rear lot line shall be assumed to be a line not less than twenty (20) feet long, lying within the lot and parallel to the front lot line at its midpoint.

**Lot of Record.**

A lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of Richmond County; or a parcel of land, the deed of which was recorded in the office of said Register of Deeds prior to the adoption of this Ordinance.

**Lot Width.**

The distance between the side lot lines of a lot measured at right angles to the depth and at the required front yard setback lines.

**Mean Sea Level.**

For purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. The FIRM panels are adopted by reference and declared to be part of this Ordinance. The incorporated maps shall be kept on file in digital or paper format with the City Clerk, and is available for public inspection during normal business hours.

**Ordinance.**

This Ordinance, including any amendments. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.

**Permit-Issuing Authority.**

The entity responsible for the approval of a specific type of permit as set forth in this Ordinance. Also referred to a "permitting authority".

**Plan.**

A map or plan of a parcel of land which is to be, or has been subdivided.

**Planning and Zoning Board.**

The public agency in a community empowered to prepare a comprehensive plan and to evaluate proposed changes in land use, either by public or private developers, for conformance with the plan. The Planning Board hears, deliberates, and makes recommendations to City Council on all Ordinance and map amendments.

**Plat.**

A map showing the location, boundaries, and ownership of individual properties.

**Plat, Final.**

A drawing and related materials showing the layout of lots, streets, and other natural or man-made features in a proposed subdivision which must be approved pursuant to this Ordinance prior to recordation and prior to the transfer of any lots.

**Plat, Preliminary.**

A drawing and related material showing the layout of a proposed subdivision, including improvements details, which must be approved pursuant to this Ordinance prior to the preparation of a final plat.

**Private Drive, Road, or Street.**

An easement or right-of-way not dedicated to the public which provides access to not less than two (2) abutting properties or dwelling units; and is permitted only where specifically authorized by this Ordinance. Included also are roads or streets, within a mobile home park, travel trailer campground, multi-family housing project, commercial center, industrial park or other planned unit development which is not publicly maintained and is used for access by occupants of the development, their guests and the general public.

**Public Sewer.**

A sewage system which is owned by the City of Hamlet, by any other unit of government or authority, or by a private corporation, person or association and which is designed to serve uses locating along existing lines or within the service area of the system, should additional collection lines be constructed.

**Public Water Supply System.**

Any approved water supply system furnishing potable water to ten (10) or more dwelling units or businesses or any combination thereof.

**Register of Deeds.**

The Register of Deeds for Richmond County, North Carolina.

**Reservation**

An obligation by a property owner to keep certain land free from development for a stated period of time. A reservation does not involve transfer of property rights but allows the public to acquire such land within the stated time period. Building setback lines shall observe the reserved line of a street during the stated time period.

**Residential Development.**

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

**Review Officer.**

Pursuant to NCGS 47-30.2, that person or persons designated by Richmond County designated to determine whether proposed subdivisions of land comply with all statutory requirements.

**Roadway.**

The portion of a street, road, highway or alley intended for vehicular use. The surface that vehicles normally travel on; i.e., the surfaced portion within the right-of-way.

**Sedimentation.**

The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land disturbing activity or into a lake or natural watersource.

**Sketch Plan.**

A crude conceptual map indicating a subdivider's intent to subdivide a tract.

**Solid Waste Disposal Site.**

As defined 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.**

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 stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundation of the erection of temporary forms; nor does it include the installation on 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.

**Street, Alley.**

A strip of land providing secondary access to properties otherwise abutting a street.

**Street, Cul-de-Sac.**

A street that terminates in a vehicular turnaround.

**Street Frontage.**

A lot line abutting on the side of a street, or on a permanent turnaround at the end of a street; also, the distance along such line.

**Street, Marginal Access.**

A street that is parallel to and adjacent to an arterial street or thoroughfare and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

**Street, Public.**

A dedicated public right-of-way in which the roadway has been accepted or constructed to public standards for vehicular traffic but not an alley.

**Street, Thoroughfare.**

A traffic artery designed primarily to carry heavy volumes of through vehicular traffic as shown on the major street plan.

**Structure.**

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

**Subdivider.**

Any person, firm, or corporation who creates or proposes to create a subdivision as defined herein.

**Subdivision.**

All divisions of tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purposes of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but pursuant to NCGS 160D-802, the following shall not be included within the definition:

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to exceed the standards of the municipality as shown in its subdivision regulations;
- (2) The division of and into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets; and
- (4) The division of a tract in single ownership whose entire area is not greater than two (2) acres into not more than three (3) lots, where no street extension or right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Ordinance.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession

**Subdivision, Major.**

Any subdivision other than a minor subdivision.

