TOWN OF COLUMBUS

UNIFIED DEVELOPMENT ORDINANCE

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Prepared by:

INSIGHT
PLANNING + DEVELOPMENT

Wilmington, North Carolina

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ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.1 TITLE

This Ordinance shall be known and may be cited as the Town of Columbus Unified Development Ordinance, hereinafter referred to as the Unified Development Ordinance (UDO).

SECTION 1.2 AUTHORITY

(A) Zoning provisions enacted herein are under the authority of NCGS 160D, Article 7 Zoning, which extends to towns/cities the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community. It authorizes cities to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district.

(B) Subdivision standards herein are established under the authority of NCGS 160D, Article 8 Subdivision Regulations, which provide for the coordination of streets within proposed subdivisions involving planned streets, public facilities, the dedication or reservation of recreation areas serving residents of the immediate neighborhood.

SECTION 1.3 PURPOSE

This Unified Development Ordinance and Zoning Map are made in accordance with the Town of Columbus Comprehensive Plan and is designed to promote the public health, safety, and general welfare. To that end, these regulations may address, among other things, the following public purposes:

- To provide adequate light and air
- To prevent the overcrowding of land
- To avoid undue concentration of population
- To lessen congestion in the streets
- To secure safety from fire, panic, and dangers
- To facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements
- To control development of flood prone areas and regulate stormwater runoff/discharge
- To regulate signs
- To establish proceedings for the subdivision of land.

The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction. The regulations may not include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school.

SECTION 1.4 APPLICABILITY

(A) *Jurisdiction*.

(1) The regulations set forth in this Unified Development Ordinance shall apply to all property within the Columbus town limits and within the various zoning districts as designated on the Town's Official Zoning Map.

(2) Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure or part thereof shall be occupied or used unless in conformity with the regulations specified for the district in which it is located.

(B) *Exemptions*.

(1) These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site-specific plan as required by the requirements previously adopted or previously approved vested rights in accordance with G.S. § 160D-108. Any preliminary or final subdivision plat approvals required for such approved or exempted site-specific plans shall be conducted in accordance with the requirements of the previous Zoning Ordinance or Subdivision Ordinance.

(2) In accordance with G.S. §160D-913, this UDO is applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions. Notwithstanding the provisions of any general or local law or ordinance, except as provided in Article 9, Part 4 of NCGS 160D, no land owned by the State of North Carolina may be included within an overlay district, or a conditional zoning district without approval of the Council of State or its delegee.

(3) The following are not included within the definition of a subdivision (as provided in Appendix A), and are not subject to the regulations of this UDO:

(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 municipality as shown on its subdivision regulations;

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

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

(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 its subdivision regulations.

(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.

SECTION 1.5 CONFLICTS WITH OTHER REGULATIONS

(A) When regulations made under authority of this Article require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this UDO shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Article, the provisions of that statute or local ordinance or regulation shall govern.

(B) When adopting regulations under this Article, a local government may not use a definition of dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same in another statute or in a rule adopted by a State agency.

SECTION 1.6 NORTH CAROLINA STATE BUILDING CODE

The Town Building Code with appendices and the North Carolina State Building Code are incorporated herein by reference, and serve as the basis for Building Inspector authority to regulate building construction. This Unified Development Ordinance is not intended to conflict with or supersede the North Carolina State Building Code regulations. In addition, the Town's minimum housing code is also incorporated herein by reference. All quasi-judicial procedures prescribed in Article 4 apply to these codes/ordinances.

SECTION 1.7 SEVERABILITY

If any section or specific provision or standard of this Unified Development Ordinance or any regulating district boundary arising from it is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

SECTION 1.8 INTERPRETATION

(A) *Responsibility*. In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria or any other provision of the UDO, the UDO Administrator shall be responsible for interpretation and shall look to the Unified Development Ordinance for guidance. Responsibility for interpretation by the UDO Administrator shall be limited to standards, regulations and requirements of the UDO, but shall not be construed to include interpretation of any technical codes adopted by reference in the UDO, and shall not be construed as overriding the responsibilities given to any commission, board, building inspector or town officials named in other sections or articles of the UDO.

(B) *Permitted uses*.

(1) If a use is not specifically listed in any of the districts listed in this Unified Development Ordinance, then the UDO Administrator shall have the authority to interpret in which district the use, if any, should be permitted.

(2) If the UDO Administrator rejects a proposal for a use that is not clearly disallowed in a particular district, then the UDO Administrator shall:

(a) Ensure that the citizen is provided with a copy of the interpretation in writing;

(b) Inform the citizen of the right to appeal the decision to the Board of Adjustment; and

(c) Assist with the development of a proposed zoning text change for consideration by the Planning Board and Town Council allowing policy-makers to determine whether the proposed use should be an allowable use in the district or not. Financial responsibility for a proposed zoning text change shall be on the applicant.

(C) *Delegation of authority*. Unless otherwise specified in the UDO, the identification of certain officials, including the UDO Administrator, Town Manager, Town Attorney or any other town official to perform a task or carry out a specific responsibility, shall also include the designee of such official.

(D) *Computation of time*.

(1) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded.

(2) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice and the notice or

paper is served by mail (certified mail/return receipt requested), three days shall be added to the prescribed period.

SECTION 1.9 IDENTIFICATION OF OFFICIAL ZONING MAP

(A) The Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk and bearing the seal of the town under the following words: "This is to certify that this is the Official Zoning Map of the Unified Development Ordinance, Columbus, North Carolina," together with the date of the adoption of this Unified Development Ordinance and most recent revision date.

(B) If, in accordance with the provisions of this Unified Development Ordinance, changes are made in district boundaries or other items portrayed on the Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Town Council, with an entry on the Official Zoning Map denoting the date of amendment, description of amendment and signed by the Town Clerk. No amendment to this Unified Development Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said Map.

(C) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Unified Development Ordinance and state law. Any unauthorized change of whatever kind by any person shall be considered a violation of this Unified Development Ordinance and punishable as provided under Section 1.14.

(D) Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the Town Clerk, shall be the final authority as to the zoning status of land and water areas, buildings and other structures in the town.

(E) In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, the Town Council may by resolution adopt a new Official Zoning Map which shall supersede the prior zoning map. The new Official Zoning Map may correct drafting errors or other errors or omissions in the prior Official Zoning Map, but no correction shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk, and bearing the seal of the town under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced), as part of the Unified Development Ordinance, Columbus, North Carolina."

(F) Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

(G) Duly adopted zoning district maps shall be maintained for public inspection in the office of the Town Clerk. Current and prior zoning maps may be maintained in paper or a digital format approved by the Town.

(H) This Ordinance may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by State and Federal agencies. Where zoning district boundaries are based on these maps, said boundaries are automatically amended to remain consistent with changes in the officially promulgated State or Federal maps. A copy of the currently effective version of any incorporated maps shall be maintained for public inspection as provided in subsection (G).

SECTION 1.10 ZONING MAP INTERPRETATION

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

(A) *Use of property lines*. Where district boundaries are indicated as approximately following street lines, alley lines and lot lines, such lines shall be construed to be such boundaries. Where streets, highways, railroads, watercourses and similar areas with width are indicated as the district boundary, the actual district boundary line shall be the centerline of such area.

(B) *Use of the scale*. In unsubdivided property or where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shall be determined by use of the scale appearing on the Map.

(C) *Vacated or abandoned streets*. Where any street or alley is hereafter officially vacated or abandoned, the zoning regulations applicable to each parcel of abutting property shall apply to the centerline of such abandoned street or alley.

(D) *Board of Adjustment*. In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the Map as to location of such boundaries.

SECTION 1.11 RELATIONSHIP TO COMPREHENSIVE PLAN

(A) *Applicability.* As a condition of adopting and applying zoning regulations, the Town of Columbus shall adopt and reasonably maintain a current comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. The Town's comprehensive plan is intended to guide coordinated, efficient, and orderly development throughout the Town's corporate limits based on an analysis of present and future needs. Planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. The planning process shall include opportunities for citizen engagement in plan preparation and adoption. In addition to a comprehensive plan, the Town may prepare and adopt such other plans as deemed appropriate. This may include, but is not limited to, land use plans, small area plans, neighborhood plans, hazard mitigation plans, transportation plans,

housing plans, and recreation and open space plans. If adopted pursuant to the process set forth in this section, such plans shall be considered in review of proposed zoning amendments.

(B) *Comprehensive Plan Contents*. A Comprehensive Plan may, among other topics, address any of the following as determined by the Town:

(1) Issues and opportunities facing the Town, including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development.

(2) The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks.

(3) Employment opportunities, economic development, and community development.

(4) Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure.

(5) Housing with a range of types and affordability to accommodate persons and households of all types and income levels.

(6) Recreation and open spaces.

(7) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands.

(8) Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.

(9) Protection of significant architectural, scenic, cultural, historical, or archaeological resources.

(10) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.

(C) *Adoption and Effect of Plans*. Plans shall be adopted by the Town Council with the advice and consultation of the Planning Board. Adoption and amendment of the comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by Section 4.1. Plans adopted under NCGS 160D may be undertaken and adopted as part of or in conjunction with plans required under other statutes, including, but not limited to, the plans required by G.S. 113A-110. Plans adopted under NCGS 160D shall be advisory in nature without independent regulatory effect. Plans adopted under NCGS 160D do not expand, diminish, or alter the scope of authority for development regulations adopted under NCGS 160D. Plans

adopted under NCGS 160D shall be considered by the Planning Board and Town Council when considering proposed amendments to zoning regulations as required by Section 4.1 (D) and (E).

If a plan is deemed amended by Section 4.1 (E) by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to G.S. 113A-110, the plan amendment shall not be effective until that review and approval is completed.

SECTION 1.12 DEVELOPMENT APPROVALS RUN WITH THE LAND

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approval made pursuant to this Ordinance attach to and run with the land.

SECTION 1.13 REFUND OF ILLEGAL FEES

If the Town of Columbus is found to have illegally imposed a tax, fee, or monetary contribution for development or a development approval not specifically authorized by law, the Town shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum to the person who made the payment or as directed by a court if the person making the payment is no longer in existence.

SECTION 1.14 ENFORCEMENT

(A) *Notices of Violation.* When the UDO Administrator determines work or activity has been undertaken in violation of the Unified Development Ordinance or other local development regulations or any State law delegated to the Town 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. 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 shall be posted on the property. The UDO Administrator shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1123 or GS 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to Section 3.3.

(B) *Stop Work Orders.* Whenever any work or activity subject to regulation pursuant to this Ordinance or other applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons 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) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the Town that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1112 and 160D-1208, a stop work order may be appealed pursuant to (Stop work order reference). No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

(C) *Remedies.*

(1) Any development regulation adopted pursuant to NC General Statutes Chapter 160D may be enforced by any remedy provided in NCGS 160A-175. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this UDO or of any development regulation or other regulation made under authority of NCGS Chapter 160D, the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct, or abate the violation; to prevent any illegal act, conduct, business, or use in or about the premises.

(2) When a development regulation adopted pursuant to authority conferred by NCGS Chapter 160D is to be applied or enforced in any area outside the planning and development regulation jurisdiction of the Town, the Town and the property owner shall certify that the application or enforcement of the Town UDO is not under coercion or otherwise based on representation by the Town that the Town's development approval would be withheld without the application of the Town. The certification may be evidenced by a signed statement of the parties on any development approval.

(3) In case any building, structure, site, area, or object designated as a historic landmark or located within a historic district designated by the Town of Columbus is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed, except in compliance with the UDO, the Town, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal, to restrain, correct, or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object. Such remedies shall be in addition to any others authorized by this UDO for violation of this Ordinance.

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ARTICLE 2. GENERAL REGULATIONS

SECTION 2.1 APPLICABILITY OF GENERAL REGULATIONS

The following general regulations of this Article shall apply in all situations unless otherwise indicated.

SECTION 2.2 REDUCTION OF LOT AND YARD AREAS PROHIBITED

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

SECTION 2.3 STREET ACCESS

No building shall be erected on a lot which does not abut a street or have access to a public right-of-way. A building(s) may be erected adjoining a parking area or dedicated open space that has access to a street used in common with other lots.

SECTION 2.4 RELATIONSHIP OF BUILDING TO LOT

Every building hereafter erected, moved, or structurally altered, shall be located on a single lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except in the case of a designed planned unit development, an approved site plan, a detached accessory dwelling and its associated principal dwelling, a manufactured home park, or a professional campus. Detached garages and carports must meet the same setback requirements as the principal building, just as if they were attached.

SECTION 2.5 REQUIRED YARDS NOT TO BE USED BY BUILDING

The minimum yards or other open spaces required by this Unified Development Ordinance for each and every building shall not be encroached upon or considered as meeting the yard and open space requirements of any other building.

SECTION 2.6 LOT REQUIREMENTS/DIMENSIONS

(A) Insofar as practical, side lot lines which are not right-of-way lines shall be at right angles to straight street lines or radial to curved street lines.

(B) Every lot shall have sufficient area, dimensions and street access to permit a principal building to be erected thereon in compliance with all lot size and dimensions, yard space, setback and other requirements of this Unified Development Ordinance.

(C) The location of required front, side and rear yards on irregularly shaped lots shall be determined by the UDO Administrator. The determination will be based on the spirit and intent of this Unified Development Ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.

SECTION 2.7 FRONT YARD SETBACK FOR DWELLINGS

(A) Compliance with the requirements of this Ordinance is mandatory; however, under the specific conditions enumerated in the following sections, the requirements may be waived or modified as so stated.

(B) The front yard setback requirements of this Ordinance for dwellings shall not apply on any lot where the average setback of existing buildings located wholly or in part within 100 feet on each side of the lot within the same block and zoning district and fronting on the same side of the street is less than the minimum required setback. In those cases, the setback may be less than the required setback, but not less than the average of the aforementioned existing buildings.

SECTION 2.8 VISIBILITY AT INTERSECTIONS

Sight distances at intersections must meet the standards for secondary roads established by the State Department of Transportation. On corner lots no planting, structure, sign, fence, wall, or other obstruction shall be erected so as to interfere with the sight distance.

SECTION 2.9 NO USE OR SALE OF LAND OR BUILDINGS EXCEPT IN CONFORMITY WITH UNIFIED DEVELOPMENT ORDINANCE PROVISIONS

(A) Subject to Article 5 of this Unified Development Ordinance (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy or sale of land or buildings under his or her control except in accordance with all of the applicable provisions of this Unified Development Ordinance.

(B) For purposes of this section, the USE or OCCUPANCY of a building or land relates to anything and everything that is done to, on or in that building or land.

SECTION 2.10 HEIGHT LIMITATION EXCEPTIONS

Church steeples, chimneys, belfries, water tanks or towers, fire towers, flag poles, spires, wireless and broadcasting towers, monuments, cupolas, domes, antennas (except satellite dish antennas) and similar structures and necessary mechanical appurtenances are not subject to the height limit regulations contained in this Unified Development Ordinance.

SECTION 2.11 LOT SIZE WITHOUT ALL PUBLIC UTILITIES

All lots not served by public or community sewer and/or water shall meet the minimum lot size requirements established by the Polk County Health Department. If utilities are available, the applicant must secure approval from the Town for a water/sewer tap.

SECTION 2.12 PROPERTY DEDICATED FOR PRIVATE USE

Any property dedicated for private ownership, including, but not limited to, property owners' association ownership, for any use permitted by this Unified Development Ordinance is not the maintenance responsibility of the town.

SECTION 2.13 VACANT STRUCTURES AND LOTS

Vacant structures, lots and open spaces shall be maintained consistent with the surrounding neighborhood. All structures shall remain structurally sound. Vegetation shall be neatly trimmed, and the accumulation of unsightly debris shall be prohibited.

SECTION 2.14 ACCESSORY STRUCTURES AND BUILDINGS

(A) *Accessory Buildings.* Accessory buildings should not detract or interfere with adjustment properties. Therefore, accessory buildings shall not be erected within any front yard, or minimum side yard setback, or within 20 feet of any side street or highway right-of-way line, or within ten feet of any rear lot line.

(B) *Donation Boxes.* Notwithstanding the other provisions of this section, unattended donation boxes are prohibited unless located at the operational site, or leased property, of a company or organization that collects used clothing or household materials for resale or donation as a primary business function. Such donation boxes shall be subject to the following restrictions:

(1) Shall only be located in Highway Commercial (HC) zoning districts.

(2) An approved zoning permit shall be obtained prior to the donation box being located on a lot.

(3) Shall not obstruct pedestrian or vehicular circulation, not be located in public rights-of-way, required building setbacks, vehicle accommodation areas, or other unsafe locations.

(4) Shall be low reflectance earth tone, muted, subtle, or neutral colors.

(5) Shall be no larger than six feet in width, six feet in length, and six feet in height.

SECTION 2.15 BUSINESS USES OF MANUFACTURED HOMES AND TRAVEL TRAILERS

No manufactured home or travel trailer shall be used in any manner for business or commercial purposes except when used for a sales office on a manufactured home sales lot or when used as a temporary use in accordance with the following requirements:

(A) *Mobile Offices.*

(1) Mobile offices may be used on a temporary basis for such purposes as construction offices, blood mobiles, book mobiles and traveling museums. However, such uses must obtain a temporary occupancy permit from the UDO Administrator for UDO compliance if the use is to last more than 48 hours at one site.

(2) Mobile offices may also be used for other office or business purposes in cases where the permanent structure has been destroyed through no fault of the owner or tenant. A temporary occupancy permit must be obtained before the use of the mobile office is initiated. This occupancy permit shall be valid for a specified period of time while reconstruction takes place not to exceed six months and may be renewed no more than once.

SECTION 2.16 FEES

(A) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for all permits issued under this Unified Development Ordinance, subdivision plat approval, site plan approval, zoning amendments, variances, changes to Unified Development Ordinance text and map, and other administrative relief. The amount of the fees charged shall be as set forth in the town's budget or as established by resolution of the Town Council filed in the office of the Town Clerk.

(B) Fees established in accordance with division (A) above shall be paid upon submission of a signed application or notice of appeal.

SECTION 2.17 SPLIT JURISDICTION

If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the Town of Columbus and Polk County may by mutual agreement and with the written consent of the landowner assign exclusive planning and development regulation jurisdiction for the entire parcel to either the Town or the County. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the Polk County register of deeds within 14 days of the adoption of the last required resolution.

SECTION 2.18 PENDING JURISDICTION

After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date.

SECTION 2.19 STREET VENDING PERMITS FOR SPECIAL EVENTS

(A) *Purpose.* It is found and declared that the permitting of street vending for special events promotes the public interest in that:

(1) The town is a regional center for business, government, finance and tourism;

(2) From time to time, the town authorizes special events for the purpose of encouraging tourism and civic pride; and

(3) The permitting of street vending for these special events contributes to furthering an attractive pedestrian environment and, thus, contributes to the general welfare of the town.

(B) *Required.*

(1) It shall be unlawful for any person to sell or to offer for sale during, or within the two hours immediately before or after, any special event in the town, any food, beverage or merchandise, on foot or from any vending stand, on any right-of-way, street, sidewalk or public property within the town, without first obtaining a permit pursuant to this section.

(2) Any permit issued under this section shall be temporary in nature and applicable for one special event. The permit shall be effective only for the duration of the special event specified.

(C) *Applications.* The permit required by subsection (B) above shall be issued only after payment of a fee in accordance with Section 2.16, and completion of an application providing the following information:

(1) The name, home and business address of the applicant, and the name and address of the owner of the vending business, if other than the applicant;

(2) The special event for which the vendor seeks the permit and the name of the entity sponsoring the special event;

(3) A description of the type of food, beverage, or merchandise to be sold;

(4) The applicant's state sales tax number or, if the applicant is a charitable organization, its tax-exempt number; and

(5) A copy of any approval required by the County Health Department pursuant to "Rules Governing the Sanitation of Restaurants and Other Food-handling Businesses," 10 NCAC, Chapter 10, Subchapter 10A.

(D) *Prohibited Conduct.* It shall be unlawful for a street vendor to:

(1) Violate any federal, state, county, or town law or regulation that pertains to food, beverages, or the selling thereof, or that pertains to the operation of the vendor's business in the town;

(2) Fail to permit any lawfully requested inspection by health officials or to comply with any lawful request of a police officer;

(3) Fail to carry and display at all times of operation the permit issued under this section;

(4) Have a vending stand that is not in compliance with the review regulations or any additional special restrictions or conditions stated in this permit;

(5) Vend without insurance if such is a condition of the vendor's permit;

(6) Sell food or beverages for immediate consumption, unless the vendor has available for public use a litter receptacle not more than ten feet distant from the vendor's stand;

(7) Leave his or her designated location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor;

(8) Allow any item relating to the operation of the vending business to be placed anywhere other than in, on or under the vending stand;

(9) Offer to sell any goods other than those permitted by the permit;

(10) Sound or permit the sounding of any device which produces a loud and raucous noise, or engage in any hawking or harassment for the purpose of attracting the attention of the public to the vending stand;

(11) Have any advertising, except the posting of prices, the name of the products, and the name of the vendor; or

(12) Solicit or conduct business with persons in motor vehicles.

(E) *Denial, Suspension, or Revocation.* Any vendor's permit may be denied, suspended, or revoked by the town for fraud or misrepresentation in the application for the permit or in the conduct of the business, for conduct of this business in such a manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals, or for conduct contrary to the provisions of this section. Any vendor who has had his or her permit denied, suspended, or revoked may, within 15 days of the date of denial, suspension or revocation, appeal the decision to the Town Manager.

SECTION 2.20 TRAFFIC IMPACT ANALYSIS

A Traffic Impact Analysis (TIA) shall be completed in accordance with the Federal Highway Administration's (FHW) Manual on Uniform Traffic Control Devices (MUCTD) and all standard guidelines set forth by the State Department of Transportation (NCDOT). The TIA shall be completed for all non-residential properties adjacent to any public street which is at 70% or more of capacity as defined by NCDOT. Proposed projects that, upon completion of a TIA, are projected to increase the Average Daily Trip (ADT) count on an adjacent road by 25% or more may be, but not necessarily, denied by the Board of Adjustment. All recommendations contained within the submitted TIA shall be implemented.

SECTION 2.21 LOCATION QUOTIENT

(A) The proposed use will complement the existing commercial uses in the Town and will add to the economic diversity and vitality of the Town.

(B) The Location Quotient (LQ) for the industry within which the proposed use falls under (according to the North American Industrial Classification Standard (NAICS)), including the projected number of persons employed by the proposed project, is less than one.

(C) If the computed Location Quotient (LQ) is greater than one, the proposed project may be, but not necessarily, denied.

(D) Reasons for approving a project whose computed LQ is greater than one may include a significant amount of proposed job creation, a proposed use that may be considered over-represented countywide, but not so within the vicinity of the Town, the proposed use will support other existing industries, the proposed project is an infill project or a brownfields redevelopment project, or the proposed project significantly conforms with any existing and adopted land use plan for the Town.

(E) A LQ can be computed using the following formula: LQ = (ei ÷ et) ÷ (Ei ÷ Et), where

ei = local employment in industry i

et = total local employment

Ei = national employment in industry i

Et = total national employment

EXAMPLE LQ CALCULATION & DETERMINATION

Industry (NAICS): 441310
Local employment = 16 (Polk County: 2 businesses actual count)
Total local employment = 4,953 (Polk County: NC Department of Commerce)
National employment in industry = 224,920 (US DOL, BLS)
Total national employment = 156,758,000 (US DOL, BLS)

(16 ÷ 4,943) = 0.0032 (224,920 ÷ 156,758,000) = 0.0014 0.0032 ÷ 0.0014 = LQ 2.29

If new business is approved (=24 local employment:

(24 ÷ 4,935) = 0.0048 (224,920 ÷ 156,758,000) = 0.0014 0.0048 ÷ 0.0014 = LQ 3.43

The new business should be DENIED per Town Ordinance (above).

(F) The following circumstances will exempt a development from the requirement for preparation of a Location Quotient (LQ).

(1) The proposed use may only be visibly sustained with a structure larger than that which is allowed under Section 9.3(B).

(2) In no case will a special use permit be issued for a retail development (for the purposes of this subsection, retail development shall be construed to mean any development whose intended use in part or in whole is the sale of goods or commodities directly to consumers) whose proposed building footprint is larger than 15,000 square feet in the aggregate.

(3) The property on which the proposed building is to be constructed is not within 1,000 feet of another parcel whereon a commercial structure exists or is proposed to exist whose building footprint is over 10,000 square feet in size. This subsection shall not apply to planned commercial development projects that meet the following criteria:

(a) Subdivision of land is involved with the proposed project.

(b) The proposed development is developed under single or common ownership.

(c) The proposed project intends to create one or more buildings that each are to have a building footprint greater in size than 10,000 square feet or to create multiple structures that exceed 10,000 square feet in aggregate building footprint area.

(d) The development proposed includes in the design/proposal all utilities, roads, and other circulation systems, open spaces, and buildings in one cohesive design.

(e) All of the buildings are proposed to share common entrances and exits and parking facilities.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY

SECTION 3.1 ADMINISTRATIVE STAFF

(A) *Authorization.* In accordance with NCGS § 160D-402, the Town may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce this Ordinance. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the UDO Administrator.

(B) *Duties.* Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to NCGS Chapter 160D; determining whether applications for development approvals are complete; receipt and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order to adequately enforce the laws and development regulations under the Town's jurisdiction. A development regulation may require that designated staff members take an oath of office. The Town of Columbus shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this UDO. The administrative and enforcement provisions related to building permits outlined in Article 11 of NCGS Chapter 160D shall be followed for those permits.

(C) *Alternative Staff Arrangements.* The Town may enter into contracts with another town, county, or combination thereof under which the parties agree to create a joint staff for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties may make any necessary appropriations for this purchase.

In lieu of joint staff, the Town Council may designate staff from any other town or county to serve as a member of its staff with the approval of the Board of the other town or county. A staff member, if designated from another town or county under this section, shall, while exercising the duties of the position, be considered an agent of the Town. The Town Council may request the governing board of the second local government to direct one or more of the second local government's staff members to exercise their powers within part or all of the Town's jurisdiction, and they shall thereupon be empowered to do so until the Town officially withdraws its request in the manner provided in NCGS 160D-202.

The Town may contract with an individual, company, council of governments, regional planning agency, metropolitan planning organization, or rural planning agency to designate an individual who is not a town or county employee to work under the supervision of the local government to

exercise the functions authorized by this section. The Town shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the Town as it does for an individual who is an employee of the Town. The company or individual with whom the Town contracts shall have errors and omissions and other insurance coverage acceptable to the Town.

(D) *Financial Support.* The Town may appropriate for the support of the staff for any funds that it deems necessary. The Town shall have the power to fix reasonable fees for support, administration, and implementation of programs authorized by this Ordinance and all such fees shall be used for no other purposes. When an inspection, for which the permit holder has paid a fee to the Town, is performed by a marketplace pool Code-enforcement official upon request of the Insurance Commissioner under NCGS 143-151.12(9)a, the Town shall promptly return to the permit holder the fee collected by the Town for such inspection. This applies to the following inspections: plumbing, electrical systems, general building restrictions and regulations, heating and air-conditioning, and the general construction of buildings.

SECTION 3.2 PLANNING BOARD

(A) *Authority.* The Planning Board of the town is created pursuant to G.S. § 160D-301.

(B) *Purpose.* The Planning Board shall act in an advisory capacity to the Town Council in the matter of guiding and accomplishing a coordinated and harmonious development of the area within the town jurisdiction.

(C) *Membership.*

(1) *Generally.* The Planning Board shall consist of five members. The five members shall be citizens of the town and shall be appointed by the Town Council. Initial terms of office shall be as follows: one member appointed for three years, two members appointed for two years, and two members appointed for one year. Upon completion of these initial terms of office, all additional appointments on the Board shall be for three-year terms.

(2) *Selection of Alternate Members.* The Town Council shall also appoint two alternate members to serve on the Planning Board in the absence, for any cause, of the Board's regular members. Alternate members shall be appointed for three-year terms. The alternate members, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and exercise all the powers and duties of the regular member so absent. Alternate members should attend all proceedings of the Board in order to gain experience.

(3) *Oath of Office.* All appointed members shall, before entering their duties, qualify by taking an oath of office.

(4) *Vacancies.* Any permanent vacancy in the membership shall be filled for the unexpired term of the vacancy. All members serve without pay but may be reimbursed for any unusual expenses incurred while representing the Board.

(5) *Attendance.* Faithful attendance at meetings of the Board and conscientious performances of the duties of the members of the Board shall be considered a prerequisite of continuing membership on the Board. The unexcused absence of three consecutive meetings shall be sufficient grounds for removal from the Board. The removal is subject to approval of a simple majority of a quorum as defined in subsection (D) below. A written statement of the reasons for removal shall be filed with the Town Clerk at the time of removal.

(D) *Operational Procedures.*

(1) The Planning Board shall elect a Chairperson and a Vice-Chairperson, and create and fill such other offices as it may deem necessary.

(2) The term of the Chairperson and other offices shall be one year, with eligibility for re-election. The election shall be held the first regular meeting in January, or as soon thereafter as possible.

(3) Proceedings of the Planning Board shall be conducted in accord with Robert's Rules of Order or other rules as may be adopted by the Planning Board.

(4) A detailed record shall be maintained of its members' attendance and of its resolutions, discussions, findings and recommendations which shall be a public record.

(5) The Planning Board shall hold publicly advertised meetings as necessary to conduct business, and all of its meetings shall be open to the public.

(6) A majority of the sitting members of the Planning Board shall constitute a quorum for taking any official action.

(E) *Meetings.*

(1) *Board Meetings.* The Board shall hold regular monthly meetings at a specified time on the second Tuesday of each month and at a specified place. Special meetings may be called at any time at the request of the Chairperson or by the request of three or more Board members. At least 48 hours notice of the time and place of meetings shall be given, by the Chairperson, to each member of the Board.

(2) *Cancellation of Meetings.* Whenever there is no business for the Board or whenever so many regular members notify the Chairperson of the inability to attend that a quorum will not be available, the Chairperson may dispense with a meeting by giving notice to all members.

(F) *General Powers and Duties.* The general powers and duties of the Planning Board (with prior approval by the Town Council) are:

(1) Prepare, review, maintain, monitor, and periodically update and recommend to the Town Council a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.

(2) Facilitate and coordinate citizen engagement and participation in the planning process.

(3) Develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.

(4) Recommend to the Town Council the approval or disapproval of major site plans and major subdivisions in accordance with Article 6, Development Review Process.

(5) Advise the Town Council concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by NCGS 160D-604.

(6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Town Council may direct.

(7) Perform any other duties that the Town Council may direct.

(8) In order to effectively carry out its powers and duties, the Planning Board is empowered to:

(a) With prior approval of the Town Council, gather statistics on past trends and present conditions with respect to population, property values, the economic base of the area and land use; and such other information as is important or likely to be important in determining the amount, direction and kind of development within the town's jurisdiction and its various parts;

(b) With prior approval by the Town Council, make, cause to be made, or obtain special studies on the location, the condition and the adequacy of specific facilities, which may include, but are not limited to, studies of housing; commercial and industrial facilities; recreation area; public facilities; and traffic and parking facilities; and

(c) Develop committees comprised of Planning Board members dedicated to participating in any areas of study, ordinance development, or for any other specific purpose within the Planning Board's jurisdiction. Such committees shall be responsible to the Planning Board and shall be advisory in nature. The development/appointment of any other committees will require prior approval by the Town Council.

(G) *Miscellaneous Powers and Duties.* The Planning Board shall have the authority to promote public interest in the understanding of its recommendations, plans, reports and other materials. With prior approval of the Town Council, the Planning Board may publish and distribute copies of materials and may employ other means of publicity and education as it deems necessary.

(H) *Zoning Amendments.* The Planning Board may initiate from time-to-time proposals for amendments of the UDO and Zoning Map, based upon its studies and plans. It shall review and make recommendations to the Town Council concerning all proposed amendments to the UDO and Zoning Map.

(I) *Subdivision Regulations.* The Planning Board shall review, from time to time, the existing regulations for the control of land subdivision in the area and submit to the Town Council its recommendations, if any, for the revision of these regulations.

(J) *Public Hearings.* The Planning Board may conduct such public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of the plans. Before recommending any such plans to the Town Council, the Planning Board may hold a public hearing thereon in accordance with Article 4.

(K) *Annual Report.* The Planning Board will each year submit in writing to the Town Council a report of its activities, and an analysis of the expenditures to date for the current fiscal year; and shall submit to the Town Council for budget consideration its requested budget of funds needed for operation during the ensuing fiscal year.

SECTION 3.3 BOARD OF ADJUSTMENT

(A) *Membership.*

(1) *Generally.* Under the authority of the NCGS Section 160D-302, the Columbus Planning Board consisting of five (5) members serves as and performs any and all duties of the Board of Adjustment. The members must be appointed separately to the Planning Board and Board of Adjustment. Action by both boards must be conducted in separate meetings convened by each respective board.

(2) *Oath of Office.* All appointed members shall, before entering their duties, qualify by taking an oath of office.

(3) *Vacancies.* Any permanent vacancy in the membership shall be filled for the unexpired term of the vacancy. All members serve without pay, but may be reimbursed for any unusual expenses incurred while representing the Board.

(4) *Attendance.* Faithful attendance at meetings of the Board and conscientious performances of the duties of the members of the Board shall be considered a prerequisite of continuing membership on the Board. The unexcused absence of three consecutive meetings shall be sufficient grounds for removal from the Board. The

removal is subject to approval of a simple majority of a quorum as defined in subsection (E) below. A written statement of the reasons for removal shall be filed with the Town Clerk at the time of removal.

(5) *Conditions.* All members wishing to sit on the Board of Adjustment shall attend training on the statutory powers and duties of the Zoning Board of Adjustment within North Carolina.

(6) *Operational Procedures.* The Board of Adjustment shall elect a Chairperson and a Vice-Chairperson, and create and fill such other offices as it may deem necessary. The term of the Chairperson and other offices shall be one year, with eligibility for re-election. The election shall be held the first regular meeting in January, or as soon thereafter as possible.

(B) *Meetings.*

(1) *Board Meetings.* The Board shall hold regular monthly meetings at a specified time on the second Tuesday of each month and at a specified place. Special meetings may be called at any time at the request of the Chairperson or by the request of three or more Board members. At least 48 hours notice of the time and place of meetings shall be given, by the Chairperson, to each member of the Board.

(2) *Cancellation of Meetings.* Whenever there is no business for the Board or whenever so many regular members notify the Chairperson of the inability to attend that a quorum will not be available, the Chairperson may dispense with a meeting by giving notice to all members.

(C) *Rules of Procedure.* The Board of Adjustment shall adopt rules of procedure for the conduct of its affairs and in keeping with the provisions of this Unified Development Ordinance. Such rules of procedure shall not be effective until approved by the Town Council. All meetings held by the Board of Adjustment shall be held in accordance with G.S. Chapter 143A, Article 33 B, or as may be amended. The Board shall keep minutes of its proceedings suitable for review in court showing:

(1) The factual evidence presented to the Board of Adjustment by all parties concerned;

(2) The findings of fact and the reasons for the determinations by the Board of Adjustment; and

(3) The vote of each member, or if absent or failing to vote, indicating such fact, all of which shall be public record and be filed with the office of the Town Clerk.

(D) *Powers and Duties.* The Board of Adjustment shall have the following powers and duties:

(1) To hear and decide requests for variances, minor special use permits, and appeals of decisions of administrative officials charged with enforcement of this Unified

Development Ordinance. As used in this section, the term DECISION includes any final and binding order, requirement, or determination. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances and minor special use permits. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development. If any board other than the Board of Adjustment is assigned decision-making authority for any quasi-judicial matter, that board shall comply with all of the procedures and the process applicable to a Board of Adjustment in making quasi-judicial decisions;

(2) To make interpretations of the Official Zoning Map and to pass upon disputed questions of lot lines or district boundary lines and similar questions as arise in the administration of the Unified Development Ordinance; and

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

(E) *Quorum and Voting.* The concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this section, vacant positions on the Board of Adjustment and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board of Adjustment for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

SECTION 3.4 CONFLICTS OF INTEREST

(A) *Governing Board.* A Town Council member shall not vote on any legislative decision regarding a development regulation adopted pursuant to NCGS 160D 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 Town Council 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.

(B) *Appointed Boards.* Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to NCGS 160D 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.

(C) *Administrative Staff.*

(1) No staff member shall make a final decision on an administrative decision required by this Ordinance 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. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by this Ordinance.