**Subdivision, Minor.**

A division of land that creates not more than three (3) lots (excluding the parent tract where no new street right-of-way dedication is required, and all resultant lots conform to the requirements set forth in this Ordinance.

**Tract.**

The term is used interchangeable with the term lot, particularly in the context of subdivisions, where one "tract" is subdivided into several "lots".

**Use.**

The purpose for which land or structures thereon is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

**Use, Accessory.**

Any use which is clearly incidental, secondary, and/or supportive of a principal use.

**Use, Principal Permitted.**

Any use listed as Permitted Use in any Zoning District, except those which by definition or their nature are accessory uses.

**Utility Facilities.**

Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any

purpose by the [the appropriate provision of state law] and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals.

Commented [RD1]: Incorporated into document.

## **Zoning Board and Board of Adjustment Policies**

### **Section 1. Officers and Duties of Appointed Boards**

- A. **Chairman.** A Chairman shall be elected by the full membership of the Planning Board and the Zoning Board of Adjustment from among their regular members. His/her term of office shall be one year and until his/her successor is elected, beginning on July 1, and he/she shall be eligible for re-election. The chairman shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by the majority of the Boards in session at the time. The chairman shall appoint any committees found necessary to investigate any matters before the Boards.
- B. **Vice-Chairman.** A Vice-Chairman shall be elected by the Boards from among their regular members in the same manner and for the same term as the Chairman. He/she shall serve as acting Chairman in the absence of the Chairman, and at such times he/she shall have the same powers and duties as the Chairman.
- C. **Secretary.** The Zoning Administrator shall serve as the Secretary to the Boards. If the Zoning Administrator is unable to serve or if the Zoning Administrator has a conflict, then a secretary shall be appointed by the Chairman of the Boards, either from within or outside its membership, to hold office during the period when the Zoning Administrator is unavailable and/or until a successor secretary shall have been appointed. The secretary shall be eligible for reappointment. The secretary, subject to the direction of the Chairman of the Boards, shall keep all records, shall conduct all correspondence of the Boards, shall arrange for all public notices required to be given, shall notify members of pending meetings and their agenda, shall notify parties to cases before the Boards of its decision on such cases, and shall generally supervise the clerical work of the Boards. The secretary shall keep in a permanent volume, the minutes of every meeting of the Boards. These shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Boards, and all votes of members of the Boards upon any resolution or upon the final determination of any question, indicating the names of members absent or failing to vote. If the secretary is chosen from outside the membership of the Boards, he shall not be eligible to vote upon any matter.
- D. **Alternate members of the Boards** shall be called upon to attend only those meetings and hearings at which one or more regular members are absent or unable to participate in the hearing of a case because of financial or other interests. Regular members, on receiving notice of any meeting which they cannot attend or upon learning they will be unable to participate in a meeting, shall promptly give notice to the Secretary of the Boards that they are unable to attend or to participate. On receiving such notice, the Secretary shall, by the most expeditious means, notify an alternate member to attend. Assignments shall be rotated between the alternate members. At any meeting which they are called upon to attend, alternate members shall have the same powers and duties as regular members. Alternate members in attendance may participate in the meeting, but shall not vote on any matter before the Board unless they are serving in the absence of a regular member.
- E. Except at the election of officers, at no time shall more than seven members vote in any meeting or hearing.
- F. All members appointed to either Board shall, before entering their duties, qualify by taking an oath of office as required by G.S. 160D-309.

### **Section 2. Rules of Conduct for Members of Both Boards**

## Policies for Zoning Board and Board of Adjustment

Members of the Boards may be removed for cause, including violation of any rule in Zoning Ordinance Article 12 and as stated below:

- A. Faithful attendance at all meetings of the Boards and conscientious performance of the duties required of the Boards shall be considered a prerequisite of continuing membership of the Boards.
- B. A member of either Board exercising quasi-judicial functions pursuant to the Zoning Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter included as further identified in subsections C, E, F and G. Members of the Board of Adjustment are also bound by the requirements of section 12.4.C.(1) 12.4 G. of the Zoning Ordinance.
- C. No Board member shall vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- D. No member of either Board shall vote on any matter deciding on a conditional special use, variance, or appeal unless they have attended the public hearing on that application or appeal or has studied the records of the hearing and the evidence presented and has familiarized him or herself with the facts and positions of the parties.
- E. No member of either Board shall discuss any quasi-judicial case with any interested person, witness or party thereto prior to the public hearing on that case; provided however, that members may receive and/or seek information pertaining to the case from its Secretary prior to the hearing. Members of the Boards shall disclose publicly any contact made by any party to a matter before the Boards.
- F. All regular members may vote on any issue unless they have disqualified themselves for one or more other reasons listed in Item D Section 2 of Rules of Conduct for Members of Both Boards. The required vote to decide variances shall be as provided in Article XII, Section 12.4.1 of the Zoning Ordinance. Members of the Boards shall not express individual opinions on the proper judgment of any case with any witnesses, interested persons or parties thereto prior to the Boards' determination of that case.
- G. No member of either Board shall participate in a quasi-judicial hearing if that member has a fixed opinion prior to hearing the matter that is not susceptible to change.
- H. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

The City Council may review the actions of either Board at any time for violation of this rule which shall be cause for dismissal from the Boards.

### **Section 3. Meetings**

Policies for Zoning Board and Board of Adjustment

- A.** Regular Meetings. The Boards meet on an as-need basis, typically on the third Monday of the month at 6:00 pm in the Council Chambers of the City Hall; provided that meetings may be held at any other convenient place in the City if directed by the Chairman in advance of the meeting.
- B.** All meetings shall comply with the Open Meetings Law of North Carolina.
- C.** Quorum. A Quorum shall consist of four (4) members of the Boards, but the Boards shall not pass upon any question relating to an application for a variance when there are less than five (5) members present.
- D.** Special Meetings. Special Meetings of the Boards may be called at any time by the Chairman. At least forty-eight (48) hours written notice of the time and place of special meeting shall be given, by the secretary or the Chairman to each member of the Boards.
- E.** Cancellation of Meetings. Whenever there are no appeals, applications for exceptions or variances, or other business for the Boards, or whenever so many regular and alternate members notify the Secretary of inability to attend that a quorum will not be available, the Chairman may dispense with a regular meeting by giving written or oral notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.
- F.** Voting. All regular members may vote on any issue unless they have disqualified themselves for one or more other reasons listed in Item D of Rules of Conduct for Members of Both Board.. The required vote to decide variances shall be as provided Article XII of the Zoning Ordinance. In all other matters the vote of a majority of the members present and voting shall decide issues before the Boards. This rule shall be followed for amendments to the text of the Zoning Ordinance or changes to the Hamlet Zoning Map.
- G.** Conduct of Meetings. All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

  - 1. Roll call;
  - 2. Approval of minutes of previous meetings;
  - 3. Hearing of cases;
  - 4. Unfinished business;
  - 5. New business
  - 6. Consideration and determination of cases heard;
  - 7. Adjournment

Approved by vote of Council on July 13, 2021.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(Seal)

# **APPENDICES**

## **Town of Hamlet Development Ordinance**

**2021**

## Appendix A:

### Tree List

<i>Partial List of Trees That May Be Planted</i>		
<i>Small trees</i>	<i>Medium trees</i>	<i>Large Trees</i>
Chaste Tree	American Holly	American Sweetgum
Common Smoketree	American Hornbeam	Common Bald Cypress
Crepe Myrtle	Bradford Pear	Common China Fir
Flowering Crabapple	Chinese Elm	Cottonwood
Flowering Peach	Flowering Cherry	Dawn Redwood
Fringe Trees	Goldenraintree	Ginko
Hawthorne Species	Lusterleaf Holly	Green Ash
Japanese Maple	Osage-orange	Japanese Zelkova
Little Gem Magnolia	Possumhaw	Leyland Cypress
Loquat	Redbud	Loblolly Pine
Nellie Stevens Holly	Saucer Magnolia	Longleaf Pine
Purpleleaf Plum	Savannah Holly	Oak Species
Virginia Pine	Silverbell	Peacan
	Trident Maple	Red Maple
		River Birch
		Southern Magnolia
		Sugar Maple
		Sycamore
		Tuliptree
		White Pine

## Appendix B: Mapping Standards

### Section B.01: Plan Submission

The following are the standards for maps, plats, and plans, which are to be submitted as part of the subdivision approval process. These standards are intended to be general and the subdivider may be required to submit fewer or more maps, plats, or plans, or provide less or more information depending upon the circumstances of the particular case.