(2) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

(D) *Quasi-Judicial Decisions.* A member of any board exercising quasi-judicial functions pursuant to this 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 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.

(E) *Resolution of Objection.* If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter, and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

(F) *Familial Relationship.* For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES

PART I. PROCESS FOR ADOPTION OF DEVELOPMENT REGULATIONS

SECTION 4.1 PROCESS FOR ADOPTION OF DEVELOPMENT REGULATIONS.

(A) *Hearing with Published Notice*. Before adopting, amending, or repealing any ordinance or development regulation authorized by NCGS Chapter 160D, the Town Council shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(B) A development regulation adopted pursuant to NCGS Chapter 160D shall be adopted by ordinance.

(C) No amendment to zoning regulations or a zoning map that down-zones property shall be initiated, nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town.

SECTION 4.2 NOTICE OF HEARING ON PROPOSED ZONING MAP AMENDMENTS.

(A) *Mailed Notice.* This Ordinance provides for the manner in which zoning regulations and the boundaries of zoning districts are determined, established, and enforced, and from time to time may be amended, or changed, in accordance with the requirements of this Part. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addressed listed for such owners on the county tax abstracts. For the purposes of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of the Town's ETJ, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

(B) *Option Notice for Large Scale Zoning Amendments.* The first-class mail notice required under subsection (A) of this section shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to make the mailed notice provided for in subsection (A) of this section or, as an alternative, elect to publish notice of the hearing as

required by Section 4.1, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (A) of this section.

(C) *Posted Notice.* When a zoning map amendment is proposed, the Town shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the Town shall post sufficient notices to provide reasonable notice to interested persons.

(D) *Actual Notice.* Except for Town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to the Town 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 the hearing. Actual notice shall be provided in any manner permitted under NCGS 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with NCGS 1A-1, Rule 4(j1). The person or persons required to provide notice shall certify to the Town that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

SECTION 4.3 CITIZEN COMMENTS

Subject to the limitations of this Ordinance, zoning regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the Town Clerk at least two business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Town Council. If the proposed change is the subject of a quasi-judicial proceeding under NCGS Chapter 160D-705 or any other statute, the Town Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Board shall not disqualify any member of the Board from voting.

SECTION 4.4 PLANNING BOARD REVIEW AND COMMENT

(A) *Zoning Amendments.* Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulations or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that Board, the Town Council may act on the amendment

without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

(B) *Review of Other Ordinances and Actions.* Any development regulations other than a zoning regulation that is proposed to be adopted pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment. Any development regulation other than a zoning regulation may provide that future proposed amendments of that ordinance be submitted to the Planning Board for review and comment. Any other action proposed to be taken pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment.

(C) *Plan Consistency.* When conducting a review of proposed zoning text or map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council. If a zoning map amendment qualifies as a "large-scale rezoning" under NCGS 160D-602(b), the Planning Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendations made.

(D) *Separate Board Required.* Notwithstanding the authority to assign duties of the Planning Board to the Town Council as provided by this Ordinance, the review and comment required by this section shall not be assigned to the Town Council and must be performed by a separate board.

SECTION 4.5 TOWN COUNCIL STATEMENT

(A) *Plan Consistency.* When adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Town Council that at the time of action on the amendment the Board was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted comprehensive plan. 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 application or fee for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency amendment is not subject to judicial review. If a zoning map amendment qualifies as a "large scale rezoning" under Section 4.2(B), the Town Council statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(B) *Additional Reasonableness Statement for Rezonings.* When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Town Council. This statement of reasonableness may consider, among other factors, (i) the size, physical condition, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment, (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under Section 4.2(B), the Town Council statement on reasonableness may address the overall rezoning.

(C) *Single Statement Permissible.* The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

PART II. VESTED RIGHTS AND PERMIT CHOICE

SECTION 4.6 FINDINGS

Town approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. Therefore, it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, secure reasonable expectations of landowners, and foster cooperation between the public and private sectors in land-use planning and development regulation.

SECTION 4.7 PERMIT CHOICE

If an application made in accordance with local regulation is submitted for a development approval required pursuant to this Ordinance and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. 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. This section applies to all development approvals issued by the State and by local governments. The duration of vested rights created by development approvals are as set forth in Section 4.9.

SECTION 4.8 PROCESS TO CLAIM VESTED RIGHT

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the UDO Administrator, who shall make an initial determination as to the existence of the vested right. The UDO Administrator's determination may be appealed under G.S. 160D-405. On appeal the existence of a vested right shall be reviewed *de novo*. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided in G.S. 160D-405(c).

SECTION 4.9 TYPES AND DURATION OF STATUTORY VESTED RIGHT

Except as provided by this section and subject to Section 4.7, amendments to this Ordinance shall not be applicable or enforceable with regard to development that has been permitted or approved pursuant to this Ordinance so long as one of the approvals listed in this subsection remains valid and unexpired. Each type of vested right listed below is defined by and is subject to the limitations provided in this section and the cited statutes. Vested rights established under this section are not mutually exclusive. The establishment of vested right under one subsection does not preclude vesting under one or more other subsections or by common law principles.

(A) *Six Months – Building Permits.* Pursuant to NCGS 160D-1110, a building permit expires six (6) months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of twelve (12) months after work has commenced.

(B) *One Year – Other Local Development Approvals.* Pursuant to NCGS 160D-403(c), unless otherwise specified by this section, statute, or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site-specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law.

(C) *Two to Five Years – Site Specific Vesting Plans.*

(1) *Duration.* A vested right for a site-specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Town. The Town may provide that rights regarding a site-specific vesting plan shall be vested for a period exceeding two years, but not exceeding five years if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. This determination shall be made in the discretion of the Town and shall be made following the process specified by subsection (3) below for the particular form of a site-specific vesting plan involved.

(2) *Relationship to Building Permits.* A right vested as provided in this subsection shall terminate at the end of the applicable vesting period which respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of NCGS 160D-1110 and 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this section exists.

(3) *Requirements for Site-Specific Vesting Plans.* For the purposes of this section, a "site-specific vesting plan" means a plan submitted to the Town describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or

approvals: a planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as may be used by the Town. Unless otherwise expressly provided by the Town, the plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. The Town of Columbus uses existing development approvals, such as a preliminary plat, a special use permit, or a conditional zoning, to approve a site-specific vesting plan. A variance shall not constitute a "site-specific vesting plan," and approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

(4) *Process for Approval and Amendment of Site-Specific Vesting Plans.* If a site-specific vesting plan is based on an approval required by a local development regulation, the Town shall provide whatever notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site-specific vesting established by this subsection. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by NCGS 160D-602 shall be held. The Town may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. The Town shall not require a landowner to waive vested rights as a condition of developmental approval. A site-specific vesting plan shall be deemed approved upon the effective date of the Town's decision approving the plan or such other date as determined by the Town council upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the Town as follows: Any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

(D) *Seven Years – Multi-Phase Developments.* A multi-phased development shall be vested for the entire development with the Unified Development Ordinance in place at the time a site plan approval is granted for the initial phase of the multi-phased development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development. For the purposes of this subsection, "multi-phased development" means a development containing 100 acres of more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master

development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

(E) *Indefinite – Development Agreements.* A vested right of reasonable duration may be specified in a development agreement approved under Part III of this Article.

SECTION 4.10 CONTINUING REVIEW

Following approval or conditional approval of a statutory vested right, the Town may make subsequent reviews and require approvals by the Town to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The Town may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

SECTION 4.11 EXCEPTIONS

(A) A vested right, once established as provided for by subsections 4.9(C) and 4.9(D), precludes any zoning action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except:

(1) With the written consent of the affected landowner;

(2) Upon findings, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, and safety, and welfare if the project were to proceed as contemplated in the approved vested right;

(3) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approved by the Town, together with interest as is provided in Section 1.13. Compensation shall not include any diminution in the value of the property that is caused by such action;

(4) Upon findings, after notice and an evidentiary hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the Town of the vested right; or

(5) Upon the enactment or promulgation of a State or Federal law or regulation that precludes development as contemplated in the approved vested right, in which case the Town may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.

(B) The establishment of a vested right under subsections 4.9(C) or 4.9(D), shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by the Town including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.

(C) Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change or impair the authority of the Town to adopt and enforce development regulation provisions governing nonconforming situations or uses.

SECTION 4.12 MISCELLANEOUS PROVISIONS.

(A) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a vested right under this section, all successors to the original landowner shall be entitled to exercise such rights.

(B) Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

PART III. DEVELOPMENT AGREEMENTS

SECTION 4.13 AUTHORIZATION

(A) In accordance with NCGS 160D-1002, the Town of Columbus finds:

(1) Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources.

(2) Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes.

(3) Because of their scale and duration, such projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development.

(4) Such projects involve substantial commitments of private capital which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.

(5) Such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.

(6) To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, the Town needs flexibility to negotiate such developments.

(B) The Town may enter into development agreements with developers, subject to the procedures of this Part. In entering into such agreements, the Town may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.

(C) This Part is supplemental to the powers conferred upon the Town and does not preclude or supersede rights and obligations established pursuant to other law regarding development approvals, site-specific vesting plans, phased vesting plans, or other provisions of law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the Town's development regulations. When the Town Council approves the rezoning of any property associated with a development agreement executed and recorded pursuant to this Part, the provisions of Section 4.5 apply.

(D) Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements.

SECTION 4.14 DEFINITIONS

The following definitions apply in this Part:

(A) *Development.* The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

(B) *Public Facilities.* Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

SECTION 4.15 APPROVAL OF TOWN COUNCIL REQUIRED

(A) The Town of Columbus may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the Town Council following the procedures specified in Section 4.17.

(B) The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the Town. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

SECTION 4.16 SIZE AND DURATION

The Town of Columbus may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size. Development agreements shall be of a reasonable term specified in the agreement.

SECTION 4.17 PUBLIC HEARING

Before entering into a development agreement, the Town shall conduct a legislative hearing on the proposed agreement. The notice provisions of Section 4.2 applicable to zoning map amendments shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

SECTION 4.18 CONTENT AND MODIFICATION

(A) A development agreement shall, at a minimum, include all of the following:

(1) A description of the property subject to the agreement and the names of its legal and equitable property owners.

(2) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.

(3) The development uses permitted on the property, including population densities, and building types, intensities, placement on the site, and design.

(4) A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the

development. In the event that the development agreement provides that the Town shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.

(5) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.

(6) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.

(7) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(B) A development agreement may also provide that the entire development or any phase of it be commenced or completed within a specified period of time. If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to Section 4.20 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement.

(C) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.

(D) The development agreement also may cover any other matter, including defined performance standards, not inconsistent with this Ordinance. The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local government pursuant to G.S. 160D-804 shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

(E) Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major modification may be determined by ordinance adopted pursuant to Section 4.15 or as provided for in the development agreement.

(F) Any performance guarantees under the development agreement shall comply with Section 6.8(E)(8).

SECTION 4.19 VESTING

(A) Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.

(B) Except for grounds specified in Section 4.20(E), the Town may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.

(C) In the event State or Federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the Town may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the development agreement.

(D) This section does not abrogate any vested rights otherwise preserved by law.

SECTION 4.20 BREACH AND CURE

(A) Procedures established pursuant to Section 4.15 may require periodic review by the UDO Administrator or other appropriate officer of the Town, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement.

(B) If the Town finds and determines that the developer has committed a material breach of the agreement, the Town shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach.

(C) If the developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by Section 4.26.

(D) An ordinance adopted pursuant to Section 4.15 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the Town to enforce applicable law.

(E) A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement.

SECTION 4.21 AMENDMENT OR TERMINATION

Subject to the provisions of Section 4.18(E), a development agreement may be amended or terminated by mutual consent of the parties.

SECTION 4.22 CHANGE OF JURISDICTION

(A) Except as otherwise provided by this Article, any development agreement entered into by the Town before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the Town assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.

(B) The Town, in assuming jurisdiction, may modify or suspend the provisions of the development agreement if the Town determines that the failure of the Town to do so would place the residents of the territory subject to the development agreement or the residents of the Town, or both, in a condition dangerous to their health or safety, or both.

SECTION 4.23 RECORDATION

The developer shall record the agreement with the Polk County Register of Deeds within 14 days after the Town and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

SECTION 4.24 APPLICABILITY OF PROCEDURES TO APPROVE DEBT

In the event that any of the obligations of the Town in the development agreement constitute debt, the Town shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the Town, with any applicable constitutional and statutory procedures for the approval of this debt.

PART IV. MORATORIA

SECTION 4.25 AUTHORITY

In accordance with NCGS 160D-107, the Town of Columbus may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

PART V. APPEALS, VARIANCES, AND INTERPRETATIONS

SECTION 4.26 APPEALS.

(A) *Standing.* Any person who has standing as defined in Appendix A or the Town may appeal an administrative decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal. A notice of appeal shall be considered filed with the Town Clerk when delivered to the Town Hall, and the date and time of filing shall be entered on the notice by the Town staff.

(B) *Judicial Challenge.* A person with standing may bring a separate and original civil action to challenge the constitutionality of the Ordinance or that it is *ultra vires*, preempted, or otherwise in excess of statutory authority without filing an appeal under subsection 4.26.

(C) *Notice of Decision.* The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

(D) *Time to Appeal.* The owner or other party shall have thirty (30) days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to NCGS Chapter 160D-403(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(E) *Record of Decision.* The official who made the decision shall transmit to the Board of Adjustment 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.

(F) *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, unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause immediate peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting development approvals or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an application for development approvals to use such property; in

these situations, the appellant or Town may request, and the Board of Adjustment may grant a stay of a final decision of development approval applications, including or building permits affected by the issue being appealed.

(G) *Alternative Dispute Resolution.* The parties of an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The Ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

SECTION 4.27 VARIANCES.

(A) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the UDO Administrator. Applications shall be handled in the same manner as applications for development approvals.

(B) When unnecessary hardships would result from carrying out the strict letter of the UDO, the Board of Adjustment shall vary any of the provisions of the Ordinance upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the Ordinance regulation. It shall not be 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 shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the Ordinance regulation, such that public safety is secured and substantial justice is achieved.

(C) 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. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.

(D) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

SECTION 4.28 INTREPRETATIONS.

(A) The Board of Adjustment is authorized to interpret the zoning map and to act upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the UDO Administrator, they shall be handled as provided in Section 4.26.

(B) An application for a map interpretation shall be submitted to the Board of Adjustment by filing an appeal form with UDO Administrator. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

(C) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the rules of interpretation as specified in Section 1.10 shall be applied. Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in Section 4.26 of this Ordinance.

(D) Interpretations of the location of floodway and floodplain boundary lines may be made by the UDO Administrator as provided in Article 12.

SECTION 4.29 REQUESTS TO BE HEARD EXPEDITIOUSLY.

As provided in Article 3, the Planning Board, Town Council, and Board of Adjustment (as applicable) shall hear and decide all applications, appeals, variance requests, and requests for interpretations, including map boundaries, as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Section 4.31, and obtain the necessary information to make sound decisions.

SECTION 4.30 BURDEN OF PROOF IN APPEALS AND VARIANCES.

(A) When an appeal is taken to the Board of Adjustment in accordance with Section 4.26, the UDO Administrator shall have the initial burden of presenting to the Board of Adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(B) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 4.27(B), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

PART VI. QUASI-JUDICIAL PROCEDURES

SECTION 4.31 HEARING REQUIRED ON APPEALS AND APPLICATIONS.

(A) Before making a decision on an appeal or an application for a variance, special use permit, or interpretation, or a petition from the planning staff to revoke a special use permit, the Board of Adjustment or Town Council, as the case may be, shall hold a hearing on the appeal or application within thirty (30) days of the submittal of a completed appeal or application.

(B) Subject to subsection 4.31(C), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments. All persons presenting evidence or arguments shall be sworn in prior to the presentation of any evidence or arguments. The oath may be administered by the Chairperson, any member acting as Chairperson, or the Clerk to the Board.

(C) The Board of Adjustment or Town Council may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.

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

(E) The required application fee and all supporting materials must be received by the UDO Administrator before an application is considered complete and a hearing scheduled.

SECTION 4.32 NOTICE OF HEARING.

The UDO Administrator shall give notice of any hearing required by Section 4.31 as follows:

(A) Notice of evidentiary hearings conducted pursuant to this Article 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 did not initiate the hearing; 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 as provided by this Ordinance. In the absence of evidence to the contrary, the Town 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 ten (10) days, but not more than twenty-five (25) days, prior to the date of the hearing. Within that same time period, the Town 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) In the case of special use permits, notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the area one (1) time not less than ten (10) nor more than twenty-five (25) days prior to the hearing.

(C) The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

SECTION 4.33 ADMINISTRATIVE MATERIALS.

The UDO Administrator shall transmit to the Board all applications, reports, and written materials 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 distributed to the Board, a copy is 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.

SECTION 4.34 PRESENTATION OF EVIDENCE.

The applicant, the Town, and any person who would have standing to appeal the decision as defined in Appendix A 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 hearing 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 ruling may be appealed to the full Board. These rulings are also subject to judicial review pursuant to NCGS 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

SECTION 4.35 APPEARANCE OF OFFICIAL; NEW ISSUES.

The official who made the decision or the person currently occupying that position if the decisionmaker is no longer employed by the Town, 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 Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

SECTION 4.36 OATHS.

All persons who intend to present evidence to the decision-making board, rather than arguments only, shall be sworn in. The Chairperson of the Board or any member acting as Chairperson 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 (refer to Section 1.14 Enforcement).

SECTION 4.37 SUBPOENAS.

The Board making a quasi-judicial decision under this article, through the Chairperson, or in the Chairperson's absence, anyone acting as the Chairperson may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the Town, and any persons with standing as defined under Appendix A may make a written request to the Chairperson explaining why it is necessary for certain witnesses or evidence to be compelled. The Chairperson shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chairperson shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chairperson may be immediately appealed to the full decision-making board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the decision-making 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 property parties.

SECTION 4.38 MODIFICATION OF APPLICATION AT HEARING.

(A) In response to questions or comments by persons appearing at the hearing or recommendations by the Town Council or Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.

(B) Unless such modifications are so substantial or extensive that the decision-making board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the decision-making board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the UDO Administrator.

SECTION 4.39 RECORD.

(A) A record shall be made of all hearings required by Section 4.31 and such recordings shall be kept as provided by state law. Minutes shall also be kept of all such proceedings. A transcript may be made, but is not required.

(B) Whenever practicable, all documentary evidence, including any exhibits, presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town in accordance with NCGS 160D-1402.

SECTION 4.40 APPEALS IN NATURE OF CERTIORARI.

When hearing an appeal pursuant to NCGS 160D-947 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 160D-1402(k).

SECTION 4.41 VOTING.

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 or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

SECTION 4.42 DECISION.

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 and 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 Chairperson 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 this Ordinance specifies. The decision of the Board shall be delivered 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 Town that proper notice has been made and the certificate shall be deemed conclusive in the absence of fraud.

SECTION 4.43 REHEARINGS.

When an application involving a quasi-judicial procedure/petition is denied by the Town Council or Board of Adjustment, reapplication involving the same property, or portions of the same property, may not be submitted unless the petitioner can demonstrate a substantial change in the proposed use, conditions governing the use of the property, or conditions surrounding the property itself.

SECTION 4.44 JUDICIAL REVIEW.

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. Appeals shall be filed within the times specified in NCGS 160D-1405(d).

PART VII. SPECIAL USE PERMITS

SECTION 4.45 PURPOSE AND APPLICABILITY.

This Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard, and off-street parking and loading requirements. In addition to these uses, this Ordinance allows some uses to be allowed in these districts as a special use subject to issuance of a special use permit. An application for a minor special use permit shall be submitted to the Board of Adjustment. An application for a major special use permit shall be submitted to the Town Council. Consideration of special use permit development approvals are quasi-judicial decisions. The purpose of having the uses being special is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located and would meet other criteria as set forth in this section. All special use permit development approvals require some form of a site plan as outlined in Section 6.7(D).

SECTION 4.46 APPLICATION PROCESS/COMPLETENESS.

(A) The deadline for which a special use permit development approval application shall be filed with the UDO Administrator is twenty (20) calendar days prior to the meeting at which the application will be heard. Application forms shall be provided by the UDO Administrator. In the course of evaluating the proposed special use, the Town Council or Board of Adjustment may request additional information from the applicant. A request for any additional information may stay any further consideration of the application by the Town Council or Board of Adjustment.

(B) No application shall be deemed complete unless it contains or is accompanied by a site plan drawn to scale which complies with the requirements contained in Section 6.7(D) and a fee, in accordance with a fee schedule approved by the Town Council for the submittal of special use permit applications.

(C) One (1) hard copy of the application, and all attachments and maps, for a special use permit shall be submitted to the UDO Administrator.

SECTION 4.47 COUNCIL/BOARD ACTION.

(A) Consideration of special use permits are quasi-judicial decisions approved by a simple majority vote. Quasi-judicial decisions must be conducted in accordance with Article 4, Part VI. For the purposes of this section, vacant positions on the decision-making board and members who are disqualified from voting on a quasi-judicial matter shall not be considered “members of the decision-making board” for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(B) The decision-making board shall hold a public hearing to consider the application at its next regularly scheduled meeting. A quorum of the decision-making board is required for this hearing. Notice of the public hearing shall be as specified in Section 4.32.

(C) In approving an application for a special use permit development approval in accordance with the principles, conditions, safeguards, and procedures specified herein, the decision-making board may impose reasonable and appropriate conditions and safeguards upon the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the decision-making board. The applicant/ landowner must consent in writing to all conditions imposed by the special use permit. Conditions and safeguards imposed under this subsection shall not include requirements for which the Town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the Town, including without limitation, taxes, impact fees, building design elements within the scope of GS § 160D-702(b), driveway-related improvements in excess of those allowed in GS 136-18(29) and GS 160A-307, or other authorized limitations on the development or use of land.

(D) The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which subsection 4.47(E) below requires.

(E) The decision-making board shall issue a special use permit if it has evaluated an application through a quasi-judicial process and determined that:

(1) The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare.

(2) The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor diminish or impair property values within the neighborhood.

(3) The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(4) The exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.

(5) Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.

(6) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(7) The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.

(8) Public access shall be provided in accordance with the recommendations of the Town's land use plan and access plan or the present amount of public access and public parking as exists within the Town now. If any recommendations are found to conflict, the system requiring the greatest quantity and quality of public access, including parking, shall govern.

(9) The proposed use shall be consistent with recommendation and policy statements as described in the adopted land use plan.

(F) *Conditions and Guarantees.* Prior to the granting of any special use, the decision-making board may require, conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified above. In all cases in which special uses are granted, the decision-making board shall require guarantees as specified in Section 6.8(E)(8) to ensure compliance with the special use permit conditions. The reasons/justifications for conditions must be stated/tied to Section 4.47(E).

(G) In the event that a rezoning is sought in conjunction with a special use permit, such deliberation would be legislative in nature and not part of the quasi-judicial process.

SECTION 4.48 EFFECT OF APPROVAL.

If an application for a special use permit is approved by the decision-making board, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the special use permit, or develop any other use listed as a permitted use for the general zoning district in which it is located.

SECTION 4.49 BINDING EFFECT.

Any special use permit so authorized shall be binding to the property included in the development approval unless subsequently changed or amended by the decision-making board.

SECTION 4.50 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for a use listed as a special use shall be issued for any building or land use on a piece of property which has received a special use permit for the particular use unless the building is constructed or used, or the land is developed or used, in conformity with the special use permit approved by the decision-making board. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development constructed or used as approved.

SECTION 4.51 CHANGE IN SPECIAL USE PERMIT.

An application to materially change a special use permit once it has been issued must first be submitted, reviewed, and approved in accordance with Section 4.47, including payment of a fee in accordance with the fee schedule approved by the Town Council.

SECTION 4.52 ADDITIONAL REQUIREMENTS ON SPECIAL USE PERMITS.

(A) Subject to subsection 4.52(B), in granting a special use permit development approval, the decision-making board may attach to the permit such reasonable requirements in addition to those specified in this Ordinance as will ensure that the development in its proposed location:

(1) Will not endanger the public health or safety;

(2) Will not injure the value of adjoining or abutting property;

(3) Will be in harmony with the existing development and uses within the area in which it is to be located; and

(4) Will be in conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Town Council.

(B) The decision-making board may not attach additional conditions that modify or alter the specific requirements set forth in this Ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(C) Without limiting the foregoing, the decision-making board may attach to a permit a condition limiting the permit to a specified duration.

(D) All additional comments or requirements shall be entered on the permit.

(E) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirements of this Ordinance.

SECTION 4.53 IMPLEMENTATION OF SPECIAL USE PERMIT.

A special use permit, after approval by the Board of Adjustment or Town Council, as the case may be, shall expire six months after the approval date if work has not commenced or in the case of a change of occupancy the business has not opened; however, it may be, on request, continued in effect for a period not to exceed six months by the UDO Administrator. No further extension shall be added except on approval of the Board of Adjustment or Town Council. If such use or business is discontinued for a period of 12 months, the special use permit shall expire. Any expiration as noted or any violation of the conditions stated on the permit shall be considered unlawful and the applicant will be required to submit a new special use application to the appropriate agencies for consideration and the previously approved special use permit shall become null and void.

ARTICLE 5. NONCONFORMING SITUATIONS

SECTION 5.1 CONTINUATION OF NONCONFORMING SITUATIONS AND COMPLETION OF NONCONFORMING PROJECTS.

(A) Unless otherwise specifically provided in this Article, and subject to the restrictions and qualifications set forth in Sections 5.2 through 5.7, nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued.

(B) Nonconforming projects may be completed only in accordance with the provisions of Section 5.7.

SECTION 5.2 NONCONFORMING LOTS.

(A) When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in Article 9, then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a two-family residence) that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a nonconforming lot.

(B) When the use proposed for a nonconforming lot is one that is conforming in all other respects, but the applicable setback requirements (Article 9) cannot reasonably be complied with, then the entity authorized by this Ordinance to issue a permit for the proposed use (the UDO Administrator, Board of Adjustment, or Town Council) may allow deviations from the applicable setback requirements if it finds that:

(1) The property cannot reasonably be developed for the use proposed without such deviations;

(2) These deviations are necessitated by the size or shape of the nonconforming lot; and

(3) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

(C) For purposes of subsection 5.2(B), compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

(D) This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot may be accomplished in accordance with Section 5.5.

(E) Subject to the following sentence, if, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

SECTION 5.3 EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS.

(A) Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

(1) An increase in the total amount of space devoted to a nonconforming use; or

(2) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements.

(B) Subject to subsection 5.3(D), a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, subject to Section 5.7 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.

(C) Subject to Section 5.7 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if ten percent or more of the earth products had already been removed on the effective date of this Ordinance.

(D) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming 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) Notwithstanding subsection 5.3(A), any structure used for single family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section 5.6 (abandonment and discontinuance of nonconforming situations).

(F) Notwithstanding subsection 5.3(A), whenever: (i) there exists a lot with one or more structures on it; and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot; and (iii) the parking or loading requirements of Article 10, Part II that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with Section 10.13 if: (i) parking requirements cannot be satisfied on the lot with respect to which the permit is required; and (ii) such satellite parking is reasonably available. If such satellite parking is not reasonably available at the time the zoning or special use permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit. The purpose of this subsection is to encourage the continued use of an existing building when a change in use would require more parking spaces than can be accommodated on the building lot. This subsection is not intended to be a mechanism to circumvent the parking requirements of this ordinance and is applicable only to situations involving change in use of an existing building.

SECTION 5.4 REPAIR, MAINTENANCE, AND RECONSTRUCTION.

(A) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than twenty five percent of the appraised valuation of the structure to be renovated may be done only in accordance with a special use permit issued pursuant to this section.

(B) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed twenty five percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a special use permit issued pursuant to this section. This subsection does not apply to structures used for single family residential purposes, which structures may be reconstructed pursuant to a zoning permit just as they may be enlarged or replaced as provided in Subsection 5.3(E).

(C) For purposes of subsections 5.4(A) and 5.4(B):

(1) The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.

(2) The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of subsections 5.4(A) and 5.4(B) by doing such work incrementally.

(3) The "appraised valuation" shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser.

(D) The Board of Adjustment shall issue a special use permit authorized by this section if it finds that, in completing the renovation, repair or replacement work:

(1) There is no increase in the total amount of lot area devoted to the nonconforming use;

(2) There is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking, loading, and landscaping requirements; and

(3) There is no significant adverse impact on surrounding properties or the public health or safety.

In issuing a special use permit, the Board may affix other reasonable and appropriate conditions such as, but not limited to, landscaping and buffering to separate dissimilar uses or to screen parking and loading areas.

SECTION 5.5 CHANGE IN USE OF PROPERTY WHERE A NONCONFORMING SITUATION EXISTS.

(A) A change in use of property that is sufficiently substantial to require a new zoning or special use permit in accordance with Article 6 may not be made except in accordance with subsections 5.5(B) through 5.5(D).

(B) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this Ordinance applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this Ordinance is achieved, the property may not revert to its nonconforming status or any new nonconforming use.

(C) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this Ordinance applicable to that use cannot reasonably be complied with, then the change is permissible if the Board of Adjustment issues a special use permit authorizing the change. This special use permit may be issued if the Board of Adjustment finds, in addition to any other findings that may be required by this Ordinance, that:

(1) The intended change will not result in a violation of Section 5.3; and

(2) All of the applicable requirements of this section that can reasonably be complied with will be complied with. Compliance with a requirement of this section is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. In no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.

(D) If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the Board of Adjustment issues a special use permit authorizing the change. The Board of Adjustment may issue the special use permit if it finds, in addition to other findings that may be required by this Ordinance, that:

(1) The use requested is one that is permissible in some zoning district with either a zoning or special use permit; and

(2) All of the conditions applicable to the permit authorized in subsection 5.5(C) of this section are satisfied; and

(3) The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

SECTION 5.6 ABANDONMENT AND DISCONTINUANCE OF NONCONFORMING SITUATIONS.

(A) When a nonconforming use is (i) discontinued for a consecutive period in excess of 120 days, or (ii) discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes.

(B) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is (i) discontinued for a consecutive period in excess of 120 days , or (ii) discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations

applicable to the preexisting use unless the Board of Adjustment issues a special use permit to allow the property to be used for this purpose without correcting the nonconforming situations. This special use permit may be issued if the Board of Adjustment finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The special use permit shall specify which nonconformities need not be corrected.

(C) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for 120 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

(D) When a structure or operation made nonconforming by this Ordinance is vacant or discontinued at the effective date of this Ordinance, the 120-day period for purposes of this section begins to run on the effective date of this Ordinance.

SECTION 5.7 COMPLETION OF NONCONFORMING PROJECTS.

(A) All nonconforming projects on which construction was begun at least 180 days before the effective date of this Ordinance as well as all nonconforming projects that are at least ten percent completed in terms of the total expected cost of the project on the effective date of this Ordinance may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this subsection shall apply only to the particular phase under construction. In addition, as provided in G.S. 160D-603, neither this ordinance nor any amendment to it shall, without the consent of the property owner, affect any lot with respect to which a building permit has been issued pursuant to G.S. 160D-403 prior to the enactment of the ordinance making the change so long as the building permit remains valid, unexpired, and unrevoked.

(B) Except as provided in subsection 5.7(A), all work on any nonconforming project shall cease on the effective date of this Ordinance, and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a zoning, special use, or sign permit issued in accordance with this section by the individual or board authorized by this Ordinance to issue permits for the type of development proposed. The permit issuing authority shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land use law as it existed before the effective date of this Ordinance and thereby would be unreasonably prejudiced if not allowed to

complete his project as proposed. In considering whether these findings may be made, the permit issuing authority shall be guided by the following, as well as other relevant considerations:

(1) All expenditures made to obtain or pursuant to a validly issued and unrevoked building, zoning, sign, or special use permit shall be considered as evidence of reasonable reliance on the land use law that existed before this Ordinance became effective.

(2) Except as provided in subsection 5.7(B)(1), no expenditures made more than 120 days before the effective date of this Ordinance may be considered as evidence of reasonable reliance on the land use law that existed before this Ordinance became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure.

(3) To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property.

(4) To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a party shall not be considered prejudiced by having made such expenditures.

(5) An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of (i) the total estimated cost of the proposed project, and (ii) the ordinary business practices of the developer.

(6) A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land use law affecting the proposed development site could not be attributed to him.

(7) Even though a person had actual knowledge of a proposed change in the land use law affecting a development site, the permit issuing authority may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. The permit issuing authority may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that (i) at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development, and (ii) the developer had legitimate business reasons for making expenditures.

(8) In deciding whether a permit should be issued under this section, the permit issuing authority shall not be limited to either denying a permit altogether or issuing a permit to complete the project (or phases, sections, or stages thereof) as originally proposed or approved. Upon proper submission of plans by the applicant, the permit issuing authority may also issue a permit authorizing a development that is less nonconforming than the project as originally proposed or approved but that still does not comply with all the provisions of the ordinance making the project nonconforming.

(C) When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under subsection 5.7(B). In addition to the matters and subject to the guidelines set forth in subsection 5.7(B)(1) through 5.7(B)(6), the permit issuing authority shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments of a nonconforming project, consider the following in addition to other relevant factors:

(1) Whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural, or engineering work.

(2) Whether any improvements, such as streets or utilities, have been installed in phases not yet completed.

(3) Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or such a scale, in anticipation of connection to or interrelationship with approved but uncompleted phases, that the investment in such utilities or other facilities cannot be recouped if such approved but uncompleted phases are constructed in conformity with existing regulations.

(D) The permit issuing authority shall not consider any application for the permit authorized by subsection 5.7(B), that is submitted more than sixty days after the effective date of this Ordinance. The permit issuing authority may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one year.

(E) The UDO Administrator shall send copies of this section to the persons listed as owners for tax purposes (and developers, if different from the owners) of all properties in regard to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise known to be in some stage of development. This notice shall be sent by certified mail not less than fifteen days before the effective date of this Ordinance.

(F) The permit issuing authority shall establish expedited procedures for hearing applications for permits under this section. These applications shall be heard, whenever possible, before the effective date of this Ordinance, so that construction work is not needlessly interrupted.

ARTICLE 6. DEVELOPMENT REVIEW PROCESS

SECTION 6.1 APPLICABILITY

(A) The purpose of this Article is to establish an orderly process to develop land within the Town of Columbus in accordance with the legislative authority granted through NCGS 160D. It is also the intent of this Article to provide a clear and comprehensible development approval process that is fair and equitable to all interests including the petitioners, affected neighbors, Town staff, related agencies, the Planning Board, and the Town Council. Approved plans shall be the guiding documents for final approval and permitting.

(B) The development review process applies to all development actions within the planning jurisdiction except for existing individual lots for single-family detached residential and two-family residential (duplex) development. The provisions of this Article shall be applicable for all development approvals including Minor and Major Subdivisions and Minor and Major Site Plans. The UDO Administrator may waive the required development review approval process only in the following cases when he determines that the submission of a development plan in accordance with this Article would serve no useful purpose:

(1) Accessory structures.

(2) Any enlargement of a principal building by less than 20% of its existing size provided such enlargement will not result in parking or landscaping improvements.

(3) A change in principal use where such change would not result in a change in lot coverage, parking, or other site characteristics.

SECTION 6.2 ADMINISTRATIVE DEVELOPMENT APPROVALS AND DETERMINATIONS.

(A) *Development Approvals.* To the extent consistent with the scope of regulatory authority granted by NCGS Chapter 160D, no person shall commence or proceed with development without first securing any required development approval from the Town of Columbus. A development approval shall be in writing and may contain a provision that the development shall comply with all applicable State and local laws. The Town may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

(B) *Determinations and Notice of Determinations.* The UDO Administrator or his designee is designated as the staff member charged with making determinations under this Unified Development Ordinance. The UDO Administrator shall give written notice to the owner of the

property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. 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. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, providing the sign remains on the property for at least ten days. The sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least six (6) inches high and shall identify the means to contact an official for information about the determination. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs shall not be required.

(C) *Duration of Development Approval.* A development approval issued pursuant to this Ordinance shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. If after commencement, the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be deemed to limit any vested rights secured under Article 4, Part II.

(D) *Changes.* After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. Minor modifications to development approvals can be exempted or administratively approved. The Town shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval.