- (A) All maps, plats, and plans shall be drawn to scale. The scale shall be not less than 1" = 200'. Construction plans shall be at a scale of not less than 1" = 50'. Prints may be blue-line or black-line, and map size shall be a minimum of 11" x 17" and a maximum of 24" x 36".
- (B) The number and type of maps, plats, and plans submitted shall adhere to the requirements set forth in the following table.

Type	Type and Number Submitted
Sketch Plan	2 prints
Preliminary Plat	2 prints; and 1 reproducible (1 1" x 17")
Construction Plans	2 prints
Final Plat	2 prints
As-built drawings	2 prints; and 1 mylar

- (C) Unless otherwise advised by the Administrator, preliminary plats and final plats shall contain all information as required in the following table.

Information Required	Preliminary Plat	Final Plat
Title Block containing the name of the proposed development; name of map, plat, or plan (preliminary or final); owner's name with address and daytime phone #; date map was prepared or revised; scale in feet per inch; name address, and telephone # of person preparing the map, plat or plan; developer's name, address, and daytime phone number (if different from owner's)	✓	✓
Zoning districts within the property and adjacent properties	✓	
Deed book or plat book reference for subject property	✓	✓
Names of adjoining property owners or names of adjoining subdivisions or developments with deed book/page and plat book references	✓	✓
Tax map numbers of subject property	✓	

Vicinity map illustrating the location of the subject property relative to surrounding area typically drawn in upper right corner at a scale of 1" = 2000'	✓	✓
Corporate limits or extraterritorial boundaries if on the subject property	✓	✓
North arrow and orientation (North arrow shall be oriented towards top of map where practical)	✓	✓
Boundaries of the tract to be subdivided distinctly and accurately represented with all distances, bearings, and curve data shown	✓	✓
If existing property lines on subject property are to be changed, then label as "old property lines" and illustrate as dashed lines.	✓	✓
Location and description of all monuments, markers, and control corners	✓	✓
Location of intersecting boundary lines of adjoining properties	✓	✓
Dimension, location and use of all existing buildings, distances between buildings measured at the closest point; distance from buildings to closest property lines; buildings to remain on final plat	✓	✓
Railroad lines and rights-of-way	✓	✓
Water courses, ponds, lakes, or streams	✓	✓
Marshes, swamps and other wetlands	✓	✓
Areas to be dedicated or reserved for the public or a local jurisdiction	✓	✓
Areas reserved for common area or open space	✓	✓
Existing and proposed topography of subject property and 100 feet beyond boundaries of subject property at intervals no greater than five feet (2 feet where available)	✓	
Proposed lot lines and dimensions with bearings	✓	✓
Setback lines for each proposed lot	✓	✓
Square footage of all proposed lots under one acre in size	✓	✓
Acreage of all lots over one acre in size	✓	✓
Site calculations including but not limited to acreage in total tract; acreage in public greenways and other open space; total number of lots proposed; linear feet in streets; area in newly dedicated right-of-way	✓	
Lots sequenced or numbered consecutively	✓	✓
Street data illustrating existing and proposed rights-of-way within and adjacent to property; total right-of-width dimension; cut-de-sac right-of-way radius from center point; pavement or curb lines; pavement width dimensions; cut-de-sac pavement radius from center point	✓	
Existing and proposed street names	✓	✓
Location, dimension, and type of all easements (existing and proposed)	✓	✓

Any other information deemed relevant by the Administrator	✓	✓
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**Section B.02: Certifications, Notes and Approval Blocks**

The following certificates, notes and approval blocks shall appear on the appropriate plans and plats in substantially the following formats:

- (A) Certificate of Ownership (for minor subdivisions)

<b>Certificate of Ownership</b>	
I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the City of Hamlet; and that I am hereby adopting this plan of subdivision.	
Owner: _____	Date: _____
_____	
Owner: _____	Date: _____

- (B) Certificate of Approval (for minor subdivisions)

<b>Certificate of Approval</b>	
I hereby certify that the minor subdivision shown on this plat does not involve the creation of new public streets or any change in existing public streets; that the subdivision shown complies in all respects with the Unified Development Ordinance of Hamlet, North Carolina; and that therefore this plat has been approved by the City of Hamlet Planning Director, subject to its being recorded in the Richmond County Registry within 60 days of the date below.	
_____	

- (C) Certificate of Ownership (for major subdivisions)

<b>Certificate of Ownership and Dedication</b>	
I hereby certify that I am the owner of the property described hereon, which is located in the subdivision regulation jurisdiction of the City of Hamlet; that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Hamlet City Council in the public interest.	
Owner: _____	Date: _____
_____	
Owner: _____	Date: _____