(E) *Inspections.* The UDO Administrator may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(F) *Revocation of Development Approvals.* In addition to initiation of enforcement of enforcement actions under Section 1.14, development approvals may be revoked by the Town issuing the development approval by notifying the holder in writing stating the reasons for the revocation. The Town 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 Town of Columbus development regulation or any State law delegated to the Town 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 a staff member may be appealed pursuant to Section 4.26. If an appeal is filed regarding a development regulation adopted by the Town pursuant to NCGS Chapter 160D, the provisions of Section 4.26(F) regarding stays shall be applicable.

(G) *Certificate of Occupancy.* The Town of Columbus may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by Article 11 of Chapter 160D shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to NCGS 160D-1114 has been issued.

SECTION 6.3 PRE-APPLICATION MEETING AND SKETCH PLAN.

(A) The applicant shall schedule a pre-application meeting with the UDO Administrator to review a Sketch Plan of the proposed development, including minor and major subdivisions and minor and major site plans. The Sketch Plan shall meet the requirements of Section 6.3(C). The UDO Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees (see Section 2.16). The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of Columbus and does not confer upon the applicant any development rights. The UDO Administrator may submit a Sketch Plan to other departments or agencies for input and recommendations. Within fifteen (15) days of receipt of the sketch plan, the UDO Administrator shall forward all appropriate comments to the applicant. This timeframe may be extended if comments are requested from other agencies.

(B) The applicant is encouraged to incorporate the recommendations of the UDO Administrator or authorized staff reviewer into the development plan before submittal. The sketch plan is only a courtesy intended to inform the applicant of the approval criteria prior to submittal of the

development plan; furthermore, sketch plan review does not constitute approval of the development plan and may not be substituted for any required approvals.

(C) Three copies of the sketch plan, drawn to scale, shall be submitted, including the following:

(1) A scale, preferably the same scale as required for development plan submittal.

(2) Property boundaries and total acreage, including NC PINs for all properties.

(3) Major topographical and physical features such as creeks, buildings, streets, and the like.

(4) Proposed streets, buildings, and/or lot arrangements, including proposed lot sizes.

(5) Existing and proposed land use, drawn to scale, with brief project description including building sizes, unit sizes, lot sizes, open space, amenities, and the like.

(6) Name, address, and telephone number of applicant and persons (firm) preparing the development plan.

(7) Adjacent street names, numbers, and right-of-way widths.

(8) Zoning district classification of site and surrounding properties, including those across streets.

(9) Yard setbacks and proposed structures.

(10) The boundaries of any proposed phasing.

SECTION 6.4 ADMINISTRATIVE DEVELOPMENT APPROVAL - MINOR SITE PLAN OR MINOR SUBDIVISION.

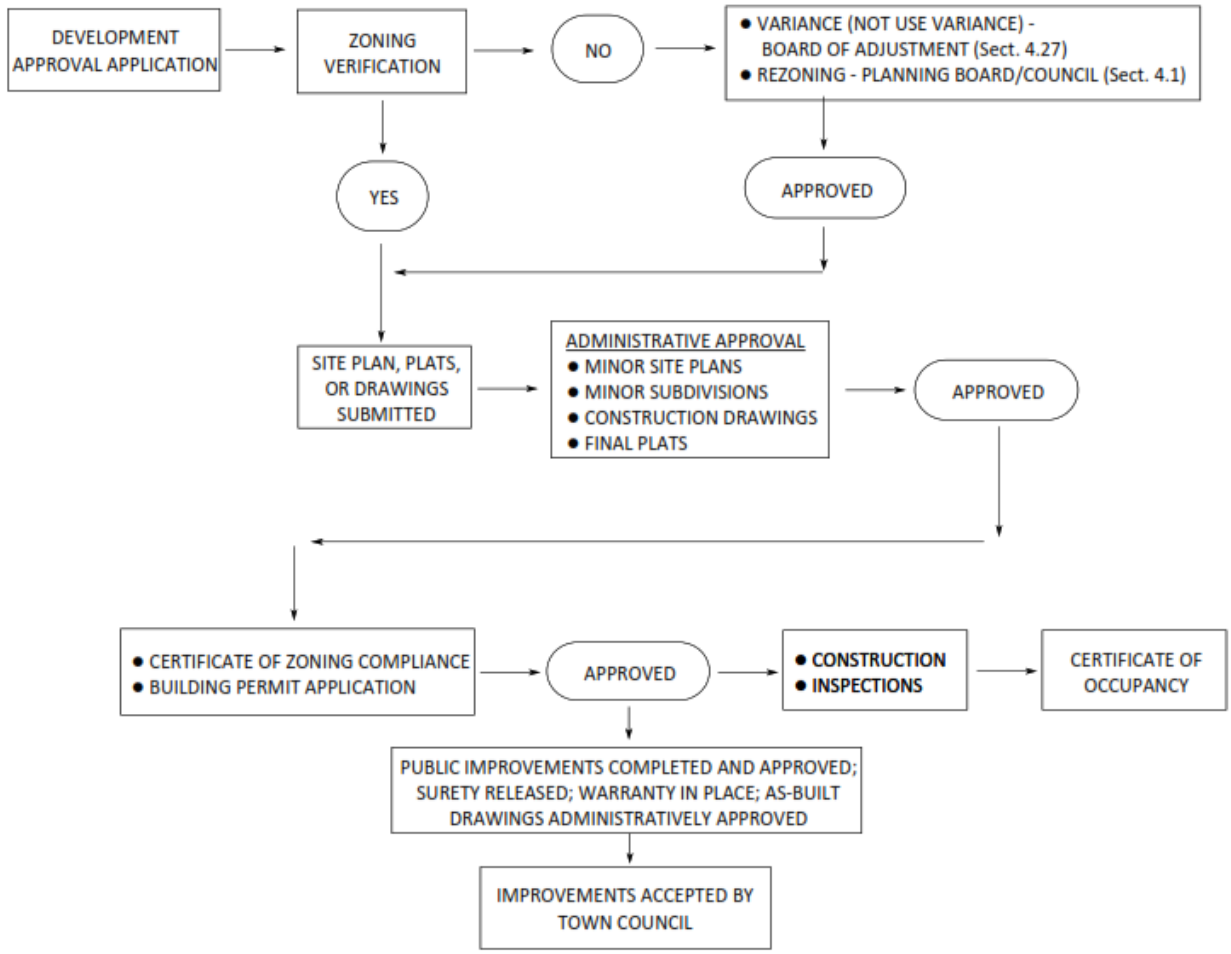
Administrative development approval includes:

- Minor Site Plans. Include the following:
  - Buildings or additions with an aggregate enclosed square footage of less than 20,000 square feet;
  - Buildings or additions involving land disturbance of less than one (1) acre;
  - Multi-family development involving less than ten (10) dwelling units;
  - Parking lot expansions which comply with this Ordinance with no increase in enclosed floor area;
  - Revision to landscaping, signage, or lighting which comply with the requirements of this Ordinance;
  - Accessory uses which comply with the requirements of this Ordinance; and
  - Site plans which do not require a variance or modification of the requirements of this Ordinance, and otherwise comply with this Ordinance.

- Minor Subdivisions. A subdivision that does not involve any of the following: (i) the creation of more than a total of five (5) lots; (ii) the creation of any new public streets; (iii) the extension of a public water or sewer system; or (iv) the installation of drainage improvements through one or more lots to serve one or more other lots.
- Construction and As-Built Drawings
- Final Plats

NOTE: A sketch plan and/or pre-application meeting is not required for a final plat submittal.

(A) *Administrative Approval Flowchart*



NOTE: A Certificate of Occupancy cannot be issued, nor a lot conveyed without final plat approval and recordation.

(B) *Development Approval Application/Zoning Verification.* A development approval application shall be submitted, and zoning verified by the UDO Administrator. Applications for non-residential development must identify any EPA-designated hazardous materials which may be stored or produced on site. If the zoning is in agreement, the applicant may proceed with

submittal of site plan, plats, or drawings. If the proposed development is not zoning compliant, the applicant must request a rezoning (see Section 4.1) or a variance (see Section 4.27) before proceeding with site plan, plat, or drawing submittal.

(C) *Minor Site Plan, Minor Subdivision Plat, or Construction Drawings Submitted for Review.* A plan of the proposed development shall be submitted in accordance with Sections 6.6 through 6.8, and shall be accompanied by the completed application and payment of a fee as adopted by the Town Council (see Section 2.16).

(D) *Staff Review.* The UDO Administrator may circulate the plan to relevant governmental agencies and officials. The reviewing government agencies and officials may include, but not necessarily be limited to, the following:

- UDO Administrator
- Town Manager
- Police Department
- Fire Department
- Polk County Building Inspections Department
- Town Engineer
- Town Attorney
- Other Town representatives appointed by the Town Manager
- Utilities Providers
- Polk County Health Department
- Polk County Board of Education
- Isothermal Rural Planning Organization
- NC Department of Transportation
- NC Department of Environmental Quality
- US Army Corps of Engineers

(E) *Approval.* If the site plan, construction drawings, as-built drawings, or final plat is found to meet all of the applicable regulations of this Ordinance, then the UDO Administrator shall issue a development approval for site plans or approve final subdivision plats.

(F) *Appeal of Administrative Denial.* Administrative denial of an application for development approval may be appealed by the applicant to the Planning Board within thirty (30) days following written notification of denial by the UDO Administrator.

(G) *Certificate of Zoning Compliance.*

(1) No land shall be used or occupied and no building hereafter constructed, structurally altered, erected, or moved, shall be used, or its use changed until a certificate of zoning compliance shall have been issued by the UDO Administrator, or his designee which may include the Building Inspector, stating that the building or the proposed use thereof complies with the provisions of this Ordinance.

(2) A certificate of zoning compliance, either for the whole or a part of a building, shall be applied for prior to the application for a building permit and shall be issued together with the building permit.

(3) *Application for Certificate of Zoning Compliance.* Each application for a preliminary certificate of zoning compliance shall be accompanied by a site plan (if not already submitted in accordance with Section 6.4(C)) in duplicate, drawn to scale, one copy of which shall be returned to the owner upon approval. The plan shall show the following:

(a) The shape and dimensions of the lot on which the proposed building or use is to be erected or constructed.

(b) The location of the lot with respect to adjacent rights-of-way.

(c) The shape, dimensions, and location of all buildings, existing and proposed, on the lot.

(d) The nature of the proposed use of the building or land, including the extent and location of the use on the lot.

(e) The location and dimensions of off-street parking and the means of ingress and egress to the space.

(f) Any other information which the UDO Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance. The UDO Administrator may waive any of the above requirements which may not be applicable or otherwise deemed necessary by the UDO Administrator.

(H) *Building Permit Required.*

(1) No building or other structure shall be erected, moved, added to, demolished, or structurally altered without a building permit issued by the Building Inspector and a zoning permit issued by the UDO Administrator. No building permit shall be issued by the Building Inspector except in conformity with the provisions of the NC State Building Code and this Ordinance unless he or she receives a written order from the Board of Adjustment in the form of a variance to this Ordinance as provided for by this Ordinance.

(2) *Application for Building Permit.* All applications for building permits shall be accompanied by plans, including a survey not more than six (6) months old, as specified by the NC State Building Code. The application shall include other information as lawfully may be required by the Building Inspector, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, dwelling units or rental units the building is designed to accommodate; conditions existing on the lot; floodplain development permit; and any other matters as

may be necessary to determine conformance with, and provide for the enforcement of this Ordinance. A minimum of two copies of the plans shall be required. One copy of the plans shall be returned to the applicant by the Building Inspector, after he shall have marked the copy either as approved or disapproved and attested to same by his signature on the copy. One copy of the plans, similarly marked, shall be retained by the Building Inspector.

(I) *Inspections and Certificates of Occupancy.* No new building, or part thereof, shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of use shall be made in any existing building or part thereof, until the Building Inspector has issued a Certificate of Occupancy.

A certificate of occupancy shall be applied for subsequent to or concurrent with the application for a certificate of zoning compliance and shall be issued within five (5) business days after the erection or structural alteration of such building or part shall have been completed in conformity with the provisions of this Ordinance. A temporary certificate of occupancy for a portion of a structure may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance. If the certificate of occupancy is denied, the Building Inspector shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Building Inspector for a period of time in accordance with the NC Department of Cultural Resources requirements (NCGS 132-8) and copies shall be furnished on request to any persons having a proprietary or tenancy interest in the building or land involved.

For all developments, excluding single-family residential uses, prior to the issuance of a certificate of occupancy by the Building Inspector, a final zoning inspection shall be conducted to ensure that the approved plan has been followed and all required improvements have been installed to Town standards. The Town Council must have accepted all publicly dedicated improvements contingent upon the recordation of the final plat or provision of performance guarantees approved by the Town Council as specified in Section 6.8(E)(8).

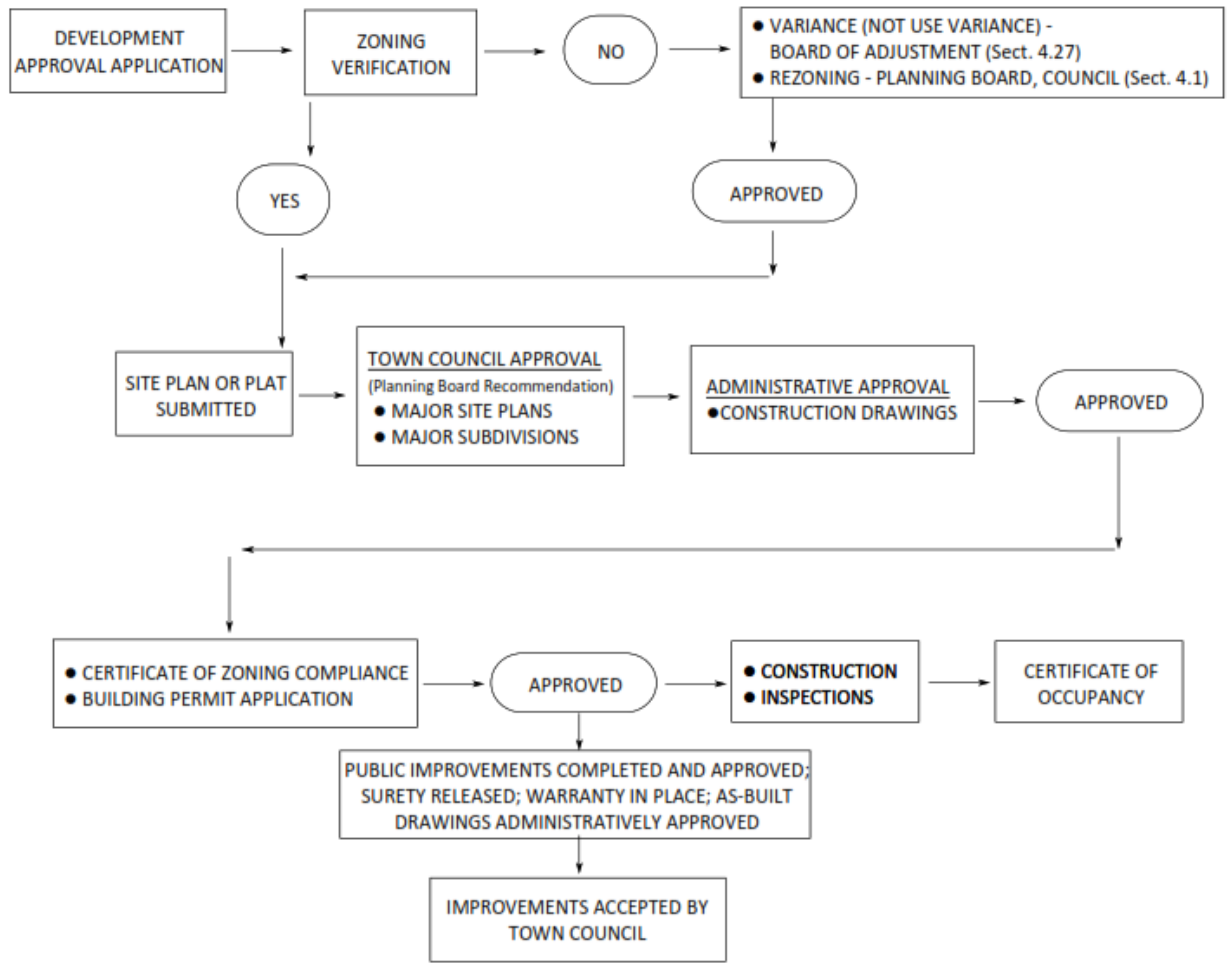
For Minor Site Plans and Minor Subdivision Final Plats, an as-built survey and as-built construction drawings shall be submitted to the UDO Administrator by the developer upon completion of the building foundation(s) to ensure that setbacks and building orientation match the approved site plan. If the survey shows that the placement of the building is incorrect, then the UDO Administrator shall issue a stop-work order and all construction shall be halted until the problem is remedied.

SECTION 6.5 TOWN COUNCIL DEVELOPMENT APPROVAL UPON PLANNING BOARD REVIEW AND RECOMMENDATION - MAJOR SITE PLAN OR MAJOR SUBDIVISION.

Town Council Development Approval Upon Planning Board Review and Recommendation applies to the following:

- Major Site Plans. Includes all site plans for projects not meeting the requirements for a minor site plan.
- Major Subdivisions. Includes all subdivisions not meeting the requirements for a minor subdivision.

(A) *Town Council Review and Approval Flowchart.*



NOTE: A Certificate of Occupancy cannot be issued, nor a lot conveyed without final plat approval and recordation.

(B) *Development Approval Permit Application/Zoning Verification.* A development approval permit application shall be submitted, and zoning verified by the UDO Administrator. If the zoning is in agreement, the applicant may proceed with submittal of site plan, plats, or drawings. If the proposed development is not zoning compliant, the applicant must request a rezoning (see Section 4.1) or a variance (see Section 4.26) before proceeding with site plan, plat, or drawing submittal.

(C) *Major Site Plan, Major Subdivision Plat, or Construction Drawings Submitted for Review.* All major site plans and major subdivision preliminary plats shall be submitted in accordance with Sections 6.7 and 6.8, and shall be accompanied by the completed application and payment of a fee as adopted by the Town Council (see Section 2.16).

(D) *Staff Review.* The UDO Administrator may require that the plan be circulated to relevant governmental agencies and officials for comments and recommendations. The reviewing agencies and officials may include, but not necessarily be limited to those listed in Section 6.4(D).

(E) *Review Process.*

(1) Following a complete review by the staff, the UDO Administrator shall schedule the application for review by the Planning Board at the next regularly scheduled meeting.

(2) The Planning Board shall forward its recommendation to the Town Council within 45 days of reviewing the application. If a recommendation is not made within 45 days, the application shall be forwarded to the Town Council without a recommendation from the Planning Board.

(3) Once the comments of the Planning Board have been made, or the 45-day period elapses without a recommendation, the Town Council shall consider the application at its next regularly scheduled meeting. The Council may recommend approval, approval with conditions, or denial of the request. Alternatively, the Town Council may suspend the review period for a specific number of days and request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the request or deferral of its consideration. The submittal of additional information does not restart the initial 45-day review period.

(F) *Approval.* All required local, state, and/or federal permits must be obtained prior to the approval of the site plan or final plat. If the site plan or final plat is found to meet all of the applicable regulations of this Ordinance, then the UDO Administrator shall issue a development approval for site plans or approve final subdivision plats.

(G) *Town Council Denial.* Following denial by the Town Council, the applicant may file a new application and associated fee. Unless the Town Council explicitly states conditions that must be met prior to the resubmission of an application, the applicant shall not submit a new application for the same property within one (1) year of the date of denial by the Town Council

unless the application is significantly different from the previously denied application. All applications shall be resubmitted for full review unless the application is resubmitted to address conditions set forth by the Town Council for reapplication.

SECTION 6.6 CONSTRUCTION DRAWING REVIEW REQUIREMENTS.

(A) *Applicability and Process.* The Construction Drawings for development approvals shall be submitted with the site plan or preliminary plat. The construction drawings shall be reviewed concurrent with the site plan. Construction drawings shall be approved administratively prior to the issuance of a development approvals.

(B) *Submittal Requirements.* Construction Drawings shall include the following:

- Site Plan or Preliminary Plat
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Details
- Lighting Plan
- Street Details, if applicable
- Infrastructure Details
- Stormwater Control Plan

SECTION 6.7 SITE PLAN PROCEDURES.

(A) *Pre-Application Meeting and Sketch Plan.* The applicant shall schedule a pre-application meeting with the UDO Administrator to review a Sketch Plan of the proposed site plan. The UDO Administrator will determine if the plan constitutes a Minor or Major Site Plan, in accordance with the definitions in Appendix A, and advise the applicant of all applicable Town regulations and policies, applications procedures, and fees.

(B) *Minor Site Plans.* Minor Site Plans follow the Administrative Development Approval process as specified in Section 6.4 and are not subject to Planning Board/Town Council review. Minor Site Plans shall be submitted with a full set of Construction Drawings. Construction Drawing approval is required prior to the issuance of Development Approval. Refer to Section 6.6 Construction Drawing requirements.

(C) *Major Site Plans.* Major Site Plans follow the Town Council development approval process as specified in Section 6.5. The Major Site Plan shall be reviewed by the UDO Administrator for completeness, compliance with this Ordinance, and soundness of design. The plan shall then be reviewed by the Planning Board for recommendation and approval by the Town Council. Construction Drawing approval is required prior to the issuance of Development Approval.

(D) *Site Plan Requirements.*

(1) *Information to be Shown on Site Plan.* The site plan shall be prepared by a professional engineer, registered land surveyor, or architect and shall be drawn to scale of not less than one-inch equals 30 feet. The site plan shall be based on the latest tax map information and shall be of a size as required by each individual site plan. Some standards may be modified in a conditional zoning district. The site plan shall contain the following information:

(a) A key map of the site with reference to surrounding areas and existing street locations.

(b) The name and address of the owner and site plan applicant, together with the names of the owners of all contiguous land and of property directly across the street as shown by the most recent tax records.

(c) Parcel Identification Numbers (PIN) for site and adjacent properties.

(d) Deed book and page reference demonstrating ownership of property.

(e) Lot line dimensions.

(f) Location of all structures, streets, entrances, and exits on the site and on contiguous property directly across the street.

(g) Location of all existing and proposed structures, including their outside dimensions and elevations.

(h) Building setback, side line, and rear yard distances.

(i) Location of flood zones.

(j) All existing physical features, including water courses, existing trees greater than eight (8) inches in diameter measured four and one-half (4.5) feet above ground level, and significant soil conditions.

(k) Topography showing existing and proposed contours at two-foot intervals. All reference benchmarks shall be clearly designated.

(l) The zoning of the property, including zoning district lines where applicable.

(m) Property lines of the tract to be developed (with dimensions identified), adjacent property lines (including corporate limits, Town boundaries, and county lines).

(n) Parking, loading, and unloading areas shall be indicated with dimensions, traffic patterns, access aisles, and curb radii per the requirements of Article 10, Part II.

(o) Improvements such as roads, curbs, bumpers, and sidewalks shall be indicated with cross-sections, design details, and dimensions.

(p) Location and design of existing and proposed stormwater systems, sanitary waste disposal systems, water mains and appurtenances, and method of refuse disposal and storage.

(q) Underground utility lines, including water, sewer, electric power, telephone, gas, cable television.

(r) Impervious surface areas with area dimensions.

(s) Aboveground utility lines and other utility facilities.

(t) Utility or other easement lines.

(u) Fire hydrants.

(v) The location and dimensions of all recreational areas.

(w) The location and dimensions of all areas intended as usable open space. The plans shall clearly indicate whether such open space areas are intended to be offered for dedication to public use or to remain privately owned.

(x) Landscaping and buffering plan showing what will remain and what will be planted, indicating names of plants, trees, and dimensions, approximate time of planting, and maintenance plans per the requirements of Article 10, Part I. The plan shall include the tree line of wooded areas and individual trees eighteen inches in diameter or more, identified by common or scientific name.

(y) Proposed lighting.

(z) Location, dimensions, and details of signs per the requirements of Article 10, Part IV.

(aa) Location of dumpsters and screening as required by Article 10, Part I.

(bb) North arrow.

(cc) Location of all 404 wetland areas.

(dd) Location of detention/retention ponds and screening as required by Article 10, Part I.

(2) *Performance Standards.* In reviewing any site plan, the UDO Administrator or Planning Board/Town Council, as applicable, shall consider:

(a) Pedestrian and vehicular traffic movement within and adjacent to the site with particular emphasis on the provision and layout of parking areas, off-street

loading and unloading, movement of people, goods, and vehicles from access roads, within the site, between buildings, and between buildings and vehicles. The Planning Board shall ensure that all parking spaces comply with Article 10, Part II. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site.

(b) The design and layout of buildings and parking areas shall be reviewed so as to provide an aesthetically pleasing design and efficient arrangement. Particular attention shall be given to safety and fire protection, impact of surrounding development, and contiguous and adjacent buildings and lands.

(c) Adequate lighting, based upon the standards set forth in Article 10, Part V shall be provided to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be a type approved by the Planning Board.

(d) Buffering shall be located around the perimeter of the site to minimize headlights of vehicles, noise, light from structures, the movement of people and vehicles, and to shield activities from adjacent properties in accordance with Article 10, Part I.

(e) Landscaping shall be provided as part of the overall site design and integrated into building arrangements, topography, parking, and buffering requirements in accordance with Article 10, Part I.

(f) Signs shall be designed so as to be aesthetically pleasing, harmonious with other signs on the site, and located so as to achieve their purpose without constituting hazards to vehicles and pedestrians (refer to Article 10, Part IV).

(g) Storm drainage, sanitary waste disposal, water supply, and garbage disposal shall be reviewed for compliance with applicable Federal, State, and local requirements. Particular emphasis shall be given to the adequacy of existing systems, and the need for improvements, both on-site and off-site, to adequately carry run-off and sewage, and to maintain an adequate supply of water at sufficient pressure. The storm drainage design shall not result in an increase in stormwater runoff on adjacent properties. The proposed project design shall comply with all applicable requirements and thresholds established by the NC Department of Environmental Quality (Division of Water Resources and Division of Energy, Mineral, and Land Resources), and the US Army Corps of Engineers.

(h) Environmental elements relating to soil erosion, preservation of trees, protection of water courses, and resources, noise, topography, soil, and animal life shall be reviewed, and the design of the plan shall minimize any adverse impact on these elements.

(i) All projects greater than one (1) acre are required to comply with the North Carolina Sedimentation and Erosion Control regulations. All required permits must be provided to the Town of Columbus prior to project approval.

(E) *Certificate of Zoning Compliance/Building Permit.* An application for a certificate of zoning compliance may be requested in advance of or concurrently with an application for a building permit in accordance with Sections 6.4(G) and 6.4(H).

(F) *Inspections and Certificates of Occupancy.* No new building, or part thereof, shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of use shall be made in any existing building or part thereof, until the Building Inspector has issued a Certificate of Occupancy.

A certificate of occupancy shall be applied for subsequent to or concurrent with the application for a certificate of zoning compliance and shall be issued within five (5) business days after the erection or structural alteration of such building or part shall have been completed in conformity with the provisions of this Ordinance. A temporary certificate of occupancy for a portion of a structure may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance. If the certificate of occupancy is denied, the Building Inspector shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Building Inspector for a period of time in accordance with the NC Department of Cultural Resources requirements (NCGS 132-8) and copies shall be furnished on request to any persons having a proprietary or tenancy interest in the building or land involved.

For all developments, excluding single-family residential uses, prior to the issuance of a certificate of occupancy by the Building Inspector, a final zoning inspection shall be conducted to ensure that the approved plan has been followed and all required improvements have been installed to Town standards. The Town Council must have accepted all publicly dedicated improvements contingent upon the recordation of the final plat or provision of performance guarantees approved by the Town Council as specified in Section 6.8(E)(8).

For Major Site Plan development approvals, an as-built survey and as-built construction drawings shall be submitted to the UDO Administrator by the developer upon completion of the building foundation(s) to ensure that setbacks and building orientation match the approved site plan. If the survey shows that the placement of the building is incorrect, then the UDO Administrator shall issue a stop-work order and all construction shall be halted until the problem is remedied.

SECTION 6.8 SUBDIVISION APPROVAL PROCEDURES.

(A) *Purpose.* This section provides for the orderly growth and development of the Town of Columbus, for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.

(B) *Subdivision Exceptions.* This section shall be applicable to all subdivisions except those which are exempt in accordance with Section 1.4. The Town Council may authorize exceptions for subdivisions from any portion of this Ordinance when, in its opinion, undue hardship may result from their strict compliance. In granting an exception, the Town Council shall hold a quasi-judicial public hearing and make the findings required herein, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No relief shall be granted unless it is found:

(1) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land; and

(2) That the relief is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and

(3) That the circumstances giving rise to the need for the relief are peculiar to the subdivision and are not generally characteristic of other subdivisions in the jurisdiction of this Ordinance; and

(4) That the granting of the relief will not be detrimental to the public health, safety, and welfare or injurious to other property in the area in which said property is situated.

Every decision of the Town Council pertaining to the granting of subdivision exceptions shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within 30 days after the decision of the Town Council is filed in the office of the UDO Administrator, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the UDO Administrator at the time of the Town Council's hearing of the case, whichever is later.

(C) *Pre-Application Meeting and Sketch Plan.* The applicant shall schedule a pre-application meeting with the UDO Administrator to review a Sketch Plan of the proposed subdivision in accordance with Section 6.3. The UDO Administrator will determine if the subdivision constitutes a Major or

Minor Subdivision, in accordance with the definitions in Appendix A, and advise the applicant of all applicable Town regulations and policies, application procedures, and fees.

(D) *Review Procedure for Minor Subdivisions.*

(1) The developer shall submit a sketch development plan, as specified in Section 6.3, to the UDO Administrator. At this stage, the UDO Administrator and the developer shall informally review the proposal.

(2) After this initial review has been completed, the subdivider or his authorized representative shall prepare a final plat as specified in Section 10.80 and submit it to the UDO Administrator. At the time of submission, the subdivider shall pay to the Town an application fee as established by the Town Council in accordance with Section 2.16. Refer to Section 10.80 for plat requirements.

(3) The UDO Administrator shall approve or disapprove the final plat. If the subdivider disagrees with the decision of the UDO Administrator, the subdivider may appeal to the Planning Board at their next regular meeting.

(E) *Review Procedure for Major Subdivisions.*

(1) *Preliminary Plat.*

(a) At the time of submission of the preliminary plat, the subdivider shall pay to the Town an application fee as established by the Town Council in accordance with Section 2.16. Refer to Section 10.80 for plat requirements.

(b) The subdivider or his or her authorized agent shall submit five (5) copies of the preliminary plat to the UDO Administrator at least 14 days prior to a regular meeting of the Planning Board. During this period, the UDO Administrator shall evaluate the plan to determine whether or not it meets the requirements of this Ordinance. The UDO Administrator may receive comments from other persons or agencies before making its final recommendations.

(c) After the UDO Administrator determines that the preliminary plat meets the requirements of this Ordinance, it shall be submitted to the Planning Board for review and recommendation to the Town Council. The Town shall prominently post a notice on the site proposed for subdivision or on an adjacent public street or highway right-of-way at least ten days prior to the Planning Board meeting. The Planning Board shall forward its recommendation to the Town Council within 45 days after first consideration by them. If the Planning Board fails to act within the 45-day period, the subdivider may appeal directly to the Town Council. The Town Council shall consider the preliminary plat at its next regularly scheduled meeting and approve, approve with conditions, or disapprove the plan.

(2) *Final Plat.*

(a) At the time of submission of the final plat, the subdivider or his or her authorized agent shall pay the Town an application fee as established by the Town Council in accordance with Section 2.16. Refer to Section 10.80 for plat requirements.

(b) Within 24 months after approval of the preliminary plat by the Town Council, the subdivider shall submit a final plat showing that he or she has completed the subdivision according to the preliminary plan. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plat, provided that all required improvements have been installed as called for in the approved preliminary plat or a surety bond or similar financial instrument has been approved by the Town Council, in accordance with Section 6.8(E)(8) for the subdivision. The UDO Administrator shall determine whether or not the final plat substantially agrees with the approved preliminary plan. If substantial differences exist, the UDO Administrator may deny the final plat and require that a new preliminary plat be submitted. If the plat substantially agrees with the preliminary plat, the UDO Administrator shall approve the final plat within thirty (30) days after first consideration, if the Town Council has accepted the publicly dedicated improvements or approved a performance bond. Only after the final plat has been approved and recorded at the Polk County Register of Deeds office shall any lots be transferred or conveyed. The plat must be recorded within 30 days after approval.

(c) Five (5) copies of the final plat shall be submitted: the original, two mylar copies, and two paper copies. Each plat presented for recording shall be a reproducible plat, either original ink on polyester film (mylar), or a reproduced drawing, transparent and archival (as defined by the American National Standards Institute), and submitted in this form. The recorded plat must be such that the public may obtain legible copies. The three reproducible copies shall each have original signature. The original copy shall be returned to the subdivider, one mylar copy shall be recorded at the Polk County Register of Deeds office, and one mylar copy of the recorded plat shall be returned to the UDO Administrator.

(d) The final plat shall be prepared by a surveyor licensed and registered to practice in the state. It shall conform to the provisions of plats, subdivisions, and mapping requirements as set forth in GS 47-30, as amended, and the Standards of Practice of Land Surveying in North Carolina.

(e) The final plat shall depict or contain the information specified in Section 10.80. Plats not illustrating or containing the information required in Section 10.80

shall be returned to the subdivider or his or her authorized agent for completion and resubmission.

(f) For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

(3) *Time Limitation/Approval of Preliminary Plat.* Preliminary plat approval shall be valid for two (2) years unless a greater time period is granted through a Vested Rights request. If final plat approval has not been obtained within said two (2) year period, preliminary plat approval shall become void. A new preliminary plat shall be required to be submitted and such plat shall be in conformity with all current and applicable standards in this Ordinance. Notwithstanding, the developer may submit a request to the UDO Administrator for a time extension for up to one (1) year for final plat submittal. Said request must be submitted to the UDO Administrator prior to the original plat expiration date. No more than one (1) such extension may be granted by the UDO Administrator per subdivision. The developer may submit a final plat for only a portion of the subdivision given preliminary plat approval. Said submission shall extend the expiration date for the remaining portion(s) of the subdivision for an additional two (2) years past the date of said final plat approval.

(4) *As-Built Drawing Submittal.* Prior to final plat approval or release of performance guarantees, As-Built Drawings shall be submitted and administratively approved. The preliminary plat may be altered by no more than 10% of the total subdivision area due to issues discovered during the As-Built Drawing process. If changes to more than 10% of the total subdivision area result, a new preliminary plat shall be submitted and reviewed.

(5) *Property Owners Association Covenants Review.* Prior to approval of any final plat for a major subdivision, the UDO Administrator shall review the covenants of the Property Owners Association to ensure compliance with Town requirements. The covenants shall include provisions for the ownership and maintenance of private streets. The UDO Administrator may refer the covenants to the Town Attorney for review.

(6) *Improvement Plans Approved Prior to Construction.* All plans and specifications for site improvements, including but not limited to grading, drainage, sidewalks, utilities (water and sewer), and street improvements shall be inspected and approved by the Town prior to construction.

(7) *Appeals of Decisions on Subdivision Plats.* A decision to approve or deny a preliminary or final subdivision plat is administrative, and that decision shall be subject to review by filing an action in superior court seeking appropriate declaratory or equitable relief within thirty (30) days from receipt of the written notice of the decision, which shall be made as provided in Section 4.26.

(8) *Guarantees.*

(a) *Performance Guarantees.* In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the Town of Columbus may enter into an agreement with the subdivider whereby the subdivider shall agree to complete any remaining required improvements as specified by the approved preliminary plat for that portion of the subdivision to be shown on the final plat within a mutually agreed upon specified time period. Once agreed upon by both parties and the security required herein is provided, the final plat may be approved by the Town Council, if all other requirements of this Ordinance are met. The Town shall require a certified cost estimate from a licensed contractor or engineer for the cost of completion of such improvements.

1. *Type.* The subdivider shall provide one of the following Performance Guarantees, elected at the subdivider=s discretion, in lieu of installation:

   a. Surety bond issued by any company authorized to do business in this State.

   b. Letter of credit issued by any financial institution licensed to do business in this State.

   c. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

2. *Duration.* The duration of the performance guarantee shall initially be one year, unless the subdivider 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 subdivider determines that the scope of work for the required improvements necessitates a longer duration.

3. *Extension.* 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 Town, 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; provided, however, that the extension shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision 6.8(E)(8)(a)1 of this subsection and shall include the total cost of all incomplete improvements.

4. *Release.* The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgment by the Town that the improvements for which the performance guarantee is being required are complete. The Town shall return letters of credit or escrowed funds upon completion of the required improvements to the specifications of the Town, or upon acceptance of the required improvements, if the required improvements are subject to Town acceptance. When required improvements that are secured by a bond are completed to the specifications of the Town, or are accepted by the Town, if subject to Town acceptance, upon request by the developer, the Town shall timely provide written acknowledgement that the required improvements have been completed.

5. *Amount.* The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The Town may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include 100% of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional 25% allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

6. *Timing.* The Town, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.

7. *Coverage.* The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

8. *Legal Responsibilities.* No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

    a. The Town to whom such performance guarantee is provided.

b. The subdivider at whose request or for whose benefit such performance guarantee is given.

c. The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.

9. The Town may release a portion of any security posted as the improvements are completed and recommended for approval by the UDO Administrator. Within thirty (30) days after receiving the UDO Administrator's recommendation, the Town Council shall approve or not approve said improvements. If the Town Council approves said improvements, then it shall immediately release any security posted.

10. For subdivisions which are underwritten or constructed with federal funds and for which the specifications for facilities or improvements are equal to or of a higher standard than those required by the Town, the bond-posting requirement may be waived and the final plat approved prior to completion of facilities or improvements.

11. *Multiple Guarantees.* The subdivider shall have the option to post one type of a performance guarantee as provided for in subdivision (a) of this subsection, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

(b) *Defects Guarantees.* The owner of the subdivision shall require the contractor constructing streets, curbs, gutters, sidewalks, drainage facilities, and/or water and sewer lines to give bond guaranteeing the work against defects.

(c) *Claims.* No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this section or in the proceeds of any such performance guarantee other than the following:

1. The local government to whom such performance guarantee is provided.

2. The developer at whose request or for whose benefit such performance guarantee is given.

3. The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.

(F) *Procedure for Plat Recordation.* After the effective date of this Ordinance, no subdivision plat of land within the Town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the appropriate agencies, and until this approval is entered in writing on the face of

the plat by the chairperson or head of that agency. All publicly dedicated improvements must be accepted by the Town Council contingent upon final plat recordation or acceptance of an approved performance bond.

A plat shall not be filed or recorded by the Polk County Register of Deeds of any subdivision located within the Town's jurisdiction that has not been approved in accordance with this Ordinance, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the requirements of this Ordinance.

(G) *Transfer of Lots in Unapproved Subdivision Plats.*

(1) Any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of the Town, thereafter subdivides his land in violation of the regulation 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 under such regulation and recorded in the office of the Polk County Register of Deeds, 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. The Town may 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 the subdivision ordinance. Building permits required pursuant to NCGS 160D-1108 may be denied for lots that have been illegally subdivided. In addition to other remedies, the Town 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.

(2) The provisions of this section 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 under the subdivision regulation or recorded with the Polk County Register of Deeds, provided the contract does all of the following:

(a) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.

(b) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.

(c) Provides that if the approved and recorded final plat does to differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.

(d) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

(3) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the Polk County Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the Polk County Register of Deeds.

(H) *Issuance of Permits and Conveyance of Subdivision Lots.* Zoning permits and building permits may be issued by the Town of Columbus for the erection of any building on any lot within a proposed subdivision prior to the final plat of said subdivision being approved in a manner as prescribed by this Ordinance and recorded at the Register of Deeds office, provided an improvements permit has been issued by the Polk County Health Department, if required. **A certificate of occupancy may not be issued until the final plat has been approved and recorded.**

(I) *School Site Reservation.* If the Town Council and the Polk County Board of Education have jointly determined the specific location and size of any school sites to be reserved in accordance with the Town of Columbus Comprehensive Plan, staff shall immediately notify the Board of Education in writing whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the developer may treat the land as freed of the reservation.

ARTICLE 7. ZONING DISTRICTS

SECTION 7.1 ESTABLISHMENT OF ZONING DISTRICTS.

In accordance with the requirements of NCGS 160D-703 that zoning regulation be by districts, the Town of Columbus, as shown on the Zoning Map, is hereby divided into districts which shall be governed by all of the uniform use and dimensional requirements of this Ordinance. In the creation of the respective districts, careful consideration is given 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 area.

The purposes of establishing the zoning districts are:

- To implement adopted plans;
- To promote public health, safety, and general welfare;
- To provide for orderly growth and development;
- To provide for the efficient use of resources;
- To facilitate the adequate provision of services.

SECTION 7.2 INTERPRETATION.

(A) Zoning districts have uses specified as permitted by right, special uses, and uses permitted with supplemental regulations. Detailed use tables are provided in Section 7.6 showing the uses allowed in each district. The following describes the processes of each of the categories that the uses are subject to:

- **Permitted by Right:** Administrative review and approval subject to district provisions and other applicable requirements only.
- **Permitted with Supplemental Regulations:** Administrative review and approval subject to district provisions, other applicable requirements, and supplemental regulations outlined in Article 8.
- **Special Uses:** Town Council review and approval of Major Special Use Permits and Board of Adjustment review and approval of Minor Special Use Permits subject to district provisions, other applicable requirements, and conditions of approval as specified in Article 4, Part VII. Some Special Uses may also be subject to supplemental regulations outlined in Article 8.

(B) If a use cannot be interpreted by the UDO Administrator for inclusion in the Table of Uses and Activities (Section 7.6) as provided for in subsection (A), that use shall be prohibited. Section 7.6 (Table of Uses and Activities) shall not be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

(C) Without limiting the generality of the foregoing provisions, 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 or explosive materials in violation of the Town's fire prevention code.

(2) Stockyards, slaughterhouses, rendering plants.

(3) Use of a travel trailer as a temporary or permanent residence. Situations that do not comply with this subsection on the effective date of this Ordinance are required to conform within one year.

(4) Any use and/or hazardous material which is illegal under North Carolina and/or Federal statutes.

SECTION 7.3 PRIMARY ZONING DISTRICTS.

For the purposes of this Ordinance, the Town of Columbus, North Carolina, is hereby divided into the following primary zoning districts:

(A) *Residential Estate (RE).* The Residential Estate (RE) district as herein established is intended to be the most restrictive of the residential districts. The intent is to provide for an environment of low density one-family detached dwelling units along with other residentially related facilities which serve the residents in this district. These areas will often be dependent on private, individual septic tanks and wells; therefore, requiring larger lot sizes to sustain individual water supplies and sewage disposal facilities. These areas may have soil and topographic constraints that preclude intense urban development.

(B) *Low-Density Residential District (R-1).* The Low-Density Residential District is primarily intended to provide locations for low-density residential development in outlying rural areas that are not likely to have public water and sewer services available and may have soil and topographic constraints that preclude intense urban development. These areas often will be dependent upon private, individual septic tanks and wells; therefore, requiring larger lot sizes to sustain individual water supplies and sewage disposal facilities. This district also provides for recreational, community service and institutional uses that will complement the residential development. This district will be applied within those areas designated on the land use plan as Low-Density Residential areas.

(C) *Community Residential-Medium Density Residential District (R-2).* The Community Residential-Medium Density Residential District is primarily intended to provide locations for residential uses and supporting recreational and community service uses in area where generally both Town public water and sewer services are available. These are the more urban areas of the community and will be primarily within the town limits and in close proximity to public and private services and the town's central business district. This district is intended to protect

existing single-family homes and subdivisions within the town. This district will be applied within those areas designated on the land use plan as Medium Density Residential areas.

(D) *Central Business District (CBD).* The Central Business District is intended to be the primary retail and service center, and focal point of the community. This district provides for the concentration of commercial uses, professional services, financial services, governmental functions, and related services. The CBD area currently has access to both public water and sewer services, and dimensional requirements for this district are intended to encourage concentrated commercial development and to promote convenient pedestrian shopping in pleasant surroundings. This district will be applied to the existing commercial center and to adjacent properties that with commercial development will complement and enhance the CBD as the retail and service center of the community. This district will be applied within the commercial areas as designated on the land use plan.

(E) *Highway Commercial District (HC).* The Highway Commercial District is intended to provide suitable locations for clustered groupings of highway commercial development in convenient locations along N.C. 108, to serve local residences and persons traveling by automobile. Urban sprawl, congestions, and strip commercial development will be discouraged by promoting good design, clustered developments, and by guiding commercial development primarily to areas that have water and sewer services and suitable soil and topographic conditions. These areas should provide sufficient space for ample off-street parking and well-designed entrances and exits to avoid traffic congestion and safety hazards. Highway commercial areas are intended for commercial enterprises and services that require greater land area and lot dimensions than businesses locating in the Central Business District. This district will be applied within the commercial areas as designated on the land use plan.

(F) *Industrial District (IND).* The Industrial District is intended to provide sites for manufacturing and industrial uses, storage and warehousing, wholesale trade, and other major employment centers. These locations should currently have both public water and sewer services available or be expected to have these services in the future, and have suitable soil and topographic conditions to sustain the development. This district includes existing manufacturing areas, and sites suited for future or further industrial development, and area designated on the land use plan as Industrial Centers. Only those manufacturing uses will be allowed which have meet all local, state, and federal environmental standards, and do not involve obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazards or other objectionable conditions which would be detrimental to the health, safety and general welfare of the community.

(G) *Public Service District (PS).* The Public Service District is intended to be an area containing a concentration of public service activities such as recreation areas, educational facilities, hospitals, emergency services and the like. This district is intended to preserve existing public service centers and will apply to those areas designated on the land use plan as Public Service Centers.

(H) *Traditional Neighborhood Development District (TND).* The Traditional Neighborhood Development District provides for the development of new neighborhoods and the revitalization or extension of existing neighborhoods. These neighborhoods are structured upon a fine network of interconnecting pedestrian-oriented streets and other public spaces. Traditional Neighborhood Developments (TND's) provide a mixture of housing types and prices, prominently sited civic or community building(s), stores/offices/workplaces, and churches to provide a balanced mix of activities. A Traditional Neighborhood Development (TND) has a recognizable center and clearly defined edges; optimum size is a quarter mile from center to edge. A TND is urban in form, is typically an extension of the existing developed area of the Town, and has an overall residential density of up to 16 dwelling units per acre. TND districts should have a significant portion of land dedicated to open spaces. This District is available for rezoning only with the consent of the property owner(s).

SECTION 7.4 OVERLAY DISTRICTS ESTABLISHED.

(A) *Conservation Overlay District (CO).* The Conservation Overlay District is intended to address degradation of natural resources, including wildlife habitats, water and air, from the direct and cumulative impacts of development. The intent is to conserve only areas with the most sensitive natural resources and to maintain the healthy functioning of significant natural resources in Columbus while accommodating desired growth and development. Enacting local conservation measures will help developers and landowners to meet state and federal environmental permit requirements reducing unexpected delays and design problems.

(1) *Permitted Uses.* In the Conservation Overlay District, the only uses permitted are single-family residential, accessory uses, and essential public and private utilities.

(2) *Exemption.* Single-family residential and recreational development that cumulatively disturbs less than one acre is exempt from the provisions of the Conservation Overlay.

(3) *Conditions.* Land disturbance in excess of one (1) acre require approval of a site plan consisting of the following:

(a) A location plan and boundary line survey of the tract.

(b) The location of the Natural Resources Conservation District boundaries.

(c) A habitat survey shall confirm the presence of *significant natural resources*. The habitat survey should include documentation of wetlands, rock outcrops, intermittent and perennial streams, caves and mines, longleaf pine forest, upland hardwoods and upland pine forest and other *significant natural resource areas*. The habitat survey shall be conducted by a qualified biologist with demonstrated experience in wildlife habitat identification. The boundaries of all of the *significant natural resources* shall be identified and labeled on the sketch plan and all site plans. Photographs depicting each of the significant natural resources on the site shall be provided.

(d) The site plan must identify and provide pictures of existing disturbed areas, existing buildings, structures, utility lines, sewers, water and storm drains, all constructed stormwater management systems, and existing impervious surfaces.

(e) Detailed sketch plan of proposed development outlining the total disturbance area, including proposed building footprints, site property improvements, utilities, and landscaping. The sketch plan is intended to be an approximation of the final site plan and serves the purpose of providing an opportunity for changes to be proposed ahead of significant investment by the applicant. The sketch plan should be reviewed by the planning department ahead of formal submission of the detailed final site plan.

(f) Final site plan of proposed development outlining the total disturbance area, including proposed building footprints, site property improvements, utilities, and landscaping.

(B) *Building Height Overlay Districts.* It is recognized that two major characteristics of the town greatly contribute to the atmosphere, cultural heritage and appeal of the whole community. Specifically, the scenic mountain views bounding the town on the north and northwest and the historic county courthouse located in the middle of town both offer a sense of place and community to the town's residents and add to the attractiveness of the area. It is further recognized that the height of buildings, if left unregulated or inadequately regulated, can detract from these two features. Therefore, building heights shall be regulated based on the location of the subject building in relation to mountain view-sheds and to the historic county courthouse.

(1) *Establishment of Building Height Overlay Districts.* The boundaries of the Building Height Overlay Districts shall be depicted on a map named the "Town of Columbus Building Height Overlay District Map" and shall be made part of this chapter Ordinance upon adoption of this section.

(2) *Districts.* For the purposes of determining maximum building heights, the town shall be divided into the following Building Height Overlay Districts:

(1) General;

(2) Courthouse; and

(3) Mountain View-Shed.

(3) *General Building Height District.* In this district, no building shall be taller than 36 feet. However, if the average elevation (above mean sea level) of the ridgelines of existing adjacent buildings situated on lots having a common boundary with the subject parcel upon which the proposed building is to be situated (adjacent lots that are vacant not

being included in this calculation) is less than the elevation (above mean sea level) determined by measuring 36 feet vertically from the average grade of the proposed building envelope on the subject parcel, then the proposed building shall be no taller than that average. In the event that the average elevation (above mean sea level) of the existing buildings' ridgelines on the surrounding adjacent properties is such that the subject parcel is rendered unbuildable (meaning a single-story building with an appropriate roof is not feasible), then the proposed building shall have a height not exceeding 29 feet. The determination that a subject parcel is rendered unbuildable under this subsection (D) shall be at the discretion of the approving administrator, board, or council.

(4) *Courthouse Building Height District.* In this district, no building's ridgeline shall have an elevation higher than the elevation defined by the plane of the soffit of the eave of the roof of the historic county courthouse; however, in no case shall a buildings height be taller than 29 feet.

(5) *Mountain View-Shed District.* Buildings on areas of high elevation are highly visible from surrounding public spaces. As such, buildings in this district shall not be more than 29 feet tall.

(6) *Height.* The height of a building shall be measured from the grade of the average grade of the property to the highest ridge of the roof of the structure.

SECTION 7.5 CONDITIONAL ZONING DISTRICT.

The large site conditional zoning district (CZD) allows a site to be developed with a mixture of land uses according to an approved overall site plan. For example, a large tract may be developed with a mix of single-family and multi-family housing, with part of the site also devoted to commercial and office uses such as mixed use and workforce subdivisions as defined in this Ordinance. The CZD allows for greater flexibility in dimensional standards (such as lot sizes and setbacks) upon approval of an overall master plan for the entire development. The district does not require a rigid separation of different land uses. Uses are limited to the uses identified in Section 7.6 Table of Uses and Activities. All of the site-specific standards and conditions, including a site plan, are incorporated into the zoning district regulations for the CZD. Approval of the site plan will establish all zoning requirements for the subject property. A large site CZD district shall not be less than three (3) acres in area.

This negotiated approach to a legislative decision allows maximum flexibility to tailor regulations to a particular site and project. But it also has great potential for abuse - both in terms of impacts on individual landowners seeking approval and their neighbors and on the public interests zoning is supposed to promote. Thus, special restrictions have been placed on conditional zoning. Conditional Zoning Districts may only occur at the owner's request and cannot be imposed without the owner's agreement. The individual conditions and site-specific standards that can be imposed are limited to those that are needed to bring a project into compliance with Town ordinances and adopted plans and to those addressing the impacts reasonably expected to be generated by use of the site. The Town must

assure that all of the factors defining reasonable spot zoning are fully considered and that the public hearing record reflects that consideration.

Conditional zoning provides important opportunities to carefully tailor regulations to address the interest of the landowner, the neighbors, and the public. The Town may use conditional zoning when it concludes that a particular project should be approved but that the standards in the comparable conventional zoning district(s) are insufficient to protect neighbors or public interests (perhaps because the conventional zoning allows other uses not suitable for the site or dimensional standards inadequate to preserve the neighborhood). Conditional zoning often allows a developer to proceed with a project in a way that addresses site-specific concerns of neighbors and the Town of Columbus. The petitioner must consent in writing to all conditions imposed by the conditional zoning.

SECTION 7.6 TABLE OF USES AND ACTIVITIES.

P – Permitted Use
S – Minor Special Use
M – Major Special Use
PS – Permitted Use with Supplemental Regulations
SS – Minor Special Use with Supplemental Regulations
MS – Major Special Use with Supplemental Regulations

Use	RE	R-1 LD	R-2 MD	CBD	HC	IND	PS	TND	Supplemental Regulations
RESIDENTIAL USES									
Adult care home (over 6 residents)					PS				Section 8.1
Dwelling, accessory to a commercial use				P	P				
Dwelling, manufactured home Class A (on a single lot)		S	S						Section 8.2
Dwelling, manufactured home Class B (on a single lot)		S	S						
Dwelling, over a business (not accessory)				SS					Section 8.3
Family care home	PS	PS	PS					PS	Section 8.1
Family childcare home	PS	PS	PS					PS	Section 8.1
Family foster home	P	P	P					P	
Halfway houses	PS	PS	PS					PS	Section 8.1
Home occupations	PS	PS	PS					PS	Section 8.4
Horse stables accessory to a residential use	SS								Section 8.5
Manufactured home parks, including recreational vehicles		SS	SS						Section 8.6
Multi-unit assisted housing with services			SS					SS	Section 8.1
Nursing homes, assisted living facilities, and group care facilities					PS			PS	Section 8.1
Planned unit developments-commercial				MS	MS			MS	Section 8.7
Planned unit developments-residential			MS	MS	MS			MS	Section 8.7
Residential childcare facility	PS	PS	PS					PS	Section 8.1

Use	RE	R-1 LD	R-2 MD	CBD	HC	IND	PS	TND	Supplemental Regulations
Residential, duplex		S	S					P	
Residential, multi-family (only one building)			S	S	S			P	
Residential, single-family (attached)								P	
Residential, single-family (detached)	P	P	P	P				P	
Rooming and boardinghouse			S		S				
Satellite dish antennas	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.8
Swimming pools	PS	PS	PS					PS	Section 8.9
Temporary health care structures	PS	PS	PS					PS	Section 8.10
Therapeutic foster home	PS	PS	PS					PS	Section 8.1
Tiny houses			PS						Section 8.11
Tourist homes					P				
Walls and fences	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.12
TEMPORARY USES									
Amusement enterprises				PS	PS	PS	PS	PS	Section 8.13
Contractor's office/storage shed	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.13
Manufactured home as a temporary structure	PS	PS	PS	PS	PS			PS	Section 8.13
Real estate office in model home	PS	PS	PS	PS	PS			PS	Section 8.13
Religious events	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.13
Seasonal sales of agricultural products	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.13
Single-family dwelling in temporary structure	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.13
Special events and activities	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.13
Temporary emergency, construction, and repair residences	PS	PS	PS					PS	Section 8.14
Temporary retail sales				PS	PS	PS		PS	Section 8.13
Temporary storage facility (portable storage units)	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.15
Temporary yard & garage sales	PS	PS	PS	PS	PS	PS	PS	P	Section 8.13
NON-RESIDENTIAL USES									
ABC store					P				
Accessory apartments		P	P	P				P	
Accessory buildings	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.16
Accessory dwellings			SS	SS				PS	Section 8.17
Accessory uses, not otherwise listed	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.18
Accounting agencies				P	P				
Adult and sexually oriented businesses						SS			Section 8.19
Advertising agencies				P	P				
Agricultural product warehousing						P			
Ambulance services, rescue squad					P	P			

Use	RE	R-1 LD	R-2 MD	CBD	HC	IND	PS	TND	Supplemental Regulations
Animal hospitals and veterinarian clinics				SS	SS			SS	Section 8.20
Arboretums and botanical gardens					P				
Art galleries				P	P			P	
Artisan's workshop	PS	PS	PS					PS	Section 8.21
Assembly halls, gym			S	P	P			P	
Assisted living residence					PS			PS	Section 8.1
Athletic fields	S	S	S	S	S	S	S	S	
Attorneys				P	P				
Automobile parking garages or parking lots				P	P				
Automobile parts and accessories				P	P				
Automobile repair shop or body shop					P	P			
Automobile sales and service				P	P				
Automobile towing					P	P			
Bakery (retail)				P	P			P	
Banks and other financial institutions				P	P			P	
Barber shops, beauty shops				P	P			P	
Bars				P	P				
Battery charging station	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.22
Battery exchange station					PS	PS			Section 8.22
Bed & breakfast businesses	SS	SS	SS		PS			SS	Section 8.23
Billiards and pool halls					P				Section 8.24
Bingo					P				
Bona fide farms	PS			PS	PS				Section 8.25
Book store, including the retail of stationary, books, magazines, newspapers				P	P				
Bowling alleys					P				Section 8.24
Building supplies and sales					P	P			
Bulk petroleum, LP gas plant and storage						PS			Section 8.26
Bus and truck terminals				P	P				
Business and special schools (art, craft, dance and the like)				P	P			P	
Campgrounds, recreational vehicles, and cabins allowed					P				
Car wash					P				
Cemetery	PS	PS	PS		PS		PS	PS	Section 8.27
Cemetery as an accessory use to a church	P	P	P		P		P	P	

Use	RE	R-1 LD	R-2 MD	CBD	HC	IND	PS	TND	Supplemental Regulations
Chemical and hazardous material storage/treatment						PS			Section 8.28
Childcare center				PS	PS			PS	Section 8.29
Childcare center (as an accessory use for a principal business/industry)				P	P	P			
Chiropractic									
Church, synagogue, temple, or other religious building, including accessory services	P	P	P		P		P	P	
Clothing store				P	P				
Colleges, universities, community colleges					P				
Commercial greenhouse or nursery, no on-premise sales					P	P			
Commercial greenhouse or nursery, sales of products					P				
Community gardens	P	P	P					P	
Compost sites						P			
Computer sales and repair				P	P				
Contractors offices				P	P				
Convenience stores					P				
Country clubs	SS	SS							Section 8.30
Crematorium					PS				Section 8.31
Dance halls					S				
Day nursery and private kindergarten	P	P	P		P		P	P	
Day support facility				PS	PS				Section 8.1
Daycare facility, adult				PS	PS				Section 8.1
Deli				P	P				
Distilleries				PS	PS				Section 8.32
Dog grooming					P				
Electrical equipment sales and repair					P	P			
Electrical repair or contractor (no open storage)					P				
Electrical repair or contractor (open storage allowed)						P			
Emergency management operation					P				
Engine repair, small (including motorcycle)					P	P			
Engineering/surveying/architectural services-general					P				
Exterminating and pest control services					P				
Fabric store				P	P				

Use	RE	R-1 LD	R-2 MD	CBD	HC	IND	PS	TND	Supplemental Regulations
Farm machinery assembly, sales and repairs				P	P				
Farm stand					PS				Section 8.33
Farm supply/hardware				P	P				
Farm, craft, produce markets					P				
Fire stations	S	S	S	S	S	S	S	S	
Flea markets					PS				Section 8.34
Florists, gift boutiques, and home specialty shops				P	P				
Funeral homes					P				
Gamerooms					P				Section 8.35
General contractors (no open storage)				P	P				
General contractors (open storage allowed)					P	P			
Gifts and souvenirs				P	P				
Golf courses	SS								Section 8.36
Government offices; U.S., state, local				SS	PS		PS	PS	Section 8.37
Governmental facilities (storage yards, maintenance sheds, jails and the like)				SS*			SS		Section 8.38
Greenhouses/plant businesses					P			P	
Grocery/food store				P	P			P	
Hardware store				P	P				
Heating and air conditioning installation and repair (no open storage)				P	P				
Heating and air conditioning installation and repair (open storage allowed)					P	P			
Home appliance dealers				P	P				
Home appliance repair					P	P			
Hospitals, health clinics and doctors' offices				P	P		P	P	
Hotels, motels					P			P	
Ice cream stand or store				P	P				
Incinerator						PS			Section 8.39
Indoor athletic and exercise facilities				P	P				
Indoor tennis and squash courts		S	S		P			C	
Industrial retail/supplier						P			
Insurance office				P	P				
Interior decorating service				P	P				
Jewelry store				P	P				
Kennels					SS				Section 8.20
Laundry and dry-cleaning services				P	P			P	
Libraries, public or private		P	P	P	P		P	P	

Use	RE	R-1 LD	R-2 MD	CBD	HC	IND	PS	TND	Supplemental Regulations
Manufactured home sales					PS				Section 8.40
Manufacturing and processing operations						P			
Massage business				P	P				Section 8.41
Medical and dental offices/clinics				P	P			P	
Medical support offices (testing labs)					P	P			
Microbrewery				PS	PS				Section 8.32
Mixed use				SS				SS	Section 8.42
Motor vehicle maintenance and repair					P				
Motor vehicle sales and rental					S				
Motor vehicle services station				P	P				
Motor vehicle, farm equipment, and boat sales or rental or sales and service					PS				Section 8.43
Movie theaters					P				
Museums				P	P				
Music instrument sales and service				P	P				
Music studio				P	P				
Nail/tanning salon				P	P				
Night clubs and social clubs					S				
Office supplies				P	P				
Opticians				P	P				
Outdoor athletic and exercise facilities					P				
Paint store				P	P				
Pawn shops					P				
Pet cemetery					P				
Pharmacy/medical equipment supplier					P				
Photography shops and studio				P	P			P	
Physical fitness center business				P	P			P	
Plumbing repair contractor (no open storage)				P	P				
Plumbing repair contractor (open storage allowed)					P	P			
Police stations							P		
Postal services				P	P			P	
Printing and lithography				P	P	P		P	
Printing, publishing, and engraving businesses				P	P				
Private postal shipping and receiving				P	P				
Private recreational facilities -profit (bowling alleys, skating rinks and the like)					P				

Use	RE	R-1 LD	R-2 MD	CBD	HC	IND	PS	TND	Supplemental Regulations
Privately-owned outdoor recreational facilities					P				
Professional and business offices and services				P	P	P		P	
Professional campus				SS	PS		SS	PS	Section 8.44
Public associations, clubs or lodges (non-profit)				P	P		P	P	
Public or private non-profit recreational facilities (parks, playgrounds and the like)	P	P	P		P	P	P	P	
Public utility offices					P		P	P	
Public utility stations and substations	SS	SS	SS		PS	PS	PS	PS	Section 8.45
Publicly-owned and operated outdoor recreational facilities	P	P	P	P	P	P	P	P	
Radio and TV stations/studios					P	P			
Radio and tv towers, water and sewer plants, water storage tanks, pumping stations	SS	SS	SS	PS	PS	PS	PS	SS	Section 8.45
Real estate office/appraisal				P	P				
Rental of goods, merchandise, and equipment (no outside storage and display of goods)				P	P				
Rental of goods, merchandise, and equipment (with outside storage and display of goods)					P	P			
Repair services				P	P				
Restaurants				P	P			P	
Restaurants, excluding fast food & drive thru services				P	P			P	
Restaurants, including fast food & drive thru services					P				
Retail trade, commercial services				P	P			P	
Rooming houses					P				
Sales of goods, merchandise, and equipment (no outside storage or display of goods)				P	P				
Sales of goods, merchandise, and equipment (with outside storage and display of goods)					P				
Salvage yards, junkyards, automobile graveyards						S			
Sawmills and planing mills						P			
Schools, public and private (of similar curriculum as public)					P		P	P	

Use	RE	R-1 LD	R-2 MD	CBD	HC	IND	PS	TND	Supplemental Regulations
Self-service storage facility					PS				Section 8.46
Shoe store or repair				P	P				
Shopping center				P					
Skateboard parks					P				
Skating rinks					P				
Social, fraternal clubs and lodges				P	P				
Solar energy generating facility, accessory	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.47
Solar farm (ground-mounted photovoltaic array)					PS				Section 8.48
Special events	SS	SS	SS	SS	PS	PS	PS	SS	Section 8.49
Sporting goods store					P	P			
Storage and warehousing					P	P		S	
Storage inside completely enclosed structure					P				
Storage outside completely enclosed structure						P			
Substance abuse treatment center/office				PS	PS				Section 8.50
Tailor/dressmaking/seamstress				P	P				
Tattoo parlors					SS				Section 8.51
Tennis courts (public)	P	P	P		P		P	P	
Theaters				P	P			P	
Toy store				P	P				
Travel agencies				P	P				
Travel trailer parks (campgrounds)		SS							Section 8.52
Truck stop					P				
Truck terminals						P			
Truck wash						P			
Upholstery-furniture repair					P				
Utility facilities	S	S	S	S	S	S	S	S	
Wholesale sales					P	P			
Wind energy generating facility, accessory	SS				SS	PS			Section 8.53
Wind farm					SS	PS			Section 8.54
Wireless telecommunication towers	PS	PS	PS	PS	PS	PS	PS	PS	Section 8.55

*Modification of existing governmental facilities is allowed by special use permit. No new facilities of this type are allowed in this district.

ARTICLE 8. SUPPLEMENTAL REGULATIONS

The following supplemental regulations shall pertain to the uses listed in the Table of Uses and Activities located in Article 7 which are identified with an "S" for supplemental regulations.

For any use which requires the issuance of a major or minor special use permit, the supplemental use regulations listed herein may be in addition to any other fair and reasonable conditions placed on the use by the Town Council or Board of Adjustment. The conditions may impose greater restrictions on a particular use than those which are listed herein.

SECTION 8.1 MANUFACTURED HOMES.

Temporary use of a manufactured home as a residence shall be permitted in any residential district in cases where the permanent home has been destroyed through no fault of the owner or tenant. A temporary occupancy permit must be obtained from the UDO Administrator for UDO compliance before the use of the manufactured home is initiated. This occupancy permit shall be valid for a specified period of time not to exceed six months while reconstruction takes place and may be renewed no more than once.

SECTION 8.2 HEALTH CARE FACILITIES.

(A) As defined by NCGS 131E-256, all health care facilities must be licensed by the State of North Carolina.

(B) Health care facilities are subject to all local and federal regulations and the regulations of the North Carolina Administrative Code.

(C) Family care homes must be located no closer than one-half (½) mile from any other family care home.

(D) Where permitted in a residential district, the location, design, and operation of the health care facility must not alter the residential character of the neighborhood. The facility must retain a residential character, which must be compatible with the surrounding neighborhood. New buildings must be non-institutional in design and appearance and physically harmonious with the neighborhood in which they are located considering such issues as scale, appearance, density, and population.

SECTION 8.3 DWELLING, OVER A BUSINESS.

Following the date of adoption of this Ordinance, multi- and single-family residential will be permitted in the CBD district when limited to the following conditions:

(A) Minimum non-ground level building floor area of 600 square feet per residential unit.

(B) Street frontage use requirements: All ground floor space shall be developed for nonresidential uses, as permitted in the CBD district.

(C) Parking: Off-street parking is not required.

SECTION 8.4 HOME OCCUPATIONS.

(A) The home occupation shall be carried on solely within the main dwelling and shall not occupy more than 25% of the floor space of the principal dwelling unit.

(B) There shall be no display, no outside storage, no change in the outside appearance of the building or premises, or other visible sign of the conduct of the home occupation other than signs permitted in the applicable zoning district.

(C) No more than two persons in one residence on the premises shall be employed in connection with the home occupation.

(D) No vehicular access shall be generated by the home occupation in greater volumes than has previously occurred in the residential neighborhood in which the home occupation is located.

(E) Parking generated by the conduct of the home occupation shall be off-street parking not located in the front yard.

(F) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, odors, or electrical interference detectable to the normal senses off the parcel on which the home occupation is located.

(G) No equipment shall create electrical, visual, or audio interference in any radio or television receivers off premises or cause fluctuations in line voltage off the premises on which the home occupation is located.

SECTION 8.5 HORSE STABLES, ACCESSORY TO A RESIDENTIAL USE.

(A) The use shall be located on a lot or tract of at least five (5) acres in area.

(B) The use shall be set back a minimum of fifty (50) feet from an adjoining street right-of-way or property line.

SECTION 8.6 MANUFACTURED HOME PARKS.

(A) The minimum lot area for a manufactured home park is two (2) acres; the minimum number of manufactured home spaces for a manufactured home park is six (6) spaces.

(B) Manufactured home parks shall contain only Class A or Class B manufactured homes.

(C) The manufactured home shall be located on ground that is not susceptible to flooding. The park shall be graded so as to prevent any water from ponding or accumulating on the premises. All ditch banks shall be sloped and seeded.

(D) The minimum lot size for each manufactured home space shall be 40 by 60 feet and there shall be no more than ten manufactured home spaces per acre of site area.

(E) No manufactured home shall be located closer than twenty (20) feet from another manufactured home or any other principal building within the manufactured home park. No manufactured home shall be located closer than twenty (20) feet from a public street right-of-way or twenty (20) feet from a private, interior manufactured home park street.

(F) Accessory buildings or structures shall be permitted only in a rear yard and shall be not less than five feet from any property line, and further provided that in the case of corner lots, the buildings or structures shall be set back at least 30 feet from any side street right-of-way line.

(G) Existing manufactured home parks which provide manufactured home spaces having a width or area less than that described above may continue to operate with spaces of existing width and area, but in no event shall any such nonconforming manufactured home park be allowed to expand unless such extension meets the requirements of this Ordinance.

(H) The area beneath the manufactured home must be fully enclosed with durable skirting within ninety (90) days of placement in the manufactured home park.

(I) Manufactured homes shall have a continuous and permanent skirting installed of brick, cement block, or corrosive-resistant nonreflective skirt extending from the bottom of the manufactured home to the ground. Said skirt shall be in compliance with the NC State Building Code requirements.

(J) Manufactured homes with or without toilet facilities that cannot be connected to a sanitary sewer shall not be permitted in a manufactured home park.

(K) Manufactured home shall be provided with NC State Building Code-compliant steps, porch, or similar suitable entry, meaning steps that are not portable.

(L) Each manufactured home space shall be graded, the graded areas grassed to prevent erosion, and provide adequate storm drainage (including retention pond facilities, when applicable) away from the manufactured home. Each manufactured home space shall abut upon an improved paved interior drive. The dimensions of all manufactured home spaces shall be shown.

(M) A densely planted buffer strip, consisting of trees, shrubs or other planting, at least ten feet in height shall be provided along the rear and/or side property lines of the manufactured home park. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of adjoining lots.

(N) *Interior Drives.* All manufactured home spaces shall abut upon an interior drive of no less than 20 feet in right-of-way, which shall have unobstructed access to a public street or highway, it being the intent of this section that manufactured home spaces shall not have unobstructed

access to public streets or highways except through said interior drive. Interior drives shall be privately owned and maintained. All interior drives shall be graded to their full right-of-way and shall have a road of at least 20 feet in width. Minimum improvements shall be a compacted base of four inches of #7 ABC stone. Roads shall be maintained with paved surface of 2" of asphalt. Graded and stabilized road shoulders and ditches shall be provided. Standing water shall not be permitted.

(1) *Cul-De-Sacs.* Any interior drive designed to be closed shall have a turnaround at the closed end with a minimum right-of-way diameter of 100 feet. The entire right-of-way of such turnaround shall be graded and usable for the turning of motor vehicles. Cul-de-sacs shall not exceed 600 feet in length.

(2) Access to the manufactured home park must be via a public road and not located in a flood hazard area. The following street and parking standards shall be complied with:

(a) Maintenance of such streets shall be provided by the owner or operator of the park, who will be required to post a bond for the first year's maintenance, amount and terms to be determined by the Town Council.

(b) Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees. Where a street intersects a public street or road, the design standards of the NC Department of Transportation shall apply.

(c) Proposed streets, which are obviously in alignment with others, existing and named, shall bear the assigned name of the existing streets. In no case shall the name of proposed streets duplicate or be phonetically similar to existing street names, irrespective of the use of a suffix: Street, Avenue, Boulevard, Drive, Place, Court, etc. New manufactured home park names shall not duplicate or be similar to any existing manufactured home park name in the Town. Street name signs that are in compliance with current Town policy are required and may be purchased from the Town.

(d) A minimum of two automobile parking spaces surfaced with a minimum of four inches of gravel shall be provided on each manufactured home space and shall not be located within any public right-of-way or within any street in the park.