- (D) Certificate of Approval (for major subdivisions)

**Certificate of Approval**

I hereby certify that all streets shown on this plat are within the City of Hamlet's planning jurisdiction; that all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within 12 months after the date below) has been assured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with the Unified Development Ordinance of Hamlet, North Carolina; and therefore this plat has been approved by the Hamlet Planning Director, subject to its being recorded in the Richmond County Registry within 60 days of the date

- (E) Certificate of Survey and Accuracy (for major and minor subdivisions)

**Certificate of Survey and Accuracy**

I hereby certify that this map (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (a deed description recorded in Book\_\_\_\_, Page \_\_\_\_ of the Richmond County Registry) (other); that the boundaries not surveyed are clearly indicated as dashed lines plotted from information found in Book\_\_\_\_, Page \_\_\_\_; that the ration of precision as calculated is \_\_\_\_; and that this map was prepared in accordance with [statutory citation]. Witness my original signature, registration number and seal this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

- (F) Review Officer Certificate (for major, minor and exempt subdivisions)

**Review Officer Certificate**

State of North Carolina  
County of Richmond

I, \_\_\_\_\_, Review Officer of Richmond County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

## Appendix C: Specifications for Street Construction

### Section C.01: Radius at Street Intersections

The intersections of the paved surfaces of streets shall be rounded with a minimum radius as shown in the table below. Where streets intersect at less than right angles, a greater radius may be required. The North Carolina Department of Transportation (NCDOT) may vary the minimum radii set forth below at intersections involving state maintained streets.

Type of Street Intersection	Minimum Radius
Minor to Minor	15 feet
Minor to Local	15 feet
Minor to Subcollector	20 feet
Minor to Collector	20 feet
Local to Local	15 feet
Local to Subcollector	20 feet
Local to Collector	20 feet
Subcollector to Subcollector	25 feet
Subcollector to Collector	30 feet

### Section C.02: Cut and Fill Slopes

Cut and fill slopes on any street right-of-way may not exceed 2:1.

### Section C.03: Clearing and Grubbing

Clearing and grubbing shall be performed within the limits shown on the plans. All timber, brush, roots, stumps, trees, or other vegetation cut during the clearing operations shall become the contractor's responsibility to dispose of, and shall be either removed from the project, or satisfactorily disposed of on-site. Satisfactory on-site disposal shall not include burial.

### Section C.04: Grading and Compaction

Streets shall be graded in accordance with the lines and grade set by the engineer. Before placing curb and gutter or base on the graded sub-grade, the sub-grade shall be compacted to 100 percent AASHTO T99 for a depth of six (6) inches and then shall be proof rolled in the presence of the engineer. Places that are found to be loose, or soft, or composed of unsuitable materials, whether in the sub-grade or below it, must be dug out and refilled with suitable material. All embankments or fills shall be made in one-foot horizontal lifts of suitable material. The fill shall be rolled with a sheepfoot roller after each lift, followed by a wheel roller, each weighing not less than eight (8) tons.

### Section C.05: Street Base

Base course for streets shall generally be eight (8) inches thick, unless otherwise directed by the City of Hamlet Public Works Director, and shall be crushed stone conforming to NCDOT Type ABC stone. The stone base course shall be placed in four-inch layers, watered as necessary, and compacted to 100 percent AASHTO T99. The contractor shall be responsible for keeping the stone base free of contamination from

clay or other foreign materials. Handling and placement of stone base shall all be in accordance with NCDOT specifications.

**Section C.06: Street Surfaces**

The asphalt surface course shall meet NCDOT specifications for Type 1-2 asphalt. The asphalt shall be placed in one (1) two-inch layer, and shall be handled and placed in accordance with D.O.T. specifications.

**Section C.07: Curb and Gutter**

The concrete curb and gutter shall be constructed according to the lines and grades established by the engineer. The concrete shall conform to NCDOT requirements. The forms shall be of metal, free of marks or kinks, and shall be rigidly held in position. The engineer shall approve the positioning of the forms before concrete is poured. The concrete shall be placed in the forms in a manner to prevent segregation, and tamped or vibrated sufficiently to prevent honeycombs. The concrete shall be finished smooth and even by means of rollers or floats. Expansion joints shall be provided every thirty (30) feet, and false joints every ten (10) feet.

**Section C.08: Sidewalks**

Sidewalk construction shall be similar to street construction, with sub-grade compacted to 100 percent AAASHO T99. Concrete sidewalks shall be four (4) inches thick (increasing to six (6) inches thick at driveway entrances), and shall be at least four (4) feet wide. Expansion joints shall be provided every thirty (30) feet, and false joints every ten (10) feet.

**Section C.09: Wheelchair Ramps**

Where required, wheelchair ramps shall be constructed in accordance with ADA and NCDOT requirements.

**Section C.10: Storm Water Runoff Control**

- (A) The minimum design frequency for storm runoff shall be ten (10) years for storm sewer collection and twenty-five (25) years for cross drainage (drainage facilities crossing a street).
- (B) All storm drainage pipes shall be reinforced concrete and no pipe shall be smaller than 15 inches in diameter.
- (C) Culvert outlet protection and swale erosion protection shall be designed based on a 10-year storm.
- (D) All storm drainage structures and pipes shall be designed and constructed in accordance with North Carolina Department of Transportation specifications.

**Section C.11: Sedimentation Control**

Road shoulders, swales, back-of-curbs, and cut and fill banks shall be completely dressed up by the contractor and seeded as soon as possible.

## Appendix D:

### Dumpster Screening Details

#### A. Location:

1. Enclosures shall be located to the rear or side of the primary building. For multi-family residential uses, the locations shall be approved by the Administrator.
2. Enclosures shall not be located closer than ten (10) feet to any right-of-way.
3. Enclosures shall not be located within any tree preservation area, sight triangle, front yard setback, or buffer yard.
4. Where no acceptable location can be found on an existing site, with approval from the Administrator, an enclosure may be located in a parking space or within a side or rear yard setback.

#### B. Construction Standards:

1. Enclosures shall be constructed of solid, sturdy materials, including wood or composite fencing, masonry, stone, or brick.
2. All enclosures shall be constructed with an opaque gate with a metal frame. Chain link gates with slats shall not be permitted, except for industrial uses. All gates shall be provided with wheels and drop pins or rods for securing gates when open and closed.
3. The base of the enclosure shall consist of a 6" reinforced concrete pad, designed to 3,000 PSI. The pad shall extend a minimum of twelve (12) inches beyond the walls of the enclosure and 4' from the gate to protect surrounding asphalt.
4. The minimum inside measurements of a dumpster enclosure shall be no less than fourteen (14) feet in width and nine (9) feet in length. If two dumpsters are to be enclosed, the minimum width shall be increased to twenty-three (23'). If container(s) other than a dumpster is being utilized, enclosure size shall be approved by the Administrator.
5. A drain may be installed to drain only the area of the base.
6. Concrete wheel stops, soldier posts, or similar feature shall be installed within 12" of the side and rear of the enclosure to ensure the container does not make contact with the walls.
7. Enclosures in multi-family residential areas shall provide a separate opening for pedestrian access that shall be screened from view by either a fence, gate, wall, or landscaping at least six feet in height and that does not obstruct the pedestrian access. A paved or concrete walkway shall be provided for access.
8. Enclosure walls and gates shall be at least six (6) inches above the height of the dumpster but in no case shall the enclosure be less than six (6) feet in height

### C. Appearance and Maintenance

1. The exterior color of the enclosure shall compliment the materials and colors of the principal building.
2. No commercial signs related to the principal use shall not be allowed on the walls or gates of the dumpster enclosure. Only incidental signage, not exceeding six (6) square feet, shall be permitted.
3. All enclosures shall be maintained and repaired as necessary
4. No trash, garbage, or recycling may be placed outside the dumpster
5. Gates to the enclosure shall be closed and secured except for times when materials are being placed inside the dumpster or when it is being serviced.
6. All enclosures visible form a public roadway or adjacent property, shall include a landscape component as the base of the enclosure. Landscaping shall include a mulched plant bed with a minimum of one (1) evergreen tree and three (3) shrubs per side of the enclosure that is facing a roadway or adjacent property without the benefit of a buffer.

**Appendix E:  
Additional Information for Soil Conservation**

1. North Carolina Division of Water Quality Best Management Practices (BMP) Design Manual
2. (<http://portal.ncdenr.org/web/lr/bmpmanua1>) details how to design various stormwater BMPs effectively.
3. North Carolina Association of Soil & Water Conservation Districts (<http://ncaswed.org/>)
4. A sample (soil) conservation plan: [http://www.dec.ny.gov/docs/water\\_pdf/appendixfl.pdf](http://www.dec.ny.gov/docs/water_pdf/appendixfl.pdf)