(e) All spaces within a manufactured home park shall be serially numbered for mailing address purposes. These numbers shall be displayed in the front of the manufactured home on the driveway side with four-inch lettering.

(f) When more than five rural mailboxes are used for mail delivery, the approval of the local Post Office Department and the District Highway Engineer shall be required.

(O) *Intersections*. Drives shall intersect as nearly as possible at right angles, and no drive shall intersect at less than 75 degrees. Where an interior drive intersects a public right-of-way, the design standards of the North Carolina Department of Transportation shall apply.

(P) *Spaces Numbered.* Each manufactured home space shall be identified by a permanent number which shall not be changed. All space numbers must be shown on the site development plan. The appropriate number of each manufactured home space must be permanent and visibly displayed on the space. Each number shall be placed on a concrete, wood, metal, or any permanent post and conspicuously located on the lot.

(Q) *Refuse Collection Facilities*. The park owner is responsible for seeing to refuse collection. All refuse shall be collected at least once/week or more if the need is indicated. When manufactured home parks are located in the Columbus town limits, the applicable sanitation regulations shall be complied with.

(R) *Service, Administration, and Other Buildings.*

(1) Within a manufactured home park, one manufactured home may be used as an administrative office. Other administrative and service buildings housing sanitation and laundry facilities or any other such facilities shall comply with all applicable ordinances, codes, and statutes regarding buildings, electrical installations, plumbing, and sanitation systems.

(2) All service buildings, commercial structures, and the grounds of the park shall be maintained in a clean condition and kept free from any condition that will menace the health of any occupant or the public or constitute a nuisance.

(S) *Structural Additions*. All structural additions to manufactured homes other than those which are built into the unit and designed to fold out or extend from it shall be erected only after a building permit is obtained, and such additions shall conform to the North Carolina Building Code, and shall meet the standards of special regulations adopted with respect to such additions. The building permit shall specify whether such structural additions may remain permanently, must be removed when the manufactured home is removed, or must be removed within a specified length of time after the manufactured home is removed. Structural alterations existing at the time of passage of this Ordinance shall be removed within thirty (30) days after the manufactured home which they serve is moved unless attached to another manufactured home on the same site within that period.

(T) *Storage*. Storage of a manufactured home or recreational vehicle is prohibited.

(U) *Management*. In each manufactured home park, the permittee or duly authorized attendant or caretaker shall be in charge at all times to keep the manufactu0red home park, its facilities and equipment in a clean, orderly, safe, and sanitary condition.

(V) *Manufactured Home Park.* It shall be the duty of the operator of a manufactured home park to keep an accurate register containing a record of all registered occupants. The operator shall keep the register available at all times for inspection by law enforcement officials, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register.

(W) *Sales in Manufactured Home Parks*.

(1) It shall be unlawful to sell on a commercial basis manufactured homes or travel trailers within manufactured home parks.

(2) It shall be unlawful to sell a manufactured home space(s) within the manufactured home parks.

(3) Except for accessory uses, it shall be unlawful to operate any business within a manufactured home park.

(4) This section shall not apply to anyone engaged in the business of manufacturing or selling manufactured homes, when the manufactured homes are not in fact occupied, provided, the dealer or manufacturer has complied with all the ordinances of the town and the laws of the state.

SECTION 8.7 PLANNED UNIT DEVELOPMENT.

(A) *Purpose*. The purpose of this section is to encourage and provide for flexibility and innovation in the design and location of structures and land development, to provide for mixtures of housing types and land use, to provide for the most efficient use of land resources, and to provide an opportunity to develop land areas in a manner different from the standard arrangement of one principal building on one lot. Residential densities are calculated on a project basis, thus allowing the clustering of buildings in order to create useful open spaces and preserve natural site features. It is further intended that a planned unit development will be in harmony with the character of the district in which it is located.

(B) *Planned Unit Development Defined*. In this section, a planned unit development means a group residential development or a group commercial development where more than one principal building or use is proposed to be constructed on a single tract; or any building with a gross floor area of 10,000 square feet or more; or a residential complex of five or more units with more than one principal building, shall be deemed a planned unit development (PUD). Residential units within a planned unit development may include single-family detached or attached units, townhouse developments, garden apartments, patio homes, condominiums and other type residential units excluding manufactured homes and manufactured home parks.

(C) *Land Development Standards*. The following land development standards shall apply for all planned unit developments. There shall be two types of PUD, a residential PUD and a commercial PUD. These planned unit developments may be located only in certain specified

districts as special uses, subject to a finding by the Town Council that the following conditions be met:

(1) *Ownership control*. The land in a planned unit development shall be under single ownership or management by the applicant before final approval and/or construction, or proper assurances (legal title or execution of a binding sales agreement) shall be provided that the development can be successfully completed by the applicant.

(2) *Land uses permitted and location of PUDs*. Those land uses normally permitted in the district within which a PUD is located shall be permitted in the PUD, including multi-family residential units in residential planned unit developments, and a variety of commercial uses in commercial planned unit developments. Residential PUDs shall be permitted in the central business district and the highway business district; and commercial PUDs shall be permitted in the central business district and highway business district. All PUDs must be compatible with and not violate the intent of the zoning district.

(3) *Density requirements*. There are no density requirements for non-residential uses as long as the proposed project does not violate the intent of the district in which it is located. The proposed residential density of a residentially planned unit development (dwelling units per acre as shown in Article 9) shall conform to that permitted in the district in which the development is located. If the planned unit development lies in more than one district, the number of allowable dwelling units must be separately calculated for each portion of the planned unit development that is in a separate district, and must then be combined to determine the number of dwelling units allowable in the entire planned unit development.

(4) *Frontage requirements*. Planned unit developments shall have access to a highway or road suitable for the scale and density of development being proposed.

(5) *Minimum requirements*.

(a) The normal minimum lot size, setbacks and frontage requirements are hereby waived for the planned unit development, provided that the spirit and intent of this section are complied with in the total development plan, as determined by the Town Council. The Town Council shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this section.

(b) No building or structure shall exceed the height limitations of the district in which it is located.

(c) The minimum distance between buildings shall be 20 feet or as otherwise specified by the Town Council to ensure adequate air, light, privacy and space for emergency vehicles.

(6) *Privacy*. Each development shall provide reasonable visual and acoustical privacy for all dwelling units. Fences, insulation, walks, barriers and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise. Multi-level buildings shall be located within a planned unit development in such a way as to dissipate any adverse impact on adjoining low-rise buildings and shall not invade the privacy of the occupants of the low-rise buildings.

(7) *Perimeter requirements*.

(a) Structures located on the perimeter of the development must be setback from property lines and right-of-way of abutting streets in accordance with the provisions of the zoning ordinance controlling the district within which the property is situated; and

(b) Structures other than single-family detached units, located on the perimeter of the development may require screening in a manner, which is approved by the Town Council.

(8) *Plans and accompanying documentation*. Plans and accompanying documentation to ensure that the water and sewer systems proposed for the planned unit development have been approved by the appropriate local and state agencies and submitted as part of the application.

(9) *Preliminary plans*. Preliminary plans shall include parking provisions for all proposed uses within the planned unit developments in accordance with Article 10, Part II.

(10) *Pedestrian and bicycle path circulation system*. Any pedestrian and bicycle path circulation system and its related walkways shall be designed to minimize conflicts between vehicle and pedestrian traffic.

(11) *Layout of parking areas and the like*. Layout of parking areas, service areas, entrances, exits, yards, courts and landscaping, and control of signs, lighting, noise and other potentially adverse influences shall be such as to protect the character of the district and desirable character in any adjoining district.

(12) *Conveyance and maintenance*. Conveyance and maintenance of open space, recreational areas and communally owned facilities shall be in accordance with the Unit Ownership Act (G.S. Chapter 47A) and/or any other appropriate mechanisms acceptable to the Town Council.

SECTION 8.8 SATELLITE DISH ANTENNA.

Satellite dish antennas shall be regulated as to placement and location in the following manner in addition to other requirements of this Ordinance:

(A) Only one (1) satellite dish antenna shall be allowed per premises in residential districts.

(B) In all zoning districts, a satellite dish antenna shall be considered an accessory structure and shall meet the setback requirements for accessory structures.

(C) In all nonresidential districts, a satellite dish antenna may be installed on the roof of the principal structure. In all residential districts, a satellite dish antenna may be installed on the roof of the principal residence or accessory structure provided the overall diameter of the satellite dish antenna is three feet or less.

(D) A satellite dish antenna shall be permanently ground or roof mounted (where permitted), and no satellite dish antenna shall be installed on a portable or moveable structure except to transport a satellite dish antenna to a permanent site or to provide a temporary on-site satellite dish antenna for testing purposes not to exceed seven days in duration.

(E) No satellite dish antenna shall exceed an overall diameter of 12 feet nor an overall height of 20 feet above existing grade when located on the ground, and when located on the roof of a building in a nonresidential district, no satellite dish antenna shall exceed more than 10 feet above the highest point of the roof or parapet wall. When located on the roof in a residential district, no satellite dish antenna shall extend more than four feet above the highest point of the roof.

(F) All satellite dishes shall be installed in compliance with FCC regulations.

SECTION 8.9 SWIMMING POOLS.

(A) Pool construction shall conform to the North Carolina State Building and Plumbing Codes which are enforced by the Polk County Inspections Office in Columbus. Any accessory building which houses pumping and filtering equipment must conform to the provisions of this Ordinance. Further provided that all swimming pools, inclusive of paved decks and all accessory buildings shall be located no closer than eight (8) feet to any property line.

(B) No swimming pool shall be located in the front yard of any residence.

(C) Fiberglass and plastic pools may be permitted provided the same meet accepted safety and construction standards.

(D) The Water Department may regulate the hours for filling of pools and no pool shall be drained during periods of rainfall.

(E) Owners of pools shall regulate their use in such a manner as not to create undue noise or disturbance.

(F) *Construction Requirements.*

(1) No exposed electric wires shall be nearer than five (5) feet from the water's edge, nor shall any exposed and permanently installed, electric wire within twenty-five (25) feet from the water's edge of the pool be less than ten (10) feet above the ground, nor shall wires of any kind cross or be over the water surface unless otherwise approved by the Polk County Building Inspector.

(2) There shall be no cross-connection of the Town water supply with any other source of water supply for the pool. The line from the Town water supply to the pool shall be protected against back flow of water by means of an air gap and shall discharge at least six (6) inches above the maximum high-water level of the make-up tank or the pool.

(3) The drain line for the pool may be connected to the Town sewer system if the following provisions are complied with:

(a) Pool drain shall be connected to the storm water, if one is available.

(b) Where a storm sewer is not available, the pool drain may be connected to a sanitary sewer or a combined sewer subject to the approval of the Engineering Department provided an air gap discharge connection is installed.

(4) All swimming pools to be constructed or which are already constructed shall be enclosed by a fence which shall be at least four (4) feet in height, and which shall be of a type not readily climbed by children. The gates shall be of a self-closing and latching type with the latch on the inside of the gate, not readily available for children to open. Provided, however, that if the entire premises of the residence is enclosed, then this provision may be waived by the UDO Administrator upon inspection and approval of the residence enclosure.

SECTION 8.10 TEMPORARY HEALTH CARE STRUCTURES.

Temporary health care structures shall be permitted as an accessory use in accordance with the Table of Uses and Activities, subject to the following standards:

(A) Placing a temporary family health care structure on a permanent foundation shall not be required or permitted.

(B) The Town shall consider a temporary family health structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.

(C) The Town shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

(D) Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under subsections (B) and (C) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

(E) Any person proposing to install a temporary family health care structure shall first obtain a permit from the Town. The Town may charge a fee in accordance with the Town's fee schedule. The Town may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The Town may require that the applicant provide evidence of compliance with this section 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 Town 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 the doctor's certification.

(F) Notwithstanding subsection (I) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Article 11 of the NCGS, as if the temporary family health care structure were permanent real property.

(G) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

(H) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable.

(I) The Town may revoke the permit granted pursuant to subsection (E) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The local government may seek

injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.

(J) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

SECTION 8.11 TINY HOUSES.

Tiny houses shall be allowed in accordance with the Table of Uses and Activities, subject to the following:

(A) A tiny house must comply with the North Carolina State Building Code.

(B) A tiny house must be situated on a permanent foundation with secure wind-resistant tie-downs and connected to water, sewer, and electric utilities.

(C) If the tiny house is constructed on a travel chassis with wheels, the wheels must be removed for permanent location on a foundation.

(D) A tiny house must comply with all UDO requirements for the zoning district in which it is located.

(E) *Room Unit Capacity.* The amount of floor space provided per room or occupant shall be that provided in the applicable North Carolina building code.

SECTION 8.12 WALLS AND FENCES.

The setback requirements contained in these regulations shall not prohibit any necessary retaining wall nor prohibit any planted buffer strip, fence or wall. No fence or wall shall exceed a height of eight (8) feet in any yard measured from the front building setback line to the rear of the lot. This restriction shall not apply to a bona fide farm nor to recreational facilities.

SECTION 8.13 TEMPORARY USES.

(A) *Purpose.* The temporary use permit is a mechanism to allow a use on a short-term basis and certain seasonal or transient uses not otherwise allowed. Prior to conducting or establishing a temporary use or structure, approval of a temporary use permit by the UDO Administrator is required.

(B) *Approval Criteria*.

(1) All temporary uses listed in this section require a temporary use permit. The UDO Administrator shall not approve or modify and approve an application for a temporary use permit unless the following criteria, specific regulations and time limitations are met.

(2) If any of the information provided to satisfy the approval criteria is found to be falsified or intentionally inaccurate the permit shall be immediately voided.

(a) *Compatibility with/effect on surrounding area*. The allowance of the use shall not be detrimental to the public health, safety and general welfare and the use shall be consistent with the purpose and intent of this Ordinance and the specific zoning classification in which it is located. The use must be compatible in intensity, characteristics and appearance with existing land uses in the immediate vicinity of the temporary use, and the use, value and qualities of the neighborhood surrounding the temporary use will not be adversely affected by the use or activities associated with it. In addition, to those listed herein, factors such as location, noise, light, dust control and hours of operation shall be considered.

(b) *Location (zoning classification).* Temporary uses shall only be allowed in the zoning classifications as specified in the table in Section 7.6. Any temporary use which is left blank or which is not listed is not allowed.

(c) *Location (permission required).* The use shall not be on publicly or privately owned property unless the applicant first obtains written approval from the owner.

(d) *Traffic*. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding any type of traffic generated or impacted by the temporary use or structure and impact upon traffic circulation in the area.

(e) *Parking and access*. Adequate off-street parking shall be provided to serve the use. The use shall not displace the required off-street parking spaces or loading areas of the principal permitted uses on the site. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.

(f) *Property line setbacks*. Structures and/or display or merchandise shall comply with the yard and property line setback requirements of the zone district within which it is located. The items shall be displayed so as not to interfere with the sight triangle of the intersection of the curb line of any two streets or a driveway and a street. In no case shall items be displayed, or business conducted within the public right-of-way.

(g) *Signs*. Signage for temporary uses shall be permitted only within the time frame from which the temporary use is permitted.

(h) *Number per parcel*. Only one temporary use shall be permitted for a single parcel of land at any given time.

(C) *Temporary Retail Sales Uses*.

(1) *Seasonal sale of agricultural products (including Christmas trees).* Temporary use permits are required for all roadside stands in a zoning district in which the stands are permitted under division (K) below. These sales are limited to a period of time not to exceed four consecutive months per calendar year. A maximum of one building/display booth shall be allowed and may cover a maximum of 400 square feet. The structure must be portable and completely removed at the end of the period.

(2) *Other temporary retail sales.* Temporary use permits are required for the sale of food, cut flowers, beverages or merchandise from a stand in a zoning district in which the stands are permitted under Section 7.6. Temporary vendors shall have the following restrictions:

(a) A temporary use permit shall be valid for 180 days, and can be renewed at the end of each 180-day period.

(b) Only one temporary use permit for a temporary vendor may be issued at a time.

(c) Trailers, carts and related storage must be removed by the close of each business day, and cannot be more than 100 square feet in size. Truck trailers are not permitted except for short-term delivery.

(d) The use may only be located on a vacant lot or a lot occupied with a nonresidential use.

(e) At the issuance and renewal of a temporary use permit, the applicant shall supply the UDO Administrator with a schedule of the days of operation of the business, along with permission from the property owner to locate on the property.

(f) The temporary use shall adhere to all setback requirements of the zoning district in which the use is proposed to be located.

(g) The property on which the temporary use is proposed to be located shall be large enough such that the difference between the area of the lot and the area of the footprint of any existing buildings shall be at least twice the minimum area required by Article 9.

(h) The temporary use permit shall be issued only after payment of the fee set forth in the town's fee schedule, and completion of an application providing the following information:

1. The name, home and business address of the applicant, and the name and address of the owner of the vending business, if other than the applicant;

2. A description of the type of food, beverage or merchandise to be sold;

3. The applicant's state sales tax number or, if the applicant is a charitable organization, its tax exempt number;

4. Whether the applicant has been convicted of a felony or misdemeanor other than a minor traffic citation within the past ten years and, if so, the crime convicted of and date and place of conviction;

5. A site plan depicting the layout of the proposed temporary use in relation to any existing buildings and property lines;

6. The size of the lot or parcel on which the use is proposed to be located, the size of any existing buildings or structures on the subject property, and the number of existing parking spaces on the property; and

7. A copy of any approval required by the County Health Department pursuant to "Rules Governing the Sanitation of Restaurants and Other Foodhandling Businesses," 10 N.C.A.C., Ch. 10, Subchapter 10A.

(i) All temporary use permit applications shall be submitted at least seven days prior to the commencement of the temporary use.

(j) It shall be unlawful for a temporary vendor to:

1. Violate any federal, state, county or town law or regulation that pertains to food, beverages or the selling thereof, or that pertains to the operation of the vendor's business in the town;

2. Fail to permit any lawfully requested inspection by health officials or to comply with any lawful request of a police officer;

3. Fail to carry and display at all times of operation the permit issued under this Ordinance;

4. Have a vending stand that is not in compliance with the review regulations or any additional special restrictions or conditions stated in the permit;

5. Vend without insurance if such is a condition of the vendor's permit;

6. Sell food or beverages for immediate consumption, unless the vendor has available for public use a litter receptacle not more than ten feet distant from the vendor's stand;

7. Leave his or her designated location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor;

8. Allow any item relating to the operation of the vending business to be placed anywhere other than in, on or under the vending stand;

9. Offer to sell any goods other than those permitted by the permit;

10. Sound or permit the sounding of any device which produces a loud and raucous noise, or engage in any hawking or harassment for the purpose of attracting the attention of the public to the vending stand;

11. Have any advertising, except the posting of prices, the name of the products, and the name of the vendor; or

12. Solicit or conduct business with persons in motor vehicles.

(D) *Real Estate Development and Construction-Related Temporary Uses.*

(1) *Contractors office and equipment/storage shed*. Placement of an accessory to a residential or non-residential construction project is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one year as and if approved by the Administrator. A construction trailer may be used for a contractor's office or for the contractor's storage of equipment and materials. All temporary buildings and trailers shall be completely removed from the site within 30 days of issuance of a certificate of occupancy or completion of the construction project, whichever occurs first.

(2) *Real estate office in a construction trailer or temporary modular unit*. One temporary structure, such as a construction trailer or temporary modular unit may be used as a real estate sales office in any new construction project for the sale of units within that project only. A temporary use may be allowed in all zoning districts. The permit shall be valid for a period of six months or until the first unit for the project is completed, whichever occurs first.

(3) *Real estate office in a model home*. This use is limited to a period of time not to exceed 24 months, with the option of two extensions of up to 12 months each, as and if approved by the Administrator. The number of employees utilizing the office at any one time may not exceed five. A real estate office may not contain sleeping or cooking accommodations unless located in a model drawing.

(4) *Single-family dwelling in temporary structure*. During the active construction period (after a building or grading permit has been issued) of a construction project involving a non-residential use or a residential development with building permit(s) for more than

50 units at one time, one manufactured home or travel trailer may be allowed on the same property to be used as a temporary residence by a night watchman for a period not to exceed 12 months or the active construction period. The temporary home shall be removed from the site within 14 days of issuance of the certificate of zoning compliance for a non-residential structure or the first residential unit if within a residential development.

(E) *Recreational Vehicles*. No recreational vehicles shall be permitted as a temporary use or structure.

(F) *Manufactured Homes as a Temporary Structure.*

(1) Manufactured homes may be allowed on a temporary basis in a zoning district in which the use is not listed as a permitted use, if a disaster occurs which results in an occupied, single-family dwelling being destroyed (i.e., it receives damage grater than 60% of its tax value as indicated on the most current tax listings).

(2) In this instance, a manufactured home may be placed on the lot containing the dwelling unit which was destroyed. The purpose of allowing the manufactured home on the lot is to give the occupants of the destroyed dwelling unit a place to live while a new dwelling unit is being constructed or damage to the original dwelling unit is being repaired.

(3) If a manufactured home is used for such an occurrence, it is subject to the following conditions:

(a) The manufactured home shall be placed in the side or rear yard unless topography dictates placement in the front yard, and shall be located no closer than 15 feet to another principal residential structure on another lot;

(b) The UDO Administrator shall be given the authority to issue a zoning permit for the temporary use on a one-time basis only for a period of up to nine months; and

(c) The permit may be renewed on a one-time only basis (for a period of no greater than nine months) by the Town Council if it is determined that:

1. Construction of a new dwelling unit is proceeding in a diligent manner;

2. The granting of the permit will not materially endanger the public, health, welfare or safety; and

3. The location of the manufactured home on the site does not have a negative effect on abutting properties.

(G) *Temporary Yard and Garage Sales*. Yard, garage, tag, patio and apartment sales are permitted without a permit, as an accessory use on any residential or institutional property in any district. Sales on the same lot shall be limited to no more than two days per calendar month.

(H) *Amusement Enterprises*. Carnivals, circuses, fairs and amusement rides may be allowed in any non-residential zoning district for a period not to exceed 21 days within any calendar year. This classification excludes events conducted in a permanent entertainment facility.

(I) *Religious Events*. Religious events in a tent or other temporary structure may be allowed for a period not to exceed 60 days.

(J) *Special Events and Activities*. Special events and activities conducted on public property, such as school sites and public parks, including farmer's markets, shall be exempt from the provisions of this section of this Ordinance, but must comply with any guidelines, regulations and permitting processes required by the authorizing agent, and any other applicable provisions of this code.

SECTION 8.14 TEMPORARY EMERGENCY CONSTRUCTION OR REPAIR RESIDENCES.

(A) Temporary residences used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project. Completion of the project is defined as the date of the issuance of a certificate of occupancy.

(B) Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within six months after the date of issuance, except that the zoning officer may renew such permit for one additional period not to exceed six months if he determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation or restoration work necessary to make such building habitable.

SECTION 8.15 TEMPORARY STORAGE FACILITY (PORTABLE STORAGE UNITS).

Temporary storage facilities, as defined in Appendix A, shall be subject to the following regulations:

(A) Dumpsters or temporary storage facilities incidental to a natural disaster, or construction with a valid building permit, shall be exempt from these regulations.

(B) Temporary storage facilities intended to be in place for greater than thirty (30) days shall require a zoning permit.

(C) With the exception of the Industrial (ID) zoning district, temporary storage facilities may be placed on a property a maximum of any one hundred and twenty (120) day period during one calendar year from its initial placing on a property.

(D) No temporary storage facility shall encroach into any public right-of-way.

(E) No temporary storage facility shall be used as living space and/or a permanent accessory building.

SECTION 8.16 ACCESSORY STRUCTURES AND BUILDINGS.

(A) *Accessory Buildings*. Accessory buildings should not detract or interfere with adjustment properties. Therefore, accessory buildings shall not be erected within any front yard, or minimum side yard setback, or within 20 feet of any side street or highway right-of-way line, or within ten feet of any rear lot line.

(B) *Donation Boxes*. Notwithstanding the other provisions of this section, unattended donation boxes are prohibited unless located at the operational site, or leased property, of a company or organization that collects used clothing or household materials for resale or donation as a primary business function. Such donation boxes shall be subject to the following restrictions:

(1) Shall only be located in Highway Commercial (HC) zoning districts;

(2) An approved zoning permit shall be obtained prior to the donation box being located on a lot;

(3) Shall not obstruct pedestrian or vehicular circulation, not be located in public rights-of-way, required building setbacks, vehicle accommodation areas, or other unsafe locations;

(4) Shall be low reflectance earth tone, muted, subtle, or neutral colors;

(5) Shall be no larger than six feet in width, six feet in length, and six feet in height;

(6) Shall be constructed of noncombustible material and properly maintained;

(7) Any donations left outside of the box shall be removed within 24 hours; and

(8) Prohibited donation boxes that exist at the time this section is adopted shall be removed within 60 days of adoption.

SECTION 8.17 ACCESSORY DWELLING UNITS.

(A) When allowed, an accessory dwelling unit, whether an accessory apartment or a detached accessory dwelling unit, shall be subject to the following requirements:

(1) The principal use of the lot shall be a detached single-family dwelling;

(2) No more than one accessory dwelling unit shall be permitted on a single deeded lot in conjunction with the principal dwelling unit;

(3) An accessory dwelling unit shall be constructed in similar design to that of the principal structure and of similar materials so as to create a uniform appearance on the lot;

(4) The accessory dwelling unit shall be owned by the same person as owns the principal dwelling unit;

(5) The accessory dwelling unit shall not be served by a driveway separate from that serving the principal dwelling;

(6) Two additional off-street parking spaces shall be provided for the accessory dwelling unit; and

(7) The accessory dwelling unit shall be a minimum of 200 square feet and a maximum of 35% of the gross floor area of the principal structure or 800 square feet, whichever is less.

(B) When allowed, a detached accessory dwelling unit shall be subject to the following requirements in addition to the requirements listed above:

(1) A special use permit must be obtained in order to construct a detached accessory dwelling unit;

(2) A detached accessory dwelling structure may be dwelling area only or may combine the dwelling with a garage, workshop, studio or similar permitted accessory use, provided that the total floor area of the structure does not exceed the area limitations set forth in subsection (A)(7) above;

(3) A detached accessory dwelling unit shall be completely located behind the rear facade of the principal structure and the property shall retain a single-family appearance from the street;

(4) A detached accessory dwelling unit shall be located on a lot or parcel of land having at least 50% more lot area than the minimum lot area required for the zoning district in which the lot or parcel is located;

(5) A detached accessory dwelling unit shall be constructed in accordance with the dimensional requirements of accessory structures and buildings; and

(6) Any time a detached accessory dwelling unit is located within a distance of five feet from the required setbacks outlined in Section 8.16 above, a vegetative buffer strip, as defined in Appendix A, shall be required the whole length of the dwelling on the side(s) that are within five feet of the required setback(s).

(C) Use of a travel trailer or recreational vehicle (RV) as an accessory dwelling unit shall be prohibited.

(1) Those vehicles may be used to house out-of-town visitors during temporary visits aggregating no more than 30 days during any 12-month period.

(2) Upon application by the property owner, the UDO Administrator or his or her designee shall have discretion to extend the 30-day time limitation to a period not to exceed 180 days within any 12-month period.

SECTION 8.18 ACCESSORY USES.

(A) The Table of Uses and Activities (Section 7.6) classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use (1) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (2) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a zoning permit.

(B) For purposes of interpreting subsection (A):

(1) A use may be regarded as incidental or insubstantial if it is of minor consequence in and of itself or is subordinate in relation to the principal use.

(2) To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

(C) Without limiting the generality of subsections (A) and (B), the following activities are specifically regarded as accessory to residential principal uses so long as they satisfy the general criteria set forth above:

(1) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry an administrative or artistic activities of a commercial nature, so long as such activities do not fall within the definition of a home occupation.

(2) Hobbies or recreational activities of a non-commercial nature.

SECTION 8.19 ADULT AND SEXUALLY ORIENTED BUSINESSES.

Adult and Sexually Oriented Businesses shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(A) No adult or sexually oriented business shall be located within 1,500 feet of a residential zoning district, a church, a school, a hospital or nursing home, a public park or a day care center.

(B) No adult or sexually oriented business shall be located within 1,500 feet of another such business.

(C) No more than one adult or sexually oriented business shall be located in the same building, development or on the same lot.

SECTION 8.20 KENNELS AND ANIMAL HOSPITALS/VETERINARIAN CLINICS.

(A) The animal kennel or hospital, including all structures and fencing, shall be set back at least fifty (50) feet from all external property lines of the facility.

(B) The kennel facility shall be enclosed within a security fence of at least six (6) feet in height. The fence and facility may require a vegetation buffer along any part of the fenced areas where sufficient visual buffering does not exist. The Board of Adjustment will determine the buffer requirements.

(1) Provisions for daily removal and/or disposal of all animal waste shall be incorporated within the operation and maintenance of the animal kennel or animal hospital.

(2) The design and operation of the facility shall be reviewed and approved by the State Department of Agriculture.

SECTION 8.21 ARTISAN'S WORKSHOP

Artisan's workshops shall be permitted in accordance with Section 7.6 Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

(A) All artisan production is conducted inside an enclosed principal building.

(B) Workshops shall not exceed 1,000 square feet.

(C) There shall be no outside storage of materials or supplies.

(D) Finished pieces of artwork may be displayed on the exterior, but shall not be located in any required setback or parking area.

(E) Artisan related class offerings are only allowed as an accessory use and require a special use permit.

(F) No artisan workshop shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance.

SECTION 8.22 BATTERY CHARGING/EXCHANGE STATIONS.

Battery charging stations and battery exchange stations shall be permitted in accordance with Section 7.6, subject to the following requirements:

(A) Electric vehicle charging stations should be reserved for parking and charging of electric vehicles only.

(B) Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that would apply to any other vehicle that would park in that space.

(C) *Battery Charging Stations*. For land use compatibility purposes, the charging activity should be proportionate to the associated permitted use. Electric vehicle charging station(s) shall be permitted in a single-family garage designed to service the occupants of the home. Accessory single-family charging stations shall not exceed residential building code electrical limitations. Whereas, charging station(s) installed in a parking lot for non single-family residential use are expected to have intensive use and will be permitted to have multiple "rapid charging stations" to serve expected demand.

(D) *Battery Exchange Stations*. Exchange stations are permitted in any commercial or industrial zoning district, provided, however, all other requirements for the building or space the use occupies can be satisfied, such as design review, fire code, and building code requirements. This use is specifically prohibited in exclusively residential or conservation/recreation zoning districts.

(E) *Design Criteria for Commercial and Multi-Family Development*. The following criteria shall be applied to electric charging facilities.

(1) *Number Required*. This is an optional improvement. No minimum number of stalls applies. Provided, if electric vehicle stalls are reserved for electric vehicles, care should be taken to ensure enough spots are available for all of a site's parking needs.

(2) *Generally*. Location and provision of electric vehicle parking will vary based on the design and use of the primary parking lot, keeping in mind flexibility will be needed in various parking lot layout options.

(3) *Signage to Identify*. Each charging station space should be posted with signage indicating the space is only for electric vehicle charging purposes. Days and hours of operations should be included if time limits or tow away provisions are to be enforced by the owner.

(4) *Maintenance*. Charging station equipment should be maintained in all respects, including the functioning of the charging equipment.

(5) *Accessibility*. Where charging station equipment is provided within an adjacent pedestrian circulation area, such as a sidewalk or accessible route to the building entrance, charging equipment should be located so as to not interfere with accessibility.

(6) *Lighting*. Where charging station equipment is installed, adequate site lighting should also be provided unless charging is for daytime purposes only.

(7) *Notification of Station Specifics*. Information on the charging station identifying voltage and amperage levels and any time of use, fees, or safety information.

(8) *Avoid the Most Convenient Parking Spaces*. Stalls should not be located in the most convenient spots because this would encourage use by non-electric vehicles.

(9) *Avoid Conflict with Handicap Spots.* Stalls should generally not be located adjacent to handicap spots unless designed for handicapped use.

(10) *Design for Compatibility*. Design should be appropriate to the location and use. Facilities should be able to be readily identified by electric cars but blended into the surrounding landscape/architecture for compatibility with the character and use of the site.

SECTION 8.23 BED AND BREAKFAST BUSINESSES.

(A) A bed and breakfast shall be permitted only within a principal residential structure.

(B) A bed and breakfast shall be located in a dwelling in which there is a resident owner or resident manager.

(C) Food service shall be available only to guests and not to the general public.

(D) Signage shall be limited to one identification sign not to exceed four square feet in area nor four feet in height.

SECTION 8.24 BOWLING ALLEYS AND POOL ROOMS.

(A) *License Required.* No person shall maintain or operate any pool or billiard table, bowling alley or other table or alley for any game or play for which a charge is made, either directly or indirectly, unless he or she shall first have secured a license from the Town Council to do so. The license shall expire on June 30 each year and shall not be transferable.

(B) *Application for License.* Applications for a license under this section shall be made upon forms provided by the Town Clerk, and shall contain all information necessary for the Town Council to act intelligently upon the applications.

(C) *When License Refused.* The Town Council shall not issue a license to any person:

(1) Who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs;

(2) Who is of immoral character; or

(3) Who is a habitual user of intoxicating liquor or narcotic drugs.

(D) *Form and Content of License.* Every license issued pursuant to this chapter shall specify the premises for which it is issued, the number of tables or alleys to be operated thereunder, the name of the owner or operator, and the dates upon which the license begins and shall expire. The license shall be posted in a prominent place on the premises at all times.

(E) *Certain Prohibitions to be Observed by Licensee and Employees.* Licensees under this section shall not, and neither shall their employees:

(1) Suffer or permit any gambling on the licensed premises at any time; nor the sale or use of any racing, football or other parlay cards or gambling boards;

(2) Suffer or permit the licensed premises to become disorderly; or permit any profane, obscene or indecent language thereon;

(3) Suffer or permit any intoxicating liquors or narcotic drugs to be sold or kept or consumed on the licensed premises;

(4) Suffer or permit any person under age of 16 years to enter or remain on the licensed premises, unless that person be accompanied by his or her parent or guardian;

(5) Employ in carrying on the business any person who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or

(6) Suffer or permit any keeley board, keno board or any other like board or device to be attached to or placed upon any tables.

(F) *Rules for Operation.* The following rules shall be observed by all operators or pool rooms within the town.

(1) All pool rooms shall close at 1:00 a.m. each morning, Monday through Friday and 12:00 midnight on Saturdays and no person other than the owner, operator or employees shall be permitted on the premises from that hour until 7:00 a.m. the following morning.

(2) No play on any table shall be allowed during the times when pool rooms are required by this section to remain closed.

(3) All pool rooms shall be operated only on the ground floor of a building, and plate glass windows shall be in those parts of the building facing any street so that a clear view inside may be had from the street.

(4) No screens, curtains, blinds, partitions or other obstructions shall be placed between the entrance to the room where pool is played and the rear wall of the room. A clear

view of the interior from the entrance to the rear of the room must be maintained at all times.

(5) No partitions forming rooms, stalls or other enclosures where the public congregates shall be permitted. Provided, this shall not be construed so as to prohibit the maintenance of closets used exclusively for storage purposes, or of toilets.

(6) There shall not be permitted or maintained any open or secret connections through doors, windows, trap doors, hidden doors, panels, stairways or other devices with any place where gambling is conducted or where persons meet or congregate for immoral purposes.

(G) *Licensee Responsible.* The acts and conduct of the agents and employees of the licensee in the conduct of the business shall be deemed to be the acts and conduct of the licensee.

(H) *Revocation of Licenses.* A second conviction of a licensee, or his or her agent or employee, for any violation of any provision of this section shall by operation of law constitute an automatic revocation of the license of the licensee. In addition, the Town Council may at any time, for cause, and after a hearing, of which the licensee shall be given reasonable notice as the Town Council may direct, revoke any license issued pursuant to this section.

SECTION 8.25 BONA FIDE FARMS.

Bona fide farms in the Town of Columbus extraterritorial jurisdiction are exempt from the provisions of this Ordinance as directed by NCGS 160D-903.

SECTION 8.26 BULK PETROLEUM, LP GAS PLANT AND STORAGE.

(A) The use must meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NFPA 30" of the National Fire Protection Association.

(B) All storage tanks and loading facilities will be located at least 200 feet from any property line. The buffer area required by Article 10, Part I shall contain a sufficient amount of natural or planted vegetation so that such facilities are screened visually from an adjoining property not located in an industrial district.

(C) Vehicle access to the use will be provided only by way of a U.S. or N.C. numbered highway or an industrial area access road.

(D) All principal and accessory structures and off-street parking and service areas will be separated by a 25-foot buffer from any abutting property.

SECTION 8.27 CEMETERY.

(A) A cemetery shall contain not less than five (5) acres of land in contiguous ownership.

(B) Chapels, mortuaries, mausoleums, and sales and administrative offices may be developed within the cemetery. Not more than two such buildings shall be permitted in any cemetery. Access to the buildings shall be from within the cemetery. No building permitted by these requirements shall be located closer than one hundred fifty feet to any residential dwelling on land adjoining the cemetery.

(C) Access to the cemetery shall be provided by way of private drives extending from a public street and of sufficient width to accommodate two-way traffic. Parking shall be provided entirely on private internal roads.

(D) A perimeter buffer strip of fifty feet in depth shall be maintained around the entire cemetery. There shall be no burial sites, buildings or other structures located within the buffer strip, and the strip shall be planted in accordance with Article 10, Part I so as to effectively screen the cemetery and burial activities therein from view from outside of the cemetery.

SECTION 8.28 CHEMICAL AND HAZARDOUS MATERIAL STORAGE/TREATMENT.

(A) The use shall comply with the Federal Resource Conservation and Recovery Act of 1976, as amended, [PL 94-580] and the North Carolina Solid Waste Management Act, as amended, (Article 13B. G.S. 130-166.16) for design, siting, and materials to be stored and treated.

(B) All storage, treatment, and loading facilities handling hazardous materials will be located at least 200 feet from any property line and at least 1,250 feet from any lot not located in an industrial district. The required buffer area shall contain a sufficient amount of natural or planted vegetation so that such facilities are screened visually from an adjoining property not located in an industrial district.

(C) A security fence at least 7 feet in height with a minimum 9-gauge fabric and 3 strands of barbed wire shall surround all facilities for the storage and handling of hazardous materials.

(D) Vehicular access to the operation will be provided only by way of a U.S. or N.C. numbered highway.

(E) All surface water and groundwater on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials.

(F) All sanitary sewer and stormwater management systems on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials. A stormwater management plan shall be prepared by the applicant and submitted to the Town for review by the Town's engineer and the Environmental Management Division of the N.C. Department of Environmental Quality.

SECTION 8.29 CHILDCARE CENTER.

(A) There shall be a minimum of seventy-five (75) square feet of outdoor recreational space for each client. The outdoor recreational area shall be located in a side or rear yard and shall be enclosed by a fence of at least four (4) feet in height.

(B) The hours of operation of a childcare center shall be established by the issuance of a Special Use Permit in the CBD, HC, and TND zoning districts.

(C) Minimum paved off-street parking spaces: Two spaces plus one for each employee.

(D) Minimum paved off-street loading and unloading area: In addition to the off-street parking area, there shall be sufficient paved driveway to accommodate at least two autos at one time for the purpose of loading and unloading passengers.

(E) The childcare center shall have a specified plan for ingress and egress.

(F) No child may remain on the premises of a childcare center for more than twenty-four (24) consecutive hours in one (1) stay.

SECTION 8.30 COUNTRY CLUBS.

(A) Off-street parking shall be sufficient to meet the requirements found in Article 10, Part II.

(B) The Board of Adjustment may require buffering consisting of evergreen trees or shrubs located along the side and rear lot lines, but long any street shall be setback beyond the street right-of-way. The buffer strip shall not be less than four feet in width and shall be composed of trees or shrubs of a type which at maturity shall be not less than six feet in height. This planting requirement may be modified by the Board of Adjustment where adequate buffering exists in the form of vegetation and/or terrain.

(C) The proposed hours of operation shall not be detrimental to the surrounding property due to noise, flashing lights, traffic and the like.

(D) All development shall be compatible with surrounding residential uses, therefore, no signs with flashing lights shall be allowed. All non-flashing illuminated signs shall be so placed so as not to cast light on adjoining residential uses.

SECTION 8.31 CREMATORIUM.

Crematoriums may be allowed pursuant to the use table in Section 7.6, upon compliance with the following:

(A) All facilities must comply with NC State licensing requirements.

(B) There shall be no emission of particulate matter or noticeable odors.

(C) No new crematorium operation may be located within 1,500 feet from an existing crematory facility.

(D) The loading/unloading zone for the facility must be enclosed or screened from view with fencing.

(E) All windows with an open view of the crematory processing equipment must be screened from view.

SECTION 8.32 MICROBREWERY/DISTILLERY.

An business that meets the definition of a microbrewery or distillery shall be permitted in accordance with Section 7.6, provided it meets the requirements of NCGS 18B-1104 or 18B-1105, respectively. Tasting rooms are an accessory use to a microbrewery.

SECTION 8.33 FARM STAND.

Farm stands shall be located and operated in compliance with the following standards:

(A) *Items for Sale.* A farm stand shall only be used for the retail sale of produce and agricultural products on the property.

(B) *Location.* Farm stands shall be located three hundred (300) feet from any intersection right-of-way and forty (40) feet from the front property line.

(C) *Size.* Maximum area of a farm stand is three hundred (300) square feet.

(D) *Signs.* Two temporary on-site signs are permitted. No sign permit is required. Balloon and flags are prohibited. Signs shall comply with the following:

(1) *Area.* A maximum of sixteen (16) square feet each.

(2) *Height*. A maximum of six (6) feet.

(E) *Health Regulations.*

(1) Farm stands that sell anything other than fresh, farm-produced fruits, vegetables, nuts, and shell eggs are considered “retail food stores.”

(2) No food preparation at the farm stand is allowed.

(3) No live animals within twenty (20) feet of food storage or sales area are allowed, except service dogs.

SECTION 8.34 FLEA MARKETS.

(A) Hours of operation are limited to 8:00 am to 6:30 pm.

(B) The sale of food for consumption on or off the premises will require licensing by the Town and approval by the Department of Health.

(C) The sale of firearms and/or alcohol is prohibited.

(D) Permanent open-air flea markets are required to install and maintain fencing or landscaping along three (3) sides of the open market. A landscape plan describing both fencing and landscaping must be reviewed and approved by the UDO Administrator.

SECTION 8.35 GAMEROOMS.

(A) *Maintenance; Inspection of Buildings.*

(1) All pool rooms, billiard halls, discotheques, and/or dance halls and amusement centers in the town shall be kept at all times in a clean, neat, healthful and sanitary condition, and the pool rooms, billiard halls or amusement centers, all stairways, outer passages, and all rooms connected therewith shall be kept open and well lighted and shall be subject to inspection at any time by any member of the police force, Health Officer, Fire Inspector or the Code Enforcement Officer, and free access shall be granted to any of the aforementioned officers at any and all times by the licensee, and it shall be the duty of each of the aforementioned officers to make frequent inspections of all pool rooms, billiard halls, discotheques, and/or public dance halls and amusement centers in the town.

(2) All adjacent or related tracts, lots and other areas used to accommodate the parking of vehicles used or owned by patrons of places of amusement shall be adequately and appropriately illuminated or lighted.

(3) Each such lot or tract shall have a sign posted thereon which shall advise in appropriate terminology that loitering, congregating and using the area for any other use than parking is not permitted.

(B) *Sight Obstructions.* No partition, screen or any other device which will obstruct the full vision from the outside of any pool room, billiard hall, discotheque and/or dance hall or amusement center within the town shall be permitted.

(C) *Hours of Operation.*

(1) It shall be unlawful for the owner, manager or employee of any billiard hall or pool room within the town limits to keep the same open or to operate the same except between the hours of 7:00 a.m. and 1:00 a.m.

(2) No person shall play billiards or pool, or any variation thereof, on any size or design of table in any billiard hall, pool room, discotheque and/or public dance hall or amusement center after 1:00 a.m. and until 7:00 a.m.

(3) It shall be unlawful for the owner, manager or employee of any amusement center or discotheque and/or public dance hall to keep the same open or to operate the same except between the hours of 7:00 a.m. and 2:30 a.m.

(D) *Gambling.* It shall be unlawful for any owner, manager or employee of any pool room, billiard hall, discotheque and/or dance hall or amusement center within the town to allow or permit any form of gambling to be carried on or engaged in within the premises thereof.

(E) *Disorderly Conduct.* It shall be unlawful for the owner, manager or employee of any pool room, billiard hall, discotheque and/or dance hall or amusement center within the town to allow or permit any form of disorderly conduct to be carried on or engaged in within the premises thereof.

(F) *Display of Amusement Devices; Gambling Devices Prohibited.* Any device shall at all times be kept and placed in plain view of any person who may frequent or be in any place of business where the devices are kept or used. Nothing in this section shall be construed to authorize, permit or license any gambling device of any nature whatsoever.

(G) *Applicability of Provisions; Private Clubs.* This section shall have no application to any private club or organization of a nationwide stature or character, or which operates pursuant to a corporate charter or license (profit or nonprofit) issued by the state, or the Congress of the United States, and to whose regularly maintained premises admittance is dependent upon preexisting membership in the organization, club, group or society, and to which admittance is denied to the general public.

(H) *Other Business Establishments.* This section shall have full application to any premises, facilities, rooms, areas, storerooms, stores, showrooms or other premises owned, occupied by, leased or otherwise used by any person, upon which, and in which, there are maintained 14 or less mechanical amusement devices and/or non-coin-operated amusement devices.

(I) *License Required for Businesses.* No pool room, billiard hall, discotheque and/or dance hall or amusement center shall be operated within the town unless the same shall have been first duly licensed, and the requisite tax paid to the Town Clerk on all amusement devices, billiard tables, pool tables or other mechanical amusement devices (coin- or non-coin-operated types) pursuant to the provisions of G.S. § 160A-211.

(J) *License Required for Devices.* It shall be unlawful for any person to install, operate or maintain any mechanical amusement device without having first obtained a license therefor. Applications shall be made to the Town Clerk. The fee for the license shall be $10 per year, or any portion of a year, for each machine or device so licensed. The license period shall be the same as the fiscal year of the town.

(K) *Non-Coin-Operated Devices; License.* It shall be unlawful to maintain or expose for public use any non-coin-operated amusement device, commonly referred to as a "slotless slot machine"

without having first obtained a license therefor. The annual fee for the license shall be the sum of $10 for each such device.

(L) *Issuance; Separate License Required for Each Device.*

(1) No license shall be issued except to a person of good character, approved by the Town Council. Upon approval of the applicant and the payment of the license fee, the Tax Collector shall issue an appropriate license bearing a notation indicating the term of its existence and the expiration date thereof.

(2) One license shall be issued for each device licensed, and it shall be placed in a conspicuous place on the machine and so affixed that it cannot be transferred from one machine to another.

(M) *Revocation.* In addition to any penalty imposed, the Town Manager may revoke any license issued pursuant to this section for any violation of any section, or of any ordinance pertaining to the conduct of the businesses.

(N) *Fees.* In addition to the license required by the terms of this section, the following taxes, or license fees, shall be paid and collected, and no person engaging in the designated businesses, or a combination thereof, shall maintain the premises without having first obtained a license therefor:

(1) Discotheque; dance hall: $25;

(2) Amusement center: $25; and

(3) Billiard or pool halls: $25.

These license fees shall be paid in addition to the license fee imposed upon each mechanical amusement device.

SECTION 8.36 GOLF COURSES.

(A) All golf course greens, tees, and fairways shall be set back at least fifty (50) feet from any property line.

(B) All structures shall be setback at least one hundred (100) feet from any property line.

SECTION 8.37 GOVERNMENT OFFICES.

(A) All existing government office buildings located within the town's Central Business District as of the date of March 20, 2008, shall be considered compliant with this section.

(B) A special use permit shall be obtained for any additions, repairs or any construction that results in the expansion of the building footprint of any existing government office building within the Central Business District. If a building houses multiple uses including government office uses,

then the expansion of a government office use within the building shall constitute an expansion of the footprint of the government office building.

(C) In addition to the prescribed findings of fact for the issuance of a special use permit, the Board of Adjustment shall determine that a proposed government office development in the Central Business District fulfills the following requirements:

(1) The proposed location for the use or building shall not be on a parcel or lot, which directly abuts the public right-of-way of North Carolina Highway 108, also known as Mills Street;

(2) No alternative locations exist for the building or use within areas previously developed for government buildings and/or uses; and

(3) If a new structure is proposed, then the structure's architectural design shall be consistent with the surrounding area and shall conform to any existing design guidelines adopted by the town.

SECTION 8.38 GOVERNMENT FACILITIES.

(A) Any new governmental facility buildings and/or uses, and any additions, repairs or any construction to existing facilities that result in the expansion of the building footprint shall be issued a special use permit prior to commencement of development and/or construction, and must adhere to the following standards:

(1) A governmental facility shall not be located on a lot or parcel whose perimeter is within 200 feet of three or more parcels or lots that contain residential uses or is within 200 feet of three or more parcels or lots that contain uses classified according to the permitted use table under Section 7.6 as retail trade, commercial services, sales and rental of goods, merchandise and equipment or uses classified as restaurants;

(2) No alternative location exists for the proposed new governmental facility within areas previously developed for government buildings and/or facilities; and

(3) Detention centers, jails and related correctional facilities; storage yards and related outdoor storage facilities; maintenance sheds and related indoor storage facilities; and emergency response facilities are all listed and regulated as different governmental facility uses below. If a proposed development or change in use is not explicitly listed, then the UDO Administrator shall determine which of the previously mentioned use categories the proposal most closely resembles and the proposal shall be treated as falling within the use category.

(B) Detention centers, jails, and related correctional facilities shall adhere to the following restrictions as well as those listed above:

(1) Any such facilities existing in the Central Business District as of March 20, 2008, may be continued as nonconforming uses, provided however, that if any proposed construction will result in the expansion of the footprint of the existing facilities, then a special use permit must be obtained and the permit shall require that the entire facility be brought into compliance with the remaining provisions of this Ordinance. New facilities of this type shall not be constructed in the Central Business District;

(2) No outdoor speaker system shall be utilized by the facilities;

(3) Vehicles entering and exiting the premises of such a facility shall not use sirens and/or emergency lights unless responding to an emergency;

(4) No chain link, barbed wire, razor wire or any other similar fencing material shall be used in locations that are visible from other adjoining properties and/or the public right-of-way unless specifically permitted by the Board of Adjustment;

(5) Lighting, including security lights, shall not produce direct glare or other light trespass onto adjoining properties;

(6) Exercise yards and other outdoor activity areas shall be located internally and shall not be visible from adjoining properties or the public right-of-way;

(7) The loading and unloading of residents of such a facility shall take place between the hours of 6:00 a.m. and 7:00 p.m.; and

(8) All vehicles associated with the proposed use shall be stored in an enclosed or screened area. The screen shall be made of vegetation, fences, a combination of fence and landscape material, or any other material which effectively blocks visibility of the vehicles from adjoining properties and the public right-of-way.

(C) Storage yards and related outdoor storage facilities shall adhere to the following restrictions as well as those listed above:

(1) All the facilities existing as of March 20, 2008, in the Central Business District may be continued as nonconforming uses, provided however, that if any proposed construction will result in the expansion of the footprint of the existing facilities, then a special use permit must be obtained and the permit shall require that the entire facility be brought into compliance with the remaining provisions of this Ordinance. Any actions which effectively increase the perimeter of such a facility shall constitute an expansion of the facility;

(2) The facilities shall be located on a parcel of land not less than one half acre (21,780 square feet);

(3) The yard or space shall be screened by some means so that the yard or space is not visible from adjoining properties or from a public right-of-way; and

(4) No materials shall be stored permanently or temporarily outside of the enclosed and/or screened area.

(D) Maintenance sheds and related indoor storage facilities shall adhere to the following restrictions as well as those listed above:

(1) All the facilities existing as of March 20, 2008, in the Central Business District may be continued as nonconforming uses, provided however, that if any proposed construction will result in the expansion of the footprint of the existing facilities, then a special use permit must be obtained and the permit shall require that the entire facility be brought into compliance with the remaining provisions of this Ordinance. Any actions that effectively increase the perimeter of an associated outdoor storage area shall constitute an expansion of the entire facility;

(2) The construction materials and design of the storage shed and/or structure shall be consistent with the surrounding area in which it is located;

(3) Any materials stored outdoors associated with the storage shed/structure shall be screened so as to block the visibility of such from any adjoining properties and the public right-of-way; and

(4) No materials shall be stored permanently or temporarily outside of the storage shed/structure except those associated items stored within the accessory outdoor screened storage area.

(E) Emergency response facilities shall adhere to the following restrictions as well as those listed above:

(1) All the facilities existing as of March 20, 2008, in the Central Business District may be continued as nonconforming uses, provided however, that if any proposed construction will result in the expansion of the footprint of the existing facilities, then a special use permit must be obtained and the permit shall require that the entire facility be brought into compliance with the remaining provisions of this Ordinance;

(2) No parking for emergency vehicles shall be provided between the front facade of the building and the street right-of-way;

(3) No outdoor speaker system shall be utilized by such a facility;

(4) Any detention or holding areas provided shall be located internally and any associated outdoor exercise yards shall be located internally and not be visible from adjoining properties and the street right-of-way; and

SECTION 8.39 INCINERATOR.

(A) No refuse shall be deposited, and no building or structure shall be located within 150 feet of the nearest property line.

(B) The operation of a landfill or incinerator shall be in accordance with applicable State regulations.

SECTION 8.40 MANUFACTURED HOME SALES.

(A) The manufactured homes located on a sales lot shall not occupy an area greater than fifty (50) percent of the total lot area.

(B) Individual manufactured homes located on a sales lot shall be set back fifty (50) feet from the public street right-of-way.

SECTION 8.41 MASSAGE BUSINESS.

(A) *Exemptions from Provisions of this Section.* The practice of massage therapy shall not include and is distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry. Requirements of this section shall have no application to and effect upon the following:

(1) Medical doctors, chiropractors, osteopaths, physical therapists, or podiatrists duly licensed to practice in this state;

(2) Registered or licensed practical nurses governed by the State Nursing Practices Act, being GS §§ 90-171.19 *et seq.*;

(3) Employees of nursing homes and hospitals which are duly licensed by the state;

(4) Athletic directors or trainers who are affiliated with an accredited educational institution or professional sports team, and whose work is limited to athletic team members; or

(5) Licensed cosmetologists, barbers or beauty culturists who do not practice, or hold themselves out to practice, massage therapy other than what is customarily provided in such businesses, solely for the purpose of beautification.

(B) *Massage of Private Parts for Hire.* It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire.

(C) *Patronage of Massage Businesses by Minor; Employment of Minors.* No massage therapist or massage therapy business shall massage or treat any person under the age of 18 years or permit or condone the treatment, except when the parent or legal guardian of the person under 18 accompanies the person under the age of 18 during the massage treatment or upon written order of a licensed physician, osteopath, chiropractor,

podiatrist or registered physical therapist, such order being dated and in the possession of the person giving the massage or treatment. Further, no person licensed pursuant to this section shall employ any person under the age of 18 years in the operation of the massage business.

(D) *Application.*

(1) Every application for the privilege license to operate as a massage therapist or a massage therapy business shall be upon a form supplied by the Town Clerk and filed with the Town Clerk.

(2) The application shall be made under oath and shall contain the following information:

(a) Massage Therapist:

1. The name, date of birth and residence address of the applicant;

2. A complete statement of the previous businesses or occupations of the applicant for the five years immediately preceding the date of the application;

3. The date and place of applicant's birth and the residence address of the applicant for the three years immediately preceding the date of the application;

4. A complete statement of all convictions of the applicant for any felonies, or for violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage therapy, or for any offense involving sexual misconduct, whether in this town or any other, including, without limitation, prostitution and offenses against public morality and decency;

5. A complete statement of any revocation of any license granted by any governmental unit to the applicant to engage in the business or profession of massage therapy; and

6. Demonstration of competence by means of one of the following:

a. Attachment of a certificate of graduation from a massage therapy school which is either licensed by the State Board of Community Colleges or exempted from licensure;

b. Attachment of a certificate of graduation from a school or institute of massage therapy which offers a minimum curriculum of 500 hours of classroom instruction, and is licensed by an equivalent licensing authority of another state; or

c. Attachment of a certificate of successful examination from the National Certification Board for Therapeutic Massage (NCBTM).

(b) Massage Therapy Businesses:

1. If the applicant is an individual, the name, age and residence address of the person; if the applicant is a partnership, corporation or association, the name and residence address of all principals, directors and officers of the partnership, corporation or association, including the name and residence address of any persons having a legal or beneficial ownership interest in the proposed massage therapy business;

2. The address of the premises where the proposed massage therapy business shall be located;

3. A complete statement of all convictions of any person whose name is required to be given in subsection (2)(b)1., above for any offense as set out in subsection (2)(a)5., above;

4. A complete statement of any revocation, by any governmental unit, of any license to operate a massage therapy business or to engage in the business or profession of massage therapy held by any person whose name is required to be given in subsection (2)(b)1., above; and

5. The name and address of any other business owned or operated by any person whose name is required to be given in division (B)(2)(a) above, wherein the business or profession of massage is practiced.

(E) *Application Fees.* The town shall charge an administrative fee as determined by the Town Clerk to cover expenses incidental to processing the application. The fee shall be due and payable at the time of filing the application. There shall be an application fee for a massage therapist and a separate application fee for a massage therapy business. This application fee does not relieve the applicant from any associated zoning and building permit fees.

(F) *Investigation; Issuance.*

(1) Upon payment of the application fee as set forth in subsection (F) and upon submission of all of the information required by the application under this section, the Town Clerk shall transmit a copy of the application to the Chief of Police for an investigative report, to the UDO Administrator to determine compliance with all zoning and building regulations and ordinances, and to the Fire Department to determine compliance with any law relating to fire protection. The Chief of Police, the UDO Administrator, and the Fire Department shall, within a reasonable time, not to exceed 30 days, report the results of their examinations to the Finance Director.

(2) Upon receipt of the reports required by this section, the Town Clerk shall determine whether the applicant meets the requirements of this section. The Finance Director shall grant a license to operate as a massage therapist or a massage therapy business upon making each of the following determinations:

(a) The application contains no misstatement of fact;

(b) The applicant, and any person having legal or beneficial ownership interest in the proposed business, is 18 years of age or older and has not been convicted of any crime involving sexual misconduct or any offenses against public morality and decency;

(c) The proposed business conforms to all requirements of applicable zoning, building and fire prevention codes; and

(d) The applicant, or any principal, director or officer of the applicant, or any person having a legal or beneficial ownership interest in the proposed business, has not, during the three-year period preceding the application, suffered a revocation of any license granted by any government unit for the purpose of engaging in the business or profession of massage therapy, or operating a massage therapy business, as defined by the governing unit.

(3) No massage therapist or massage therapy business shall allow, permit, or condone any massage or treatment of any person before 8:00 a.m. or after 10:00 p.m.

(G) *Records of Licensee.* It shall be the duty of all persons granted a license under this section to maintain correct and accurate records of the names and addresses of the persons receiving massages at the business, the type of massages administered, and the name of the person of the business administering the massage. The records shall be subject to inspection at any reasonable time by the Chief of Police.

(H) *Display of Certificate of Licensure.* Every massage therapist shall at all times display in his or her work area the privilege license required by this section for the practice of massage therapy; however, a massage therapist practicing at a site other than his or her regular work area may comply with this requirement by having in his or her possession a picture identification containing the privilege license information. Every operator of a massage therapy business shall prominently display the privilege license required by this section at the massage therapy business.

(I) *Revocation or Suspension; Hearings.*

(1) The license of a massage therapy business issued pursuant to this section may be revoked or suspended by the Chief of Police as follows.

(a) The following shall subject the licensee to revocation:

1. The licensee, or any agent of the licensee, employs or permits any individual to perform massage therapy on the premises of the licensee's massage therapy business when the individual does not hold a current valid license to practice massage therapy;

2. The licensee, or the legal or beneficial owner of any interest in the licensee, is convicted of any crime involving sexual misconduct, including, but not limited to, those set out in subsection (E) above;

3. The licensee is guilty of fraudulent, false, misleading or deceptive advertising, including the use of the term "massage therapy" or "massage" to describe, promote or advertise any type of business activity or service offered which is expressly not a massage as defined in Appendix A, or has otherwise fraudulently engaged in the business or profession of massage therapy; or

4. The licensee violates subsection (C) above.

(b) The following shall subject the licensee to suspension:

1. The licensee or any employee of the licensee violates any provision of this section other than subsection (C) above which is cause for revocation;

2. Any employee of the licensee is convicted of any crime involving sexual misconduct, including, but not limited to, those set out in subsection (E); or

3. The licensee violates any zoning, building or fire prevention ordinance.

(2) The license of a massage therapist issued pursuant to this section may be revoked or suspended by the Chief of Police as follows:

(a) The following shall subject the licensee to revocation:

1. The licensee is guilty of fraudulent, false, misleading or deceptive advertising, including the use of the term "massage therapy" or "massage" to describe, promote or advertise any type of business activity or service offered which is expressly not massage therapy as defined in Appendix A, or has otherwise fraudulently engaged in practicing massage therapy;

2. The licensee has been convicted of a crime involving sexual misconduct, including those set out in subsection (E);

3. The licensee has fraudulently obtained a license pursuant to the provisions of this section;

4. The licensee has allowed the use of his or her license by an unlicensed person; or

5. The licensee has violated subsection (C).

(b) The following shall subject the licensee to suspension:

1. The licensee or any employee of the licensee violates any provision of this section other than subsection (C) which is cause for revocation; or

2. The licensee is convicted of a violation of the State Controlled Substances Law.

(3) The Chief of Police may, upon notice and an opportunity to be heard, revoke or suspend a license issued pursuant to this section. Notice of a hearing shall be given in writing and served at least ten days prior to the date of the hearing. The notice shall state the grounds of the complaint against the license holder and shall designate the time and place where the hearing will be held.

(4) The notice of the hearing may be served by hand delivery, by first class mail, or by leaving the notice at the place of business or residence of the license holder in the custody of a person of suitable age and discretion.

(J) *Transfer.* Once issued, no privilege license to operate as a massage therapist or for the operation of a massage therapy business may be transferred from one person, corporation, name or location to another. No person, corporation, partnership or association licensed to operate as a massage therapist or a massage therapy business under the provisions of this section shall permit any person to perform massage therapy upon the premises operated by the licensee or in any other location under his or her or its direction unless the person performing the massage therapy is licensed under this section.

SECTION 8.42 MIXED USE.

(A) *Mixed Use Defined*. The Mixed-Use option is provided to allow flexibility in development requirements such as setbacks, density, permitted uses, etc., to accommodate the unique physical, economic, design or other characteristics of a development without compromising the essential standards needed for the protection of the public interest. Mixed Use developments require a special use permit, as specified in Article 4, Part VII, in which the primary use of land is a mix of residential and small-scale commercial uses such as retail, office, service and entertainment businesses. A mix of permitted uses is allowed within the same building or on the same lot or as separate uses on individual parcels. This development pattern is characterized by overlapping patterns of use and activities, and clearly defined, human scale

external spaces, where citizens can live, conduct business, and meet freely with others. Mixed use development also includes work at home villages as defined in Appendix A. Development within the mixed-use special use shall be in accordance with the standards set forth herein.

(B) *Performance Standards.* The UDO Administrator and Board of Adjustment will work cooperatively with the applicant in determining the appropriate performance standards for Mixed Use developments. The standards of the zoning district, or districts, in which the Mixed Use is located, provide general guidance in determining the standards, with consideration given to the specific characteristics and needs of the individual project. All performance standards including density, parcel dimensional requirements, lighting, landscaping, parking, and signage shall be established by the Board of Adjustment through issuance of the special use permit. The conditions specified by the special use permit shall be compatible with the surrounding area and the objectives of this UDO. Creative design concepts are encouraged to minimize impacts on infrastructure and to support environmental protection. The mixed use shall comply with Article 12, Flood Damage Prevention and Article 10, Part VII, Subdivision Regulations.

(C) *Permitted Uses*. The following uses may be established as permitted uses in a mixed-use development. Any use that is not listed in this section is expressively prohibited from being located within a mixed-use development.

(1) Accessory uses

(2) Art galleries

(3) Attorneys

(4) Bank and other financial institutions

(5) Barber and beauty shops

(6) Bookstore, including the retail of stationery, books, magazines, newspapers

(7) Clothing store

(8) Computer sales and repair

(9) Dwelling, Two-Family (duplex)

(10) Dwelling, Multi-Family

(11) Dwelling, Single-Family

(12) Dry cleaner, laundromat

(13) Fabric store

(14) Florists, gift boutiques, and home specialty shops

(15) Gifts and souvenirs

(16) Government offices

(17) Home occupations

(18) Ice cream stand or store

(19) Jewelry store

(20) Libraries, public or private

(21) Music instrument sales and service

(22) Music studio

(23) Nail/tanning salon

(24) Office supplies

(25) Parks

(26) Pharmacy/medical equipment supplier

(27) Indoor athletic and exercise facilities

(28) Private postal shipping and receiving

(29) Professional and business offices

(30) Restaurants, excluding fast food and drive thru services

(31) Solar energy generating facility, accessory

(32) Sporting goods store

(33) Tailor/dressmaking/seamstress

(34) Toy store

(35) Travel agencies

(36) Utility facilities

(37) Walls and fences

(38) Wind energy generating facility, accessory

(D) *Mixed-Use Special Use Design Standards*. The Mixed-Use Special Use shall be developed in a way that it is functionally and structurally compatible with the Columbus community and is a

pedestrian-friendly area. All building design shall encourage that consideration be given to the following:

(1) Special attention shall be given to entrances; they may be set back from the primary facade as long as they are clearly visible from the street. Building entrances and exits shall be well lit to provide visibility and promote safety. Buildings that occur at the intersection of roadways shall angle the entrance toward the corner of the street whenever possible.

(2) All roof- and wall-mounted mechanical, electrical, communications, and service equipment, including satellite dishes and vent pipes, shall be screened from public view by parapets, walls, fences, dense evergreen foliage, or by other suitable means.

(3) Architectural ornaments along the roof line, such as molding cornices, ornamental bands, or sculptures, are required.

(4) Street furniture, outdoor eating areas, and sitting areas shall be incorporated at the ground floor.

SECTION 8.43 MOTOR VEHICLE, FARM EQUIPMENT, AND BOAT SALES OR RENTAL OR SALES AND SERVICE.

(A) The use shall be located on a lot such that the vehicles/equipment do not occupy an area greater than 50 percent of the total lot area. For purposes of determining compliance with this requirement, a vehicle/equipment shall be assumed to occupy 136 square feet.

(B) Individual motor vehicles/equipment located on a sales lot shall be set back 15 feet from the public street right-of-way and property lines.

(C) The parking lot of such use shall be improved in accordance with the provisions of Article 10, Part II.

SECTION 8.44 PROFESSIONAL CAMPUS.

(A) Off-street parking shall provide one parking spot for every 200 square feet of gross floor area, including all buildings, plus one additional spot for each building on the lot.

(B) Each building within a professional campus shall share the same off-street parking area.

(C) Each building within a professional campus shall comply with the dimensional and density standards of Article 9.

(D) Each building within the professional campus shall house a related allowable use.

(E) All buildings in the professional campus shall share access to off-street loading and unloading of vehicles.

(F) Site plan requirements must be met as contained in Article 4, Part VII so the Board of Adjustment may make the necessary findings as prescribed in Section 4.47 when the campus is proposed to be located within a district that requires the issuance of a special use permit.

(G) Any professional campus development wherein one or more acres are disturbed or 40% or more of the gross lot area is covered by impervious surfaces shall submit a NCDENR soil and erosion control permit.

(H) All proposed professional campus developments must adhere to the following provisions:

(1) *Street yard*. The number of required trees within a street yard is normally dependent on the number of lineal feet of available street yard for a given property. For a professional campus development, the length of the street yard shall be increased by 50% of the actual available length of street yard prior to the calculation used to determine the number of required trees;

(2) *Vehicular parking area*. For professional campus developments, vehicular parking areas shall be provided with at least one large maturing tree for every 1,500 square feet of parking area, or fraction thereof, including drives. The trees shall be positioned so that no tree trunk is more than 100 feet from a designated vehicular parking space; and

(3) *Additional requirements*. All other requirements of this Ordinance, not inconsistent with the requirements of this section, shall apply to professional campus developments as well.

SECTION 8.45 PUBLIC UTILITY STATIONS, RADIO AND TV TOWERS, WATER AND SEWER PLANTS, WATER STORAGE TANKS, PUMP STATIONS.

(A) Structures shall be enclosed by a woven wire fence at least eight feet high.

(B) The lot shall be suitably landscaped, including a buffer strip at least four feet in width and shall be composed of shrubs or trees which at maturity will not be less than six feet high along the side and rear property lines. This planting requirement may be modified by the Board of Adjustment where adequate buffering exists in the form of vegetation and/or terrain.

(C) Entrances and exits shall be designated so as to promote public safety.

SECTION 8.46 SELF-SERVICE STORAGE FACILITY.

(A) Self-service storage facilities shall be limited to dead storage only.

(B) The sale of any item from or at a self-service storage facility shall be strictly prohibited. It shall be unlawful for any owner, operator or lessee of any self-service storage facility or any portion thereof to offer for sale, or to sell any item of personal activity of any kind whatsoever other than leasing of the storage units.

(C) The vehicle accommodation area of such use shall be improved with either asphalt and concrete.

(D) A driveway aisle for self-service storage shall be a minimum of twenty-four (24) feet. A driveway aisle where access to storage units is only one side of the aisle may be twenty (20) feet in width.

(E) All outdoor lights shall be shielded to direct light and glare only onto the self-service storage premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare shall be deflected, shaded, and focused away from all adjoining uses.

(F) No outside storage will be permitted.

SECTION 8.47 SOLAR ENERGY GENERATING FACILITY, ACCESSORY.

Solar collectors shall be permitted as an accessory use to new or existing structures or facilities in accordance with Section 7.6, subject to the following standards:

(A) *Roof-Mounted Solar Systems.* The collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.

(1) *Pitched Roof-Mounted Solar Systems.* For all roof-mounted systems other than a flat roof, a drawing shall be submitted showing the location of the solar panels.

(2) *Flat Roof-Mounted Solar Systems.* For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building.

(B) *Ground-Mounted Solar Systems.* Ground-mounted solar collectors (accessory) shall meet the minimum zoning setback for the zoning district in which it is located, except that it may be located within the front yard setback in the R-20, O-I, GB, and I zoning districts when the system does not exceed six (6) feet in height and screening shall be required consistent with Article 10, Part I.

(C) *Approved Solar Components.* Electric solar system components shall have a UL listing.

(D) *Compliance with Building and Electrical Codes.* All solar collector systems shall be in conformance with the International Building Code with North Carolina amendments.

(E) *Compliance with Other Regulations.* All solar collector systems shall comply with all other applicable regulations.

SECTION 8.48 SOLAR FARMS (GROUND-MOUNTED PHOTOVOLTAIC ARRAY).

Solar Farms (Ground-Mounted Photovoltaic Array) shall be regulated as to location in the following manner in addition to other requirements of this ordinance:

(A) *Height.* Solar array structures shall not exceed the height of 15 feet. Solar array structures shall not be located so as to negatively affect aircraft operations.

(B) *Setback.* Solar array structures must meet the minimum setback of 100 feet from all property lines.

(C) *Visibility.* In addition to the requirements set forth in Article 10, Part I, Landscaping, solar array structures shall be screened from routine view from public right-of-ways.

(D) *Site Plan.* A site plan shall be submitted to the UDO Administrator demonstrating compliance with:

(1) Setback and height limitations established.

(2) Applicable zoning district requirements such as lot coverage

(3) Applicable solar requirements per this Ordinance.

(E) *Decommissioning.* 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 12 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 of any agreement (e.g., lease) with landowner regarding decommissioning.

(5) The party currently responsible for decommissioning.

(6) Plans for updating this decommissioning plan.

(F) *Water Infiltration & Soil Conservation.*

(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.

(G) *Prevention of Clustering.*

(1) No new solar arrays shall be allowed within one (1) geodesic mile of an existing or previously permitted solar array within the corporate limits of the Town of Columbus or within the Town's extraterritorial jurisdiction.

(2) No new solar arrays will be allowed on any parcel within the corporate limits of the Town of Columbus or within the Town's extraterritorial jurisdiction that abuts a main entrance corridor into the Town of Columbus.

SECTION 8.49 SPECIAL EVENTS.

(A) In deciding whether a permit for a special event should be denied for any reason specified in Subsection 4.47(E), or in deciding what additional conditions to impose under Section 4.53, the permit-issuing authority shall ensure that, (if the special event is conducted at all):

(1) The hours of operation allowed shall be compatible with the uses adjacent to the activity.

(2) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

(3) The applicants shall guarantee that all litter generated by the special event be removed at no expense to the Town.

(4) The permit issuing authority shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(5) The zoning permit shall be issued for a specific number of calendar days, not to exceed fourteen (14) calendar days.

(B) In cases where it is deemed necessary, the permit-issuing authority may require the applicant to post a bond to ensure compliance with the conditions of the special use permit.

(C) If the permit applicant requests the Town to provide extraordinary services or equipment or if the Town Manager otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the cost incurred.

SECTION 8.50 SUBSTANCE ABUSE TREATMENT CENTER/OFFICE.

Substance abuse treatment center/office shall be allowed in accordance with the Table of Uses and Activities, subject to the following:

(A) Must be licensed as a substance abuse treatment facility by the State of North Carolina.

(B) May not be located closer than one half mile from any other Substance Abuse Treatment facility.

SECTION 8.51 TATTOO PARLORS.

Tattoo Parlors shall be regulated as to location, signage, and hours of operation in the following manner in addition to other requirements of this ordinance:

(A) No Tattoo Parlor shall be located within 1,000 feet of a church, school, playground or other Tattoo Parlor and a minimum of 500 feet of road frontage shall separate all Tattoo Parlors from residential zoning districts.

(B) Signage for Tattoo Parlors shall meet all requirements for signage in the Article 10, Part IV.

(C) Tattoo Parlors shall only be permitted to conduct business between the hours of 8:00 am and 11:00 pm.

SECTION 8.52 TRAVEL TRAILER PARKS (CAMPGROUND).

(A) The Board of Adjustment may require buffering consisting of evergreen trees or shrubs located along the side and rear lot lines, but along any street shall be setback beyond the street right-of-way. The buffer strip shall not be less than four feet in width and shall be composed of trees or shrubs of a type, which at maturity shall be not less than six feet in height. This planting requirement may be modified by the Board of Adjustment where adequate buffering exists in the form of vegetation and/or terrain.

(B) Plans and accompanying documentation to ensure that the water and sewer systems proposed for the travel trailer park have been approved by the appropriate local and state agencies.

(C) The density shall not exceed 25 trailer spaces per acre of gross site area.

(D) Trailers shall be separated from each other and from other structures by at least ten feet.

SECTION 8.53 WIND ENERGY GENERATING FACILITY, ACCESSORY.

Wind energy generating facilities (accessory) designed to supplement other electricity sources shall be permitted as an accessory use in accordance with Section 7.6, subject to the following standards:

(A) A wind energy generator (accessory) shall be setback from all property lines a distance equal to one linear foot for every foot of height of the highest structure that is part of the facility or the minimum setback for the zoning district, whichever is greater.

(B) A wind turbine may not be located between the front wall of the primary structure and the street.

(C) Rotor blades on wind turbines shall maintain at least twenty-four (24) feet of clearance between their lowest point and the ground.

(D) Maximum height of wind turbines shall be consistent with the requirements of the underlying zoning district. The height shall be measured from the ground to the highest point of the prop.

(E) *Installation and Design.*

(1) The installation and design of the wind energy generator (accessory) shall conform to applicable industry standards, including those of the American National Standards Institute.

(2) All electrical, mechanical, and building components of the wind energy generator (accessory) shall be in conformance with the International Building Code with North Carolina amendments.

(3) Any on-site transmission or power lines shall, to the maximum extent possible, be installed underground.

(4) Attachment to a building of any kind shall be prohibited.

(F) The visual appearance of wind energy generator (accessory) shall:

(1) Be constructed of a corrosion resistant material that will not fade, show rust spots, or otherwise change the appearance as a result of exposure to the elements and be a non-obtrusive color such as white, off-white, or gray.

(2) Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

(3) Landscaping, buffering, and screening shall be provided in accordance with Article 10, Part I.

(G) Any wind energy generator (accessory) that is not functional shall be repaired by the owner within a three (3) month period or be removed. In the event that the Town becomes aware of

any wind energy system that is not operated for a continuous period of three (3) months, the Town will notify the landowner by certified mail and provide thirty (30) days for a written response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the Town deems the timetable for corrective action as unreasonable, the Town shall notify the landowner and such landowner shall remove the turbine within thirty (30) days of receipt of said notice. Any disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(H) *Compliance with Other Regulations.* All wind energy generators shall comply with all other applicable regulations.

SECTION 8.54 WIND FARM.

Wind Farms developed as a principal use shall be permitted in accordance with Section 7.6, subject to the following:

(A) *Setbacks.*

Wind Energy Facility Type	Minimum Lot Size	Minimum Setback Requirements[1]			Maximum Height from Grade (including blades)
		Occupied Buildings (Subject Property)[2]	Property Lines[2]	Public/ Private Right-of-Way[2]	
Wind Farm	5 Acres	1.0	1.0	1.5	250 Ft.

[1] Measured from the center of the wind turbine base to the property line, right-of-way, or nearest point on the foundation of the occupied building. [2] Calculated by multiplying required setback number by wind turbine height.

(B) *Height.* Two hundred fifty feet (250') maximum.

(C) *Ground Clearance.* Rotor blades on wind turbines must maintain at least twenty-four feet (24') of clearance between their lowest point and the ground.

(D) *Visibility.* Wind farms must be set back at least 150 feet from any residential district; no energy generating equipment may be located within 150 feet of any public right-of-way; and a continuous screen of evergreen vegetation intended to be at least ten (10) feet high and three (3) feet thick at maturity must screen all adjacent properties and roadways.

(E) *Interconnection Agreement.* All wind farms are required to enter into an interconnection agreement with the Town prior to connection.

(F) *Wind Farm Facility Noise, Shadow Flicker, and Electromagnetic Interference.*

(1) Audible sound from a Wind Turbine shall not exceed fifty-five (55) dBA, as measured at any occupied building of a Non-Participating Landowner.

(2) Shadow flicker at any occupied building on a Non-Participating Landowner's property caused by a Wind Energy Facility located within 2,500 feet of the occupied building shall not exceed thirty (30) hours per year.

(3) Wind turbines may not interfere with normal radio and television reception in the vicinity. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.

(G) *Application Requirements.*

(1) Provide identification and location of the property on which the proposed wind farm will be located.

(2) Submit a site plan denoting the dimensions of the parcel, proposed wind farm location (arrangement of turbines and related equipment), distance from the proposed area to all property lines, and location of the driveway(s). No portion of the wind farm area may encroach into the required setbacks and any buffer area(s).

(3) The site plan should also show the location of required buffers.

(4) Provide the representative type and height of the wind turbine in the form of horizontal and vertical (elevation) to-scale drawings, including its generating capacity, dimensions and respective manufacturer, and a description of ancillary facilities.

(5) Provide evidence of compliance with applicable Federal Aviation Administration regulations.

(6) State and Local Stormwater permits may be required based upon ground cover.

(7) If applicable, the applicant must apply and receive from the North Carolina Department of Transportation (NCDOT) a driveway permit, or submit documentation from NCDOT that the existing site access is acceptable for the required use prior to final project approval.

(8) An applicant for a Wind Farm special use permit shall include with the application an analysis of the potential impacts of the wind power project, proposed mitigative measures, and any adverse environmental effects that cannot be avoided, in the following areas:

(a) Demographics including people, homes, and businesses.

(b) Noise.

(c) Visual impacts.

(d) Public services and infrastructure.

(e) Cultural and archaeological impacts.

(f) Recreational resources.

(g) Public health and safety, including air traffic, electromagnetic fields, and security and traffic.

(h) Hazardous materials.

(i) Land-based economics, including agriculture, forestry, and mining.

(j) Tourism and community benefits.

(k) Topography.

(l) Soils.

(m) Geologic and groundwater resources.

(n) Surface water and floodplain resources.

(o) Wetlands.

(p) Vegetation.

(q) Avian impact assessment that includes an indication of the type and number of birds that are known or suspected to use a project site and the area surrounding that site.

(r) Wildlife.

(s) Rare and unique natural resources.

(9) An applicant for Wind Farm special use permit shall state in the application whether a Certificate of Public Convenience and Necessity for the system is required from the North Carolina Utilities Commission and, if so, the anticipated schedule for obtaining the certificate. The Town may ask the Utilities Commission to determine whether a Certificate of Public Convenience and Necessity is required for a particular wind power project for which the Town has received an application. The Town shall not approve a project requiring a certificate unless and until such certificate is issued by the Utilities Commission. If a certificate is not required from the Utilities Commission, the permit shall include with the application a discussion of what the applicant intends to do with the power that is generated.

(H) *Installation and Design.*

(1) The installation and design of the wind generation facility shall conform to applicable industry standards, including those of the American National Standards Institute.

(2) All electrical, mechanical, and building components of the wind generation facility shall be in conformance with the International Building Code with North Carolina Amendments.

(3) Any on-site collection and distribution lines shall, to the maximum extent possible, be installed underground.

(4) Attachment to a building of any kind shall be prohibited.

(I) *Visual Appearance.*

(1) The wind turbine shall be constructed of a corrosion resistant material that will not fade, show rust spots or otherwise change the appearance as a result of exposure to the elements, and be a non-obtrusive color such as white, off-white or gray; and

(2) The wind turbine shall not be artificially lit, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

(J) *Maintenance.* Any wind generation facility that is not functional shall be repaired by the owner within a 6-month period or be removed. In the event that the Town becomes aware of any wind farm that is not operated for a continuous period of 6 months, the Town will notify the landowner by certified mail and provide 30 days for a written response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the Town deems the timetable for corrective action as unreasonable, the Town shall notify the landowner, and such landowner shall remove the turbine(s) with 180 days of receipt of said notice. Any disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(K) *Decommissioning.*

(1) The applicant must remove the wind generation facility if, after the completion of the construction, the wind generation facility fails to begin operation, or becomes inoperable for a continuous period of one (1) year.

(2) The one-year period may be extended upon a showing of good cause to the Town of Columbus Town Council.

(3) Applicants proposing development of a Wind Farm must provide to the Town a form of surety equal to 125% of the entire cost, as estimated by the applicant and approved by the Town Attorney, either through a surety performance bond, irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town, to cover the cost of removal in the event the applicant is unable to perform any required removal and the Town chooses to do so. Following initial submittal of the surety, the cost calculation shall be reviewed every 12 months by the applicant and

adjusted accordingly based upon the estimated decommissioning costs in current dollars. The adjustment must be approved by the Town. Failure to comply with any requirement of this paragraph shall result in the immediate termination and revocation of all prior approvals and permits; further, the Town of Columbus shall be entitled to make immediate demand upon, and/or retain any proceeds of, the surety, which shall be used for decommissioning and/or removal of the Wind Farm, even if still operational.

SECTION 8.55 WIRELESS COMMUNICATION FACILITIES.

(A) *Purpose.* The purpose of this section is to set forth the requirements for planning and construction of telecommunications facilities including cellular antennas, wireless communication towers, and principal communication towers for other uses.

(B) *Compliance with Federal Law.*

(1) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 USC § 1455(a), creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. Therefore, it is the policy of the State and the Town of Columbus to facilitate the placement of wireless communications support structures in all areas of the Town.

(2) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 USC § 332 as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 USC § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

(3) This Section shall not be construed to authorize the Town of Columbus to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein.

(C) *Facilities Permitted.* Telecommunications facilities, including cellular antennae and wireless communications towers and facilities, are permitted subject to the following conditions:

(1) *Location.* The proposed tower, antenna, and accessory structure and equipment shall be placed in a location and in a manner that will minimize the visual impact on the surrounding area. Accessory structures and equipment must meet applicable sections of Section 8.16. To ensure the safety of the public and other existing buildings, the telecommunications site shall:

(a) Be a minimum of two hundred fifty (250) feet from residentially zoned property;

(b) Be located such that all supporting cables and anchors are contained within the property of the applicant.

(2) *Collocation.* Approval for a proposed tower within a radius of ten thousand five hundred (10,500) feet from an existing tower or other similar structure shall not be issued unless the applicant certifies that the existing tower or structure does not meet applicant's structural specifications or technical design requirements, or that a collocation agreement could not be obtained at a reasonable market rate and in a timely manner.

(3) *Height.* The height of the tower shall not exceed one hundred sixty (160) feet as measured from existing grade at its base to the highest point of the tower or antennae. An additional one hundred twenty (120) feet of height may be approved if the tower is designed to accommodate twice the applicant's antennae requirements. Telecommunications antennae or equipment mounted on a building shall meet height requirements of Article 9.

(4) *Setback.* Unless otherwise stated herein, each Wireless Support Structure shall be set back from all property lines a distance equal to its engineered fall zone.

(5) *Design.*

(a) Towers shall be designed to accommodate additional antennae equal in number to the applicant's present and future requirements for the life of the tower. The color of the tower and its antennae shall be one that will blend to the greatest extent possible with the natural surroundings and shall be approved by the Planning Board.

(b) Concealed Wireless Facilities shall be designed to accommodate the Collocation of other Antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured, and otherwise not readily apparent to a casual observer.

(c) A Monopole or Replacement Pole shall be permitted within utility easements or rights-of-way, in accordance with the following requirements:

1. The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.

2. The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.

3. The height of the Monopole or Replacement Pole may not exceed by more than thirty (30) feet the height of existing utility support structures.

4. Monopoles and the Accessory Equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.

5. Single carrier Monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by subsection (C)(5)(c)3., above.

6. Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to twenty (20) feet above the height of the utility tower.

(6) *Lighting and Marking.* Wireless Facilities or Wireless Support Structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

(7) *Signage.* Signs located at the Wireless Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which Wireless Facilities are located (i.e., approved signage at locations on which Concealed Facilities are located).

(8) *Accessory Equipment.* Accessory equipment, including any buildings, cabinets, or shelters, shall be used only to house equipment and other supplies in support of the operation of the Wireless Facility or Wireless Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.

(9) *Fencing.* Ground mounted Accessory Equipment and Wireless Support Structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the UDO Administrator. This requirement may be waived by the UDO Administrator if it is deemed that a fence is not appropriate or needed at the proposed location.

(10) *Maintenance or Service Structures.* One unmanned maintenance or service structure of not more than twenty (20) feet in height and four hundred (400) square feet of floor space may accompany each tower. The tower and maintenance or service structure shall not be required to comply with development standards relating to lot size, setbacks, street frontage, and subdivision regulations, so long as the principal use complies with this Article.

(11) *Existing Towers.* Existing towers may be replaced or modified providing that the existing height is not exceeded by more than twenty (20) feet and the new or modified tower meets all of the requirements of this Article except setback provisions.

(12) *Replacement of Towers.* Those towers that are located prior to adoption of this Ordinance, in the districts as defined by Section 7.6 can be replaced to their current height if completely destroyed by natural causes and only if the applicant presents engineering data to the UDO Administrator that the replacement poses no threat to the surrounding property owners.

(13) *Non-Conforming Towers.* All non-conforming transmission towers existing as of the effective data of this Ordinance may be replaced if damaged by no more than fifty percent (50%). Those towers that are located prior to the adopted of this Ordinance, in the districts as defined by Section 7.6 can be replaced to their current height if completely destroyed by natural causes and only if the applicant presents engineering data to the UDO Administrator that the replacement poses no threat to the surrounding property owners (refer to Section 5.3).

(14) *Miscellaneous Provisions.*

(a) *Abandonment and Removal.* If a Wireless Support Structure is abandoned, and it remains abandoned for a period in excess of twelve (12) consecutive months, the Town of Columbus may require that such Wireless Support Structure be removed only after first providing written notice to the owner of the Wireless Support Structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the Wireless Support Structure within sixty (60) days of receipt of said written notice. In the event the owner of the Wireless Support Structure fails to reclaim the Wireless Support Structure within the sixty (60) day period, the owner of the Wireless Support Structure shall be required to remove the same within six (6) months thereafter. The Town of Columbus shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

(b) *Multiple Uses on an Single Parcel or Lot.* Wireless Facilities and Wireless Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

(15) *Leases of Property by the Town of Columbus for Communication Towers.*

(a) Any property owned by the Town may be leased or rented for such terms and upon such conditions as the Town Council may determine, but not for longer than 10 years (except as otherwise provided in subsection (d) of this section) and only if the Town Council determines that the property will not be needed by the Town for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included.

(b) Property may be rented or leased only pursuant to a resolution of the Town Council authorizing the execution of the lease or rental agreement adopted at a regular Town Council meeting upon 30 days public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the Council's intent to authorize the lease or rental at its next regular meeting.

(c) No public notice as required by subsection (b) of this section need be given for resolutions authorizing leases or rentals for terms of one year or less, and the Town Council may delegate to the Town Manager or some other Town administrative officer authority to lease or rent Town property for terms of one year or less.

(d) Leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

(e) Notwithstanding subsection (d) of this section, the Town Council may approve a lease without treating that lease as a sale of property for any of the following reasons:

1. For the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to 25 years.

2. For the siting and operation of a tower, as that term is defined in G.S. 146-29.2(a)(7), for communication purposes for a term up to 25 years.

(D) *Telecommunications Facility Plans.*

(1) *Approvals Required for Wireless Facilities and Wireless Support Structures.*

(a) *Administrative Review and Approval.* The following types of applications are subject to the review process as provided in Article 6. No other type of zoning or site plan review is necessary.

1. Monopoles or Replacement Poles located on public property or within utility easements or rights-of-way, in any zoning district.

2. COWs, in any zoning district, if the use of the COW is either not in response to a declaration of an emergency or disaster by the Governor, or will last in excess of one hundred twenty (120) days.

3. Substantial changes.

4. Collocations.

(b) *Special Use Permit*. Any application for Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval pursuant to this Ordinance shall be permitted in any district upon the granting of a Special Use Permit in accordance with the standards for granting Special Use Permits set forth in Article 4, Part VII.

(c) *Exempt from All Approval Processes.* The following are exempt from all Town of Columbus UDO approval processes and requirements:

1. Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial change as defined in this Ordinance.

2. Ordinary Maintenance of existing Wireless Facilities and Wireless Support Structures, as defined in this Ordinance. Nothing in this section requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities.

3. Wireless Facilities placed on Utility Poles.

4. COWs placed for a period of not more than one hundred twenty (120) days at any location within the Town of Columbus or after a declaration of an emergency or a disaster by the Governor.

(2) *Administrative Review and Approval Process.*

(a) *Contents of Application Package.* All Administrative Review application packages must contain the following in addition to those requirements outlined in Article 6:

1. A fee determined by the Town's Fee Schedule.

2. A written narrative of the development plan.

3. Documentation that collocation on existing towers or structures within a radius of ten thousand five hundred (10,500) feet was attempted by the applicant, but found unfeasible with reasons noted.

4. A notarized affidavit that states the applicant's willingness to allow location on the proposed tower, at a fair market price and in a timely manner, of any other service provided licensed by the Federal Communications Commission (FCC) for Major Trading Area 6 (Charlotte-Greensboro-Greenville-Raleigh).

5. For collocations and substantial changes, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas.

6. For substantial changes, drawings depicting the improvements along with their dimensions.

(b) *Approval Schedule.* Within forty-five (45) days of the receipt of a complete application for a Collocation, a Monopole or Replacement Pole, a Non-Exempt COW, or a Substantial Change, the UDO Administrator will:

1. Review the application for conformity with this Ordinance. An application under this section is deemed to be complete unless the UDO Administrator provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The UDO Administrator may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, state, and local safety requirements. The UDO Administrator may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

2. Issue a written decision approval on an eligible facilities request application within forty-five (45) days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the UDO Administrator shall issue its written decision to approve or deny the application within forty-five (45) days of the application being deemed complete.

(3) *Special Use Permit Process.* Any Wireless Facility or Wireless Support Structures not meeting the requirements of Section (D)(1)(a) and (D)(1)(c) above, may be permitted in all zoning districts upon the granting of a Special Use Permit, subject to the requirements of Article 4, Part VII.

(a) *Content of Special Use Permit Application Package.* All special use permit application packages must contain the following in addition to those requirements contained in Article 4, Part VII.

1. A fee determined by the Town's Fee Schedule.

2. A written narrative of the development plan.

3. The impact on the environment (trees, run-off, waste disposal, emissions, historic property impact, and impact on other properties).

4. Documentation that collocation on existing towers or structures within a radius of ten thousand five hundred (10,500) feet was attempted by the applicant, but found unfeasible with reasons noted.

5. A site plan and landscaping plan at a scale of one inch equals forty (40) feet by a North Carolina registered surveyor, showing location of all existing property lines and improvements within a five hundred (500) foot radius and any proposed tower, antenna, accessory structure, or equipment, and how the applicant proposes to screen any service structure, accessory structure, or equipment from view. Indigenous vegetation shall be used in all plantings. A permanent maintenance plan shall be provided for the plantings. In addition, the site plan must include a list of adjacent property owners and their addresses, zoning district, and the names of developer(s) and owner(s).

6. Copies of all county, state, and federal permits with the application building permit where prior local approval is not required.

7. Elevation drawings of all towers, antennas, and accessory structures and equipment, indicating height, design, and colors.

8. Certification that all antenna and equipment comply with FCC regulations for radio frequency radiation and all towers, antennae, and equipment meet Federal Aviation Administration (FAA) aviation and navigation requirements.

9. A copy of approved National Environmental Policy Act of 1969 (NEPA) compliance report for all towers, antennae, accessory structures, or equipment proposed for the proposed site.

10. Documentation signed and sealed by a North Carolina registered engineer that indicates any proposed tower meets the structural requirements of the Standard Building Code and the collocation requirements of this Article.

11. Proof of liability insurance or financial ability to respond to claims up to $1,000,000 (escalated each year by the Consumer Price Index) in the aggregate which may arise from operation of the facility during its life,

at no cost to the Town of Columbus, in a form approved by the Town Attorney.

12. Appropriate approvals, certifications, or recommendations required to allow review of approval criteria such as sight line analysis, aerial photographs, or other such tests as determined by the Administrator.

(b) *Approval Schedule.* Within one hundred fifty (150) calendar days of the receipt of an application under this section, the Board of Adjustment will:

1. Complete the process for reviewing the application for conformity with this Ordinance (see Section (D)(4) below). An application under this section is deemed to be complete unless the UDO Administrator notifies the applicant in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take thirty (30) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within thirty (30) calendar days, the application shall be reviewed and processed within one hundred fifty (150) calendar days from the initial date the application was received. If the applicant requires a period of time beyond thirty (30) calendar days to cure the specific deficiencies, the one hundred fifty (150) calendar days deadline for review shall be extended by the same period of time.

2. Make a final decision to approve or disapprove the application.

3. Advise the applicant in writing of its final decision. If the Board of Adjustment denies an application, it must provide written justification of the denial.

4. Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

(4) *Application Review.*

(a) The review of an application for the placement or construction of a new wireless support structure or substantial change of a wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the Town may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. The Town may no require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support

structure is to add additional wireless coverage or additional wireless capacity. The Town may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the Town may review the following:

1. Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

2. Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure, or replacement wireless support structure is necessary to provide the applicant's designed service.

3. The Town may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. The Town may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

(b) The Town may engage a third-party consultant for technical consultation and review of applications. The fee imposed by the Town for the review of an application may not be used for either of the following:

1. Travel expenses incurred in a third-party's review of an application.

2. Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.

(E) *Small Wireless Facilities.*

(1) *Applicability.*

(a) The Town of Columbus 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 Town. This subsection does not prohibit the enforcement of applicable codes.

(b) Nothing contained in this Section 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.

(c) Except as provided in this Section or otherwise specifically authorized by the General Statutes, the Town of Columbus 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 Town rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or Town rights-of-way and may not regulate any communications services.

(d) Except as provided in this Section or specifically authorized by the General Statutes, the Town may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.

(e) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Section 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.

(2) *Permitting Process.*

(a) Small wireless facilities that meet the height requirements of Section (E)(3)(b) shall only be subject to administrative review and approval under subsection (b) of this subsection if they are collocated (i) in a Town right-of-way within any zoning district or (ii) outside of Town rights-of-way on property other than single-family residential property.

(b) The Town of Columbus shall require an applicant to obtain a permit to collocate a small wireless facility. The Town shall receive applications for, process, and issue such permits subject to the following requirements:

1. The Town may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, "services unrelated to the collocation," includes in-kind contributions to the Town such as the reservation of fiber, conduit, or pole space for the Town.

2. The wireless provider completes an application as specified in form and content by the Town. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.

3. A permit application shall be deemed complete unless the Town provides notice otherwise in writing to the applicant within thirty (30) days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

4. The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the Town fails to approve or deny the application within forty-five (45) days from the time the application is deemed complete or a mutually agreed upon time frame between the Town and the applicant.

5. The Town may deny an application only on the basis that it does not meet any of the following: (i) the Town's applicable codes, (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment; or (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way. The Town 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 Town denies an application. The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days of the denial without paying an additional application fee. The Town 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.

6. An application must include an attestation that the small wireless facilities shall be collocated on the utility pole, Town utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by wireless services provider to provide service no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

7. An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of the Town shall be allowed at the applicant discretion to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. The Town may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The Town may issue a separate permit for each collocation that is approved.

8. The permit shall specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(c) The Town may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities; (ii) the amount charged by the Town for permitting of any similar activity, or (iii) one hundred dollars ($100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars ($50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.

(d) The Town may impose a technical consulting fee for each application, not to exceed five hundred dollars ($500.00), to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. The Town may engage an outside consultant for technical consultation and the review of an application. The fee

imposed by the Town for the review of the application shall not be used for either of the following:

1. Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.

2. Direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.

(e) The Town shall require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the Town shall cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the Town reasonable evidence that it is diligently working to place such wireless facility back in service.

(f) The Town shall not require an application or permit or charge fees for (i) routine maintenance; (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller; or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or Town utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the Town rights-of-way and who is remitting taxes under NCGS 105-164.4(a)(4c) or NCGS 105-164.4(a)(6).

(g) Nothing in this section shall prevent a Town from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the Town right-of-way.

(3) *Use of Town of Columbus Public Right-of-Way.*

(a) The Town shall not enter into an exclusive arrangement with any person for use of Town rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.

(b) Subject to the requirements of Section (E)(2), a wireless provider may collocate small wireless facilities along, across, upon, or under any Town right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, Town utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any Town right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and Town utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any Town right-of-way shall be subject only to review or approval under Section (E)(2) if the wireless provider meets all the following requirements:

1. Each new utility pole and each modified or replacement utility pole or Town utility pole installed in the right-of-way shall not exceed 50 feet above ground level.

2. Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, Town utility pole, or wireless support structure on which it is collocated.

(c) In no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, Town utility pole, or wireless support structure exceed forty (40) feet above ground level, unless the Town grants a waiver or variance approving a taller utility pole, Town utility pole, or wireless support structure.

(d) The Town may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider. The right-of-way charge shall not exceed $50.00 per year.

(e) 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.

(f) The Town shall require a wireless provider to repair all damage to a Town right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, Town 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 Town within a reasonable time after written notice, the Town may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The Town shall maintain an action to recover the costs of the repairs.

(g) A wireless provider may apply to the Town to place utility poles in the Town rights-of-way, or to replace or modify utility poles or Town utility poles in the public rights-of-way, to support the collocation of small wireless facilities. The Town shall accept and process the application in accordance with the provisions of Section (E)(2)(b), applicable codes, and other local codes governing the placement of utility poles or Town utility poles in the Town rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or Town 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.

(4) *Access to Town Utility Poles to Install Small Wireless Facilities.*

(a) The Town may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on Town utility poles. The Town shall allow any wireless provider to collocate small wireless facilities on its Town utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars ($50.00) per Town utility pole per year.

(b) 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 Town to be reimbursed by the wireless provider. In granting a request under this section, the Town 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.

(c) Following receipt of the first request from a wireless provider to collocate on a Town utility pole, the Town shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the Town 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.

(d) In any controversy concerning the appropriateness of a rate for a collocation attachment to a Town utility pole, the Town 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.

(e) The Town shall provide a good-faith estimate for any make-ready work necessary to enable the Town 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 Town utility pole necessary for the Town 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.

(f) The Town 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.

(g) 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 NCGS 62-350.

(h) 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, Town utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of NCGS 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in NCGS 62-350, are governed solely by NCGS 62-350. For purposes of this section, "excluded entity" means (i) a Town 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.

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ARTICLE 9. DIMENSIONAL REQUIREMENTS

SECTION 9.1 TABLE OF YARD, AREA, AND HEIGHT REQUIREMENTS

District	Minimum Lot Area (sq. ft.)[1]	Residential Density		Minimum Lot Width at Building Line (feet)	Minimum Yard Setback Requirements (feet)				Maximum Height (feet)
		Minimum Land Area[1] Per Dwelling Unit (sq. ft.)	Maximum Number[4] Dwelling Units Per Acre		Front Yard (whichever is greater)		Side yards[2]	Rear Yard	
					From Right-of-Way	From Centerline			
Residential Estate (RE)[5]	87,120	87,120	0.5	125	45	90	20	30	45
Low Density Residential (R-1)[5]	20, 000 (no water or sewer) 15,000 (water only) 10,000 (water and sewer)	For first unit: 20,000 (no water or sewer) 15,000 (water only) 10,000 (water and sewer) Plus: 11,000 each additional unit	4	85	30	60	10	20	45
Medium Density Residential (R-2)[5]	20,000 (no water or sewer) 15,000 (water only) 10,000 (water and sewer)	For first unit: 20,000 (no water or sewer 15,000 (water only) 10,000 (water and sewer Plus: 11,000 each additional unit	4	85	20	50	10	20	45
Central Business District (CBD)	None	For first unit: 5,000 sq. ft. Plus: 5,500 each additional unit	8	20	5[3]	-	-	-	36

District	Minimum Lot Area (sq. ft.)[1]	Residential Density: Minimum Land Area[1] Per Dwelling Unit (sq. ft.)	Residential Density: Maximum Number[4] Dwelling Units Per Acre	Minimum Lot Width at Building Line (feet)	Minimum Yard Setback Requirements (feet): Front Yard (whichever is greater): From Right-of-Way	Minimum Yard Setback Requirements (feet): Front Yard (whichever is greater): From Centerline	Minimum Yard Setback Requirements (feet): Side yards[2]	Minimum Yard Setback Requirements (feet): Rear Yard	Maximum Height (feet)
Highway Commercial (HC)	20,000 (no water or sewer 15,000 (water only) 10,000 (water and sewer)	For first unit: 20,000 (no water or sewer 15,000 (water only) 10,000 (water and sewer) Plus: 5,500 each additional unit	8	50	20	50	10	10	50
Industrial District (IND)	20,000 (no water or sewer 15,000 (water only) 10,000 (water and sewer)	N/A	N/A	80	30	60	10	20	50
Public Service District (PS)	20,000 (no water or sewer 15,000 (water only) 10,000 (water and sewer)	N/A	N/A	80	30	60	10	20	50
Traditional Neighborhood District (TND)	See Section 9.2 Regulations Pertaining to Traditional Neighborhood Districts.								

[1]The minimum lot area for lots not served by public water and/or sewer shall be subject to approval by the Polk County Health Department to ensure proper operation of septic tanks and wells. In no case, however, shall minimum lot area be less than specified in this table.

[2]On all corner lots, a 15-foot side yard setback is required except in the CBD, where a 5-foot side yard setback is required.

[3]In the CBD, where adjacent buildings have front yard setbacks less than five feet, the minimum front setback may be equivalent to the adjacent properties.

[4]Regulations pertaining to manufactured home parks are contained in Section 8.6.

[5]Zero lot line. One of the two (2) side yards required for single-family dwelling units may be eliminated in an approved zero lot line subdivision provided that:

a) The zero lot line provision shall be allowed in only subdivisions that are designated by the Planning Board. The zero lot line provision may be applied only in subdivisions of land that have not been placed on record following the date of this Ordinance.
b) All subdivisions in which the zero lot line provision is utilized shall have written on both the construction and final plats the following words in letters at least one-half (1/2) inch high: ZERO LOT LINE PROVISION TO BE UTILIZED IN THIS SUBDIVISION OF LAND.
c) All lot lines which are to be designated as zero lot lines must be clearly labeled as zero lot lines on both the preliminary and final subdivision plats approved by the Town of Columbus.
d) Two (2) single-family dwelling units situated on separate lots of record may abut a common lot line and share a common structural wall.
e) All lots employing the zero lot line provision must provide for a side yard opposite the designated zero lot line which is at least twice the required minimum of one side yard of the zone in effect.
f) When a single-family dwelling unit abuts a zero lot line and does not share a common structural wall with another single-family dwelling unit, a five-foot maintenance easement contiguous to the zero lot line wall on the adjoining lot shall be reserved and shown on both the preliminary and final plats approved by the Town of Columbus.
g) A two-foot eave protrusion shall be permitted across the zero lot line into the adjoining lot when two (2) single-family dwelling units do not share a common structural wall.
h) These requirements under the zero lot line provisions are not applicable to attached dwelling units for individual ownership located on lots having less than the street frontage required for the zoning district in which the subdivision is located.
i) Under no circumstances shall two (2) unattached dwelling units utilize the zero lot line provision on a common lot line.
j) In locations where a subdivision proposes to employ the zero lot line concept and said subdivision is adjacent to an existing recorded single-family subdivision not utilizing the zero lot line concept, developed or undeveloped, the Planning Board may require one tier of lots not employing the zero lot line concept to be developed around the perimeter or portion thereof of the subdivision in which the zero lot line concept is to be employed.

SECTION 9.2 REGULATIONS PERTAINING TO TRADITIONAL NEIGHBORHOOD DISTRICTS (TND)

(A) *Intent.* The Traditional Neighborhood Development District (TND) provides for the development of new neighborhoods and the revitalization or extension of existing neighborhoods. These neighborhoods are structured upon a fine network of interconnecting pedestrian-oriented streets and other public spaces. Traditional Neighborhood Developments (TND's) provide a mixture of housing types and prices, prominently sited civic or community building(s), stores/offices/workplaces, and churches to provide a balanced mix of activities. A Traditional Neighborhood Development (TND) has a recognizable center and clearly defined edges;

optimum size is a quarter mile from center to edge. A TND is urban in form, is typically an extension of the existing developed area of the Town, and has an overall residential density of up to 16 dwelling units per acre. TND districts should have a significant portion of land dedicated to open spaces. This District is available for rezoning only with the consent of the property owner(s).

(B) *Residential Density Limits.*

(1) Single-family detached: seven units/acre;

(2) Single-family attached: 12 units/acre; and

(3) Multifamily development standards.

(a) The multi-family development shall not exceed a total of seventy-two (72) dwelling units.

(b) The maximum permitted density for the multi-family development shall be 14-1/2 units per acre.

(c) The permitted building and lot types for the multi-family development in a single-family area shall be the detached house and the attached house building and lot types.

(d) All parking for the multi-family development shall be located behind the building. The parking area shall be screened from adjacent properties and from the street with a screening device.

(e) The buildings in the multi-family development shall be architecturally compatible with single family structures on the street on which the multi-family building is proposed. Elements that shall be incorporated into the design of the multi-family building to ensure architectural compatibility are:

1. The multi-family building shall be constructed of building materials similar to those used on single family structures on the street.

2. The roof pitch of the multi-family building shall be the same as that of the single-family structures on the street.

3. The fenestration of the multi-family building by location and size of windows and doors shall be similar to that of the single-family homes on the street.

4. Color renderings of the proposed building must be submitted with the application to ensure architectural compatibility.

(f) No multi-family building shall be located closer than 48 feet to an existing multi-family building or development. The distance shall be measured along centerline of streets from the edge of the property proposed for development to the closest edge of the property on which the existing multi-family building or development is located.

(C) *TND General Requirements.*

(1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.

(a) New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.

(b) New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume.

(2) On new streets, allowable building and lot types will establish the development pattern.

(3) A master plan in compliance with Traditional Neighborhood Development standards shall be provided with the zoning permit submittal for a general district TND. The master plan shall include a topographic survey and shall show the location and hierarchy of streets and public open spaces, location of residential, commercial, and civic building lots, street sections and/or plans, a master sign program, an outline of any additional regulatory intentions, phasing, and any other information, including building elevations, which may be required to evaluate the interior pedestrian environment and conditions at project edges.

(4) Minimum Development Size: eight acres.

(5) Maximum Development Size: none.

(D) *TND Design Requirements.*

(1) *Neighborhood Form.*

(a) The area of the TND shall be divided into blocks, streets, lots, and open space.

(b) Similar land uses shall generally front across each street. Dissimilar categories shall generally abut at rear lot lines. Corner lots which front on streets of dissimilar use shall generally observe the setback established on each fronting street.

(2) *Streets, Alleys, and Blocks.*

(a) Public streets shall provide access to all tracts and lots.

(b) Streets and alleys shall, wherever practicable, terminate at other streets within the neighborhood and connect to existing and projected streets outside the development.

(c) Cul-de-sacs shall not exceed 250 feet in length, must be accessed from a street providing internal or external connectivity, shall be permanently terminated by a vehicular turnaround, and are listed only where topography makes a street connection impracticable

(d) Vehicular turnarounds of various configurations are acceptable so long as emergency access is adequately provided.

(e) Pedestrian connections should be provided as extensions of terminating streets where not precluded by topography or other physical constraints.

(f) The average perimeter of all blocks within the TND should not exceed 1,350 feet. No block face should have a length greater than 500 feet without a dedicated alley or pathway providing through access.

(g) A continuous network of rear alleys shall provide vehicular access to lots 49 feet or less in width.

(h) Utilities may run along alleys provided that a permanent public access and utility easement is recorded for the full length of alley being used for utilities or public services such as garbage collection.

(i) TND streets shall be organized according to a hierarchy based on function, size, capacity, and design speed; streets and rights-of-way are therefore expected to differ in dimension. The proposed hierarchy of streets shall be indicated on the submitted site plan. Each street type in a TND shall be separately detailed. An array of elements that are combined to meet the purposes of TND neighborhood streets: building placement line, optional utility allocation, sidewalk, planting strip, curb and gutter, optional parallel parking, and travel lane(s). Alternative methods of assembling the required street elements will be considered to allow neighborhood street designs that are most appropriate to setting and use.

(j) To prevent the buildup of vehicular speed, disperse traffic flow, and create a sense of visual enclosure, long uninterrupted segments of straight streets should be avoided. Methods to achieve this interruption include:

1. A street can be interrupted by intersections designed to calm the speed and disperse the flow of traffic and terminate vistas with a significant feature (building, park, natural feature);

2. A street can be terminated with a public monument, specifically designed building facade, or a gateway to the ensuing space;

3. Perceived street length can be reduced by a noticeable street curve where the outside edge of the curve is bounded by a building or other vertical elements that hug the curve and deflect the view; and

4. Other traffic calming configurations are acceptable so long as emergency access is adequately provided.

(3) *Buildings and Lots.*

(a) All lots shall share a frontage line with a street or square; lots fronting a square shall be provided rear alley access.

(b) Consistent build-to lines shall be established along all streets and public space frontages; build-to lines determine the width and ratio of enclosure for each public street or space. A minimum percentage build-out at the build-to line shall be established on the plan along all streets and public square frontages.

(c) Large-scale, single use facilities (conference spaces, theaters, athletic facilities, etc.) shall generally occur behind or above smaller scale uses of pedestrian orientation.

(4) *Open Space.* The provision and design of open space shall comply with the requirements set forth herein.

(5) Parking, landscaping and buffers shall comply with the requirements set forth herein.

SECTION 9.3 FLOOR AREA

(A) *Potential.* Large scale commercial development has the potential to pose many challenges to a relatively small community such as the town. The development can overwhelm local police services, undermine a current diversified commercial market, strain the character of the local community, cause excessive vehicular congestion, and can be difficult to handle once left vacant. As such, the town finds it necessary to limit the allowable floor area of commercial development in order to ensure that the development is carried out in a manner that is appropriate and consistent with the character of the town.

(B) *Commercial Development.* The building footprint of any structure and any accessory structure in the aggregate to be used for any commercial enterprise shall not be larger than 10,000 square feet in size. The building's footprint shall be construed to mean the perimeter line created by the edge of the roof of any structure and building on a lot in the aggregate. For the purposes of this section, the term commercial development shall include any development intended to be used or potentially used by for-profit enterprises, including manufacturing and industrial developments, except that those uses allowed within the town's Public Service District shall not

be considered commercial. It is recognized that in certain circumstances it may be appropriate to allow for a larger building footprint for commercial developments. In order for a commercial structure proposed to have a footprint larger than 10,000 square feet to be constructed, a special use permit shall be obtained prior to the commencement of the development. See Article 4, Part VII and Article 8 for details regarding the issuance of a special use permit for large scale commercial developments.

(C) *Public Service Development.* Development to be used for any land use allowed in the town's Public Service (PS) zoning district shall have no limit on the size of the building footprint.

ARTICLE 10. PERFORMANCE STANDARDS

PART I. LANDSCAPING

SECTION 10.1 INTENT AND PURPOSE (GENERAL)

(A) To encourage the preservation of existing trees and vegetation.

(B) To assist with noise reduction, glare, and heat abatement.

(C) To provide visual buffering and enhance the beautification of the Town.

(D) To safeguard and enhance property values and to protect public and private investment.

(E) To provide habitat for living things that might not otherwise be found in urban and suburban environs.

SECTION 10.2 APPLICATION

The requirements of this section shall apply to all uses of land, buildings and structures located within the Town zoning jurisdiction which are not exempted in subparagraph (B) below.

(A) The following areas are required to be landscaped:

(1) Street yards;

(2) Vehicular parking areas;

(3) Transitional areas between non-residential and residential uses; and

(4) Trash dumpster and container areas.

(B) The landscaping requirements shall not apply to:

(1) A detached single-family dwelling on its own separate lot;

(2) A two-family dwelling on its own separate lot; or

(3) Existing uses and building, including repairs, or improvements to the interiors and exteriors of existing buildings which do not result in expansions or square footage.

SECTION 10.3 LANDSCAPING PLAN APPROVAL

Whenever an application is filed with the Town for a zoning permit for any use of land to which these landscaping requirements apply, the application shall be accompanied by a landscape development plan. The plan shall be in sufficient detail to enable the Town UDO Administrator to determine whether or not the plan, when fully implemented, shall include at a minimum the following specific information:

(A) The locations, dimensions and descriptions of all area to be landscaped, including buffers, screens and fences;

(B) The locations, species, spacing and size (height and caliper) of proposed trees that are required;

(C) The locations, species (as appropriate), spacing and sizes of planting materials and fences that are proposed to serve as required screens and buffers;

(D) The locations, dimensions and descriptions of any barriers to be installed at the time to protect trees and plants; and

(E) A description of proposed means for watering and soil stabilization for planted areas.

SECTION 10.4 GENERAL REQUIREMENTS AND CONDITIONS

(A) A conditional certificate of occupancy may be issued by the UDO Administrator for the temporary use and occupancy of a building, structure or land for a maximum period of 180 days from the date of the issuance of the certificate whenever the landscaping requirements of this Part are not complied with on time for the intended use and occupancy of a building, structure or land. Should these landscaping requirements not be complied with in full upon the expiration of the conditional certificate of occupancy, the use of the property for which the certificate was issued shall be discontinued and further use of the property beyond the expiration date of the certificate shall constitute an illegal use and occupancy of the property.

(B) It is not the intent of this section to prevent the use of a material or method of construction not specifically prescribed by this section, especially whenever a stream, natural rock formation or other physiographic obstacles make conventional compliance extraordinarily difficult or impossible. Alternate materials and methods may, therefore, be utilized to satisfy these requirements, provided that any proposed alternate is suitable for the purpose intended, and is at least the equivalent of that specifically prescribed by this section in quality, effectiveness, durability, hardiness and performance. The UDO Administrator may require that sufficient evidence and data be submitted to substantiate any claim that may be made in this regard.

(1) Existing trees which meet or exceed the minimum standards, as established herein, may be used to satisfy these requirements, and an allowance for the preservation of existing trees may be applied at the following rate:

Caliper of Existing Tree	# Required Trees
2-inch to 6-inch	1 large maturing tree
6-inch to 12-inch	2 large maturing trees
12-inch to 18-inch	3 large maturing trees
18-inch to 24-inch	4 large maturing trees
Over 24-inch	5 large maturing trees

(2) In order to qualify for the above table, each existing tree to be preserved must be uniformly encircled with an effective protected ground area which shall extend at least seven feet from the base of the tree trunk in all directions, or at least one foot per inch of caliper of the tree trunk measured at grade, whichever is greater.

(C) During construction, all protected ground areas shall be clearly marked and identified on the site by effective barriers, such as a fence at least three feet high using 2X4 posts not more than ten feet apart with one by four horizontal rails and/or covered with orange polyethylene laminar safety fencing, or other effective barriers. No credit will be allowed if there is any encroachment of construction, construction activity or construction materials within the protected ground area.

(D) Landscaping shall not obstruct the view of motorists using any street, private drive, parking aisle or other approaches to street intersections so as to constitute a condition endangering the public safety upon any such street, driveway, parking aisle or street intersection.

(E) All required planting and landscaped areas shall be maintained at all times in good, stable and healthy condition.

SECTION 10.5 SPECIFIC LANDSCAPING REQUIREMENTS

(A) *Street Yards.*

(1) It is the intent of this section to encourage a landscape planting area, hereinafter called a "street yard", adjacent and parallel to the street right-of-way, but not within it, and containing plantings of trees, and which shall be grassed, and/or mulched with organic material and may contain other plantings of shrubs and/or flowers.

(2) The purpose of street yards is to provide a more pleasing view from the ways of travel, to provide for a continuity of vegetation throughout the zoning jurisdiction of the town, to reduce the amount of impervious surface and storm water runoff, to filter air, provide shade and otherwise improve the microclimate of the streets.

(a) Each street yard should contain at least one large maturing tree or two small maturing trees for every 50 linear feet of street yard, or fraction thereof, as measured from the corners of the lot, and the trees shall be located so that at least one such tree will be within each 75 linear feet of street yard. Where the trees are to be grouped, or clustered, large maturing trees shall be spaced at least 20 feet apart, trunk to trunk, and small maturing trees shall be spaced at least 12 feet apart, trunk to trunk. Large maturing trees in a side yard shall be planted at least ten feet from any common property line.

(b) A large maturing tree shall mean any tree, evergreen or deciduous, which normally grows to an average mature height of at least 35 feet, and shall have a caliper of at least one and one half inches and a minimum height of eight feet at

planting in accordance with AAN (American Association of Nurserymen) standards. Addendum A included a list of recommended tree species.

(c) Large maturing tree species shall not be planted under overhead utility lines.

(d) Adequate wheel stops or curbs shall be installed for the protection of required trees and plantings that are located or expected to grow to any point within five feet of a vehicular parking area. The wheel stops or curbs shall be a minimum of six inches in height and shall be adequately anchored to the ground, and may be concrete, rot-resistant heavy timbers or other effective materials.

(B) *Vehicular Parking Area.* A vehicular parking area is an outdoor open area on a lot where motor vehicles are parked. The intent of this section is to provide for trees and planting areas within or adjacent to the vehicular parking areas in order to modify and reduce visual, environmental, and aesthetic effects of the areas. These requirements have been developed to reduce the rate of storm water runoff in paved areas; provide shade, noise management, aid in the filtering of air from gaseous pollutants, and other beneficial environmental effects; provide for live vegetation, a more pleasing view from the ways of travel, and from nearby properties and to break the visual blight created by large expanses of vehicular parking area.

(1) All vehicular parking areas shall be provided with at least one large maturing tree for each 2,000 square feet, or fraction thereof, including drives. The trees shall be located and arranged so that no tree trunk will be more than 75 feet from a designated vehicular parking space. For up to 25% of the number of large trees required, two small maturing trees may be substituted for one large maturing tree.

(2) The trees shall be planted within planting areas (i.e. islands) having a minimum of 300 square feet of contiguous growing areas and a minimum dimension of seven feet for each large maturing tree; and a minimum of 200 square feet of contiguous growing area and a minimum dimension of five feet for each small maturing tree. Plantings on the perimeters of the parking area shall satisfy this requirement.

(3) Required planting areas shall contain planting soil suitable for the plantings and conditions, and shall be grassed and/or mulched with organic material so that no bare ground is exposed. The areas may contain other plantings of shrubs or flowers.

(4) Large maturing trees shall not be planted under overhead utility lines.

(5) Adequate wheel stops or curbs shall be installed for the protection of trees and other plantings that are located or expected to grow to any point within five feet of a vehicular parking area, including drives and the like: the wheel stops or curbs shall be a minimum of six inches in height and shall be adequately anchored to the ground, and may be of concrete, rot resistant heavy timbers, or other effective materials.

(C) *Screening.*

(1) Any non-residential use located in either the HC, IND or PS Districts and located on property abutting any R-1 or R-2 Residential District, unless separated by a public street right-of-way, shall provide a screening device as described below.

(2) The 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, even if active operations cease.

(3) 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 nonresidential property; and/or

(c) Any building expansion that increases the floor area of the nonresidential use or any addition of parking that provides ten or more spaces, whether required or not.

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

(5) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning:

SCREENING DEVICE. A screen that is at least 90% opaque from the ground to a height of at least six feet. The screen is intended to block 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 feet in width (thickness), a fence, wall or similar device at least 50% opaque and six feet in height shall be used in combination with the vegetation. In all cases, the screen must be at least 90% opaque in all seasons of the year. Planted vegetation must be a minimum of four feet high and one inch in caliper, measured six inches above grade, when planted. Existing vegetation must be equivalent. In no case shall the screening device required by this section interfere with visibility at intersections or with visibility at entrances and exits at public streets. Any trees within the ten-foot required buffer yard width may be included in the screening devise.

(D) *Trash Container and Dumpster Screens/Buffers.* The large metal boxes commonly known as "dumpsters" are a type of "trash container" as such term is used herein. These "dumpsters" are, however, referred to in this section by specific name for purposes of emphasis and clarity. It is the intent of this section to provide for visual screens and/or buffers between trash container and dumpster locations and all street rights-of-way and adjoining properties.

(1) Trash containers and dumpsters shall not be located in the front yard of any property and shall be screened from view on all sides, except for one opening not greater than ten feet across in width to allow for service access. A screen that is at least 90% opaque from the ground to a height of at least eight feet shall be required. The screen is intended to block visual contact and to create a strong impression of spatial separation. The screen may be composed of a wall, fence, planted vegetation, or existing vegetation.

(2) Screens and/or buffers intended to satisfy this requirement shall be as approved by the Town Manager. Existing dumpsters on town property or street rights-of-way will not be grandfathered.

SECTION 10.6 ACCEPTABLE PLANT SPECIES

The following list of plant species includes shade trees, ornamental trees and shrubs which are acceptable for landscaping in this area of the state. A few species are labeled as “discouraged” due to marginal hardiness in this zone, to disease susceptibility, or to overuse.

(A) *Shade Trees.*

Botanical Name	Common Name
Acer rubrum	Red maple
Acer saccharum	Sugar maple
Amelanchier canadensis	Serviceberry
Betula nigra	River birch
Carya illinoensis	Pecan
Carya ovata	Shagbark hickory
Carya glabra	Pignut hickory
Carya cordiformis	Bitternut hickory
Cedrus deodara	Deodar cedar
Celtis occidentalis	Hackberry
Cupressocyparis leylandii	Leyland cypress (discouraged)
Diospyros virginiana	Persimmon
Fagus grandiflora	American beech
Fraxinus americana	White ash
Fraxinus pennsylvanica	Green ash

Botanical Name	Common Name
Ginkgo biloba	Ginkgo
Juniperus virginiana	Eastern red cedar
Liquidambar styraciflua	Sweetgum
Liriodendron tulipifera	Tulip poplar
Magnolia grandiflora	Southern magnolia
Nyssa sylvatica	Black gum
Pinus echinata	Short leaf pine
Pinus nigra	Austrian pine
Pinus thunbergi	Japanese black pine
Pinus taeda	Loblolly pine
Pinus virginiana	Virginia pine
Platanus acerifolia	London planetree
Quercus acutissima	Sawtooth oak
Quercus alba	White oak
Quercus bicolor	Swamp white oak
Quercus coccinea	Scarlet oak
Quercus falcata	Southern red oak
Quercus laurifolia	Laurel oak
Quercus nigra	Water oak
Quercus phellos	Willow oak
Quercus borealis	Northern red oak
Quercus shumardi	Shumard oak
Quercus velutina	Black oak
Quercus virginiana	Live oak
Sophora japonica regent	Japanese pagoda tree
Taxodium distichum	Bald cypress
Ulmus parvifolia	Lacebark elm
Ulmus alata	Winged elm
Zelkova serrata	Japanese zelkova

(B) *Ornamental Tree.*

Botanical Name	Common Name
Acer buergeranum	Trident maple
Acer campestre	Hedge maple
Acer palmatum	Japanese maple
Carpinus betulus	European hornbeam
Carpinus caroliniana	American hornbeam

Botanical Name	Common Name
Cercis canadensis	Eastern redbud
Cornus florida	Flowering dogwood
Cornus kousa	Kousa dogwood
Crataegus phaenopyrum	Washington hawthorne
Eleganus angustifolia	Russian olive
Halesia carolina	Carolina silverbell
Hammamelis mollis	Chinese witch-hazel
Ilex fosteri	Foster holly
Ilex opaca	American holly
Ilex opaca hume	Hume holly
Ilex x attenuata savannah	Savannah holly
Koelreutaria paniculata	Golden rain-tree
Lagerstroemia indica	Crapemyrtle
Magnolia soulangeana	Saucer magnolia
Magnolia stellata	Star magnolia
Malus hybrids	Flowering crabapple
Ostrya virginiana	Ironwood
Oxydendrum arboreum	Sourwood
Primus cerasifera pissardii	Purpleleaf plum
Prunus serrulata kwanzan	Kwanzan cherry
Prunus subhirtella pendula	Weeping cherry
Prunus yedoensis	Yoshino cherry
Prunus caroliniana	Carolina cherry laural
Pyrus calleryana 'Redspire'	Redspire pear (discouraged)
Pyrus calleryana 'Capital'	Capital pear (discouraged)

(C) *Shrubs.*

Botanical Name	Common Name
Abelia grandiflora	Glossy abelia
Aucuba japonica	Japanese aucuba
Azalea hybrida	Glenn dale azalea
Azalea indica	Indian azalea
Azalea obtusum Kaempferi	Kaempferi azalea
Bambusa multiplex	Hedge bamboo
Berberis julianae	Wintergreen barberry
Brberis thunbergii	Japanese barberry
Camellia japonica	Camellia

Botanical Name	Common Name
Camellia sasanqua	Sasanqua Camellia
Chaenomeles speciosa	Flowering quince
Cleyera japonica	Cleyera
Euonymus alatus	Winged euonymus
Euonymus japonicus	Evergreen euonymus
Eleagnus pungens	Eleagnus
Forsythia intermedia	Forsythia
Hammamelis virginiana	Witch-hazel
Hydrangea quercifolia	Oakleaf hydrangea
Ilex aquifolium	English holly
Ilex cornuta	Chinese holly
Ilex cornuta burfordi	Burford holly
Ilex cornuta burfordi nana	Dwarf burford holy
Ilex crenata 'convexa'	Convex Japanese holly
Ilex crenata 'hetzi'	Hetzi Japanese holly
Ilex crenata 'rotundifolis'	Roundleaf Japanese holly
Ilex "Emily Brunner"	Emily brunner holly
Ilex glabra	Inkberry holly
Ilex latifolia	Lusterleaf holly
Ilex pernyi	Perny holly
Ilex vomitoria	Yaupon holly
Juniperus chinensis pfitzeriana	Pfltzer juniper
Juniperus chinesis hetzi	Hetzi juniper
Laurus nobilis	Laurel
Ligustrum japonicum	Japanese privet
Ligustrum lucidum	Glossy privet
Ligustrum vicaryi	Vicary golden privet
Loropetalum chinense	Lotopetalum
Mahonia bealei	Leatherleaf mahonia
Myrica cerifera	Wax myrtle
Nandina domestica	Nandina
Osmanthus fortunei	Fortune tea olive
Osmanthus fragrans	Fragrant tea olive
Osmanthus heterophyllus	Holly osmanthus
Osmanthus heterophyllus rotundifolius	Curly leaf tea olive
Pieris floribunda	Mountain andromeda
Pieris japonica	Japanese andromeda
Pittosporum tobira	Pittosporum (discouraged)

Botanical Name	Common Name
Prunus laurocerasus	English laurel
Prunus laurocerasus "Zabel"	"Zabel" Skip laurel
Podocarpus macrophyllus maki	Podocarpus (discouraged)
Prunus laurocerasus angustifolia	Narrow leafed english laurel
Pyracantha coccinea	Scarlet firethorn
Raphiolepsis umbellata	Yeddo-hawthorn
Raphiolepsis indica	India hawthorn
Spirea cantoniensis	Reves spirea
Spirea thunbergi	Thunberg spirea
Spirea prunifolia plena	Bridalwreath spirea
Spirea vanhouttei	Vanhoutte spirea
Taxus cuspidata	Japanese yew
Viburnum rhytidophyllum	Leatherleaf viburnum
Viburnum tinus	Laurestinus viburnum

SECTION 10.7 TO SECTION 10.10 RESERVED

PART II. OFF-STREET PARKING AND LOADING

SECTION 10.11 OFF-STREET PARKING REQUIREMENTS

(A) Off-street automobile storage or parking space shall be provided on every lot on which any of the following uses are hereafter established in all districts except the Central Business District.

(B) The number of parking spaces provided shall be at least as great as the number specified below for various uses. When application of the provision results in a fractional space requirement, the next larger requirement shall prevail.

(C) Each lot abutting a major thoroughfare, as determined by the UDO Administrator, shall be provided with vehicular access thereto and shall be provided with adequate space for turning so that no vehicle shall be required to back into the street.

(D) A parking space shall consist of an area not less than nine feet by 18 feet, plus the necessary access space unless otherwise authorized by the Board of Adjustment.

SECTION 10.12 MINIMUM PARKING REQUIREMENTS

The required number of off-street parking spaces specified below for each use shall be provided.

Residential Uses	Required Parking
Manufactured home	Two spaces for each manufactured home
Manufactured home parks	Two spaces for each manufactured home space
Residential dwellings; single- family and two-family	Two spaces for each dwelling unit
Residential dwellings; multi- family and residential PUDs	Two spaces for each dwelling unit
Public and Semi-Public Uses	Required Parking
Hospitals and clinics	One space for each two beds, plus one space for each staff or visiting doctor, plus one space for each two employees on shift or great employment
Funeral parlors	One space for each four seats in chapel or parlor
Church, religious institutions and places of assembly	One space for each four seats in the principal assembly room
Recreational facilities	Two spaces for every tennis, squash or racquetball court; skating rinks, and bowling alleys, one space per 200 square feet; swimming pool, one space per 140 square feet, health exercise facility, one space per 50 square feet
Golf or country clubs	Two spaces per tee
Athletic fields	Ten spaces per field
Pitch and putt courses	One space per 50 square feet; billiard or pool hall, two spaces per table; shooting ranges, one space per target area

Residential Uses	Required Parking
Other places of recreation and assembly, without fixed seats	One space for each 200 square feet of gross floor area
Schools, elementary and middle	One space for each classroom and administrative office
Schools, senior high	One space for each classroom and administrative office, plus one space for each 20 seats or one space for each 400 square feet of area used for public assembly
Public buildings	One space for each 200 square fee of gross floor area
Sanitariums, rest and convalescent homes for the aged and similar institutions	One space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for each two employees on shift of greatest employment

Business Uses	Required Parking
Doctors' and dentists' offices	Five spaces per doctor or dentist
Professional and business offices	One space for each 200 square feet of gross floor area
Banks and other financial institutions	One space for each 200 square feet of gross floor area
Retail stores, businesses, shops and commercial services of all kinds	One space for each 200 square feet of gross floor area
Car sales, house and truck trailer sales, outdoor equipment and machinery sales, commercial nurseries	Four spaces for each salesperson, plus one space for each two employees
Hotels	One space for each two rooms, plus one additional space for each five employees
Motels, tourist homes and tourist courts, and rooming houses	One space for each accommodation, plus two additional spaces for employees
Service stations	Two spaces for each gas pump, plus three spaces for each grease rack or similar facility
Shopping centers	One parking space for each 200 square feet of gross floor area
Restaurants, drive-in	One parking space for each 200 square feet of gross floor area
Restaurants, indoor	One parking space for each 200 square feet of gross floor area
Day nursery and private kindergartens	One space for each staff member plus one space for each five students
Clubs and lodges	One space for each three members
Vocational schools	One space for each three students
Business and special schools	One space for each three students
Animal hospitals and veterinarian clinics	One parking space for each 200 square feet of gross floor area
Kennels	One space for each four pens
Motor vehicle maintenance and repair	Three spaces for each service bay and mechanic
Electronic gaming locations	One space for each electronic gaming terminal
Indoor theaters	One space for each four seats

Business Uses	Required Parking
Parcel delivery services	One space for each employee on shift of maximum employment, plus one space for each 800 square feet of gross floor area
Wholesale and Industrial Uses	Required Parking
Wholesale and industrial uses	One space for each two employees at maximum employment on a single shift, plus one space for each company vehicle operating on the premises

SECTION 10.13 LOCATION ON OTHER PROPERTY

If the required automobile parking spaces cannot reasonably be provided on the same lot on which the principal use is conducted, the spaces may be provided on other off-street property, provided the property is zoned accordingly and lies within 400 feet of an entrance to the principal use. The automobile parking space shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner.

SECTION 10.14 OFF-STREET LOADING AND UNLOADING SPACE

(A) Every lot on which a business, trade, or industry use is hereafter established, shall provide space as indicated herein for the loading and unloading of vehicles off the street.

(B) The space shall have access to a street or alley. For the purpose of this section, an off-street loading space shall have minimum dimensions of 12 feet by 40 feet and an overhead clearance of 14 feet in height above the alley or street grade.

(1) Retail business: One space for each 5,000 square feet of gross floor area.

(2) Wholesale and industrial: One space for each 10,000 square feet of gross floor area.

(3) Truck terminals: Sufficient space to accommodate the maximum number of trucks to be stored or to be loading or unloading at their terminal at any one time.

SECTION 10.15 TO SECTION 10.16 RESERVED

PART III. PEDESTRIAN CIRCULATION

SECTION 10.17 PURPOSE

The town has a desire to promote pedestrian activity within its planning jurisdiction. This has been exemplified through the town's efforts in creating a pedestrian plan which aims to increase what can be called the walkability of the area. Promoting pedestrian activity can help stimulate economic activity, encourage a healthier citizenry, reduce vehicular congestion along roadways, and help towards decreasing the town's carbon footprint.

SECTION 10.18 GENERAL PROVISIONS

As such, new developments shall aid in the promotion of pedestrian activity by providing pedestrian circulation systems. The following provisions shall apply to any pedestrian facilities required by Section 10.19(A) through (D) below.

(A) *Standard.* All newly constructed pedestrian circulation systems shall be compliant with the "Americans with Disabilities Act" (ADA) and all applicable State Department of Transportation standards. External pedestrian circulation facilities shall be constructed to line up as closely as possible to any existing neighboring facilities. The width of any external pedestrian circulation facilities shall match that of any existing neighboring facilities as well; however, in no case may a new pedestrian circulation facility be less than four feet wide.

(B) *Approval.* The town's UDO Administrator, Council or Board responsible for the final approval of the proposed development project shall be responsible for approving, disapproving or approving with modifications the proposed pedestrian circulation plan.

(C) *Plan Submittal.* All development proposals that are regulated by this section shall be required to submit a pedestrian circulation plan. The plan required by this section shall be in combination with the first application submittal required by the town for approval for the applicable development proposal. The plan shall show the extent of the project's proposed internal pedestrian circulation system and external pedestrian circulation system.

(D) *Fee in Lieu Of.* At the discretion of the authorizing administrator, council, or board, a fee may be paid by the party that is financially responsible for a proposed development project instead of installing external pedestrian circulation systems. The fee shall be determined by first determining the length of required pedestrian systems. Then the volume of concrete that would normally be required to complete the required pedestrian facility shall be computed based on the previously determined length. The current average price of concrete per cubic yard shall be used to determine the cost of the total amount of concrete for the normally required pedestrian facility. That figure shall be increased by 80%. If the town prompted the payment of a fee in lieu of constructing the required external pedestrian circulation system, then the previously calculated figure shall be the amount of the fee in lieu of. If the payment of the fee in lieu of pedestrian circulation construction is at the sole request of the project applicant, then the

previously calculated fee amount shall be doubled. The town shall put the paid fee into an account set aside for pedestrian facility development and shall only use the moneys for the construction of new pedestrian facilities or the upgrading of existing pedestrian facilities.

SECTION 10.19 SPECIFIC PROVISIONS

(A) *New Subdivisions.*

(1) *Applicability.* This subsection (A) shall apply to any new minor subdivision, major subdivision, cluster subdivision, planned unit development, and special subdivision that incorporates condominiums and/or townhouses as defined in Section 10.77.

(2) *Internal Circulation.* All development projects to which this subsection (A) applies shall provide pedestrian facilities that will be accessible to areas of relatively high densities of dwelling units, any commercial components of the development, and any designated open spaces. There shall be no prescribed method of providing adequate pedestrian circulation; however, the two most common methods are the provision of a standard sidewalk system or the provision of off-street pedestrian trails.

(3) *External Circulation.* All development projects to which this subsection (A) apply shall provide pedestrian facilities along the portions of the property that are adjacent to the access granting public street right-of-way, whether the street is owned by the State Department of Transportation or the town.

(B) *New Commercial Structures.*

(1) *Applicability.* This subsection (B) shall apply to any newly constructed commercial structure.

(2) *Internal Circulation.* If a commercial structure is proposed to be located 35 or more feet from the proposed external pedestrian circulation system (or if a fee in lieu of is paid, the distance shall be measured to the edge of the street right-of-way), then internal pedestrian facilities shall be provided. These facilities shall safely and conveniently guide pedestrians through any parking lot and/or front yard areas to the main entrances of any commercial spaces.

(3) *External Circulation.* All development projects to which this subsection (B) apply shall provide pedestrian facilities along the portions of the property that are adjacent to the access granting public street right-of-way, whether the street is owned by the State Department of Transportation or the town.

(C) *Remodeled Commercial Structures.*

(1) *Applicability.* This subsection (C) shall apply to any existing commercial structure and/or property that is remodeled, altered, repaired, or added to such that the cost of the work

is equal to or greater than 50% of the assessed tax value of the property prior to the work being performed.

(2) *Internal Circulation.* If a commercial structure is located 35 or more feet from any existing external pedestrian circulation system (or if no external pedestrian circulation system exists and a fee in lieu of is paid, the distance shall be measured to the edge of the street right-of-way), then internal pedestrian facilities shall be provided. These facilities shall safely and conveniently guide pedestrians through any parking lot and/or front yard areas from the adjacent street right-of-way to the main entrances of any commercial spaces.

(3) *External Circulation.* All development projects to which this subsection (C) apply shall provide pedestrian facilities along the portions of the property that are adjacent to the access granting public street right-of-way, whether the street is owned by the State Department of Transportation or the town. Given the fact that the structures and properties to which this subsection (C) applies are existing; it is recognized that there may arise unusual hardships in implementing the exact standards contained herein. If an existing pedestrian facility is located on the opposite side of the access granting public street right-of-way as the subject commercial structure and the subject property's topography or some other characteristic of the property renders the construction of a new external pedestrian facility so infeasible as to pose a hardship upon the applicant, then the applicant may have an additional option to that provided in subsection (D) below. In this scenario the applicant may provide a safe and adequate street crossing from the existing sidewalk opposite the street right-of-way to a point within 100 feet of the subject commercial structure. The Town Public Works Director shall have the authority to utilize discretion in approving the application of this part and in approving proposed street crossings. In approving the proposals, the Public Works Director shall take into account the Town Manager and Planner's comments.

(D) *Streets and Utilities.*

(1) *Applicability.* This subsection (D) shall apply to street and/or utility repair work that: destroys existing pedestrian circulation facilities; widens the existing right-of-way width by 15% or more; or creates a new street.

(2) *Destruction of Existing Pedestrian Circulation Facilities.* In the event that the destruction of an existing pedestrian circulation facility occurs as a result of work performed for the maintenance, repair or construction of a portion of a street or utility infrastructure, the group or person responsible for the work shall be responsible for restoring the pedestrian circulation facility. If the existing facility was not ADA compliant before the maintenance, repair or construction, then the restoration shall render the facility ADA compliant.

(3) *New and Expanded Rights-of-Way.* Pedestrian circulation facilities required by subsection (D)(1) above shall be considered external pedestrian circulation facilities. These facilities shall be required along all portions of the street that are new or whose right-of-way has been expanded by 15% or more.

(E) *Accessibility During Construction.* During the construction and/or development of any proposed project, all existing external pedestrian facilities shall remain accessible to pedestrians. In no case shall a portion of an existing external pedestrian facility be blocked, destroyed, damaged, or otherwise made to be in a state of disrepair so as to render the pedestrian facility inadequate for the safe mobility of persons with restricted movement capabilities.

(1) *Applicability.* This subsection (E) shall apply to all developments to which subsections (A), (B), (C), and (D) above apply.

(2) *General Regulations.* Portions of an external pedestrian facility may be blocked or in some other way rendered inadequate for the safe mobility of persons with restricted movement capabilities for a period of time not to exceed 24 hours, if the interruption to the pedestrian facility is associated with development and work is being performed to the area containing the pedestrian facility the entirety of the interruption. One non-exhaustive example of such a circumstance is the cutting away of the pedestrian facility, installing the forms for an access drive to a property, pouring the cement into the forms, installing the asphalt in the driveway, and letting the wet cement set and the asphalt dry all in one day of work. If the similar work is being performed, but will take longer than 24 hours before the pedestrian facility is rendered adequate again, then a pedestrian detour shall be provided that adequately provides for the safe mobility of persons with restricted movement capabilities or some other approved alternate ramp or path shall be provided that safely bypasses the pedestrian facility interruption.

SECTION 10.20 RESERVED

PART IV. SIGNS

SECTION 10.21 PURPOSE OF SIGN REGULATIONS

(A) It shall be the purpose of this Part to promote the safety, health, peace, dignity and general welfare of the people and the town in a manner consistent with the nature beauty of the area through the regulation of the posting, displaying, erection, use, maintenance of signs.

(B) Further, it is recognized that the standards and regulations for signs will address the following purposes:

(1) Provide an improved environmental setting and community appearance, which is vital for the economic well-being of the town;

(2) Create a more productive and professional business environment;

(3) Provide signs, which are in scale and appropriate to the planned character and development in each zoning district;

(4) Promote traffic safety and prevent hazard or nuisance conditions for vehicle or pedestrian traffic;

(5) Prevent the visual clutter of signage, which districts from business and conflicts with legitimate informational signage and signage which is essential for public health and safety;

(6) Protect and enhance the value of properties within the town; and

(7) Promote the public safety and general welfare of the town.

SECTION 10.22 GENERAL REQUIREMENTS

(A) No sign of any type or any part thereof shall be erected, painted, repainted, posted, reposted, placed, replaces or hung in any zoning district except in compliance with these regulations.

(B) No sign shall be placed on any lot without the permission of either the owner or occupant of the premises on the lot. Signs placed in violation of this rule may be removed by the owner, the occupant or the Town of Columbus. See also G.S. § 14-145, making unlawful posting of advertisements on the property of another without first obtaining the written consent of such owner thereof.

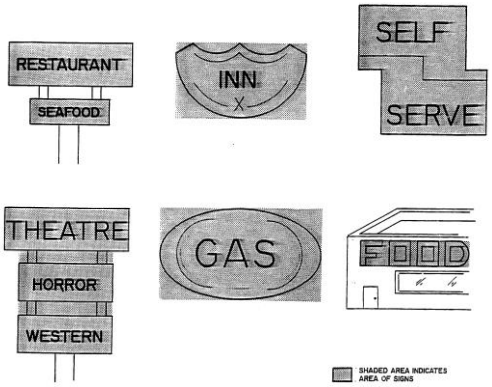
(C) Each application for a sign permit shall be made in writing and shall contain or have attached thereto the following information:

(1) A drawing approximately to scale showing the design of the sign, including dimensions, methods of attachment or support, source of illumination and showing the relationship to any building or structure to which it is or is proposed to be installed or affixed; and

(2) A plot plan approximately to scale indicating the location of the sign relative to property lines, easements, streets, sidewalks and other signs.

(D) Sign permit applications shall be submitted to and approved by the UDO Administrator prior to a permit being issued. A record of the application, plans and the actions taken thereon shall be kept in the office of the town. The Town Council may establish a fee schedule for all sign permits issued in accordance with this Part.

(E) *Sign Area.* The surface area of a sign shall be computed as including the entire area visible from any one point, within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign including lattice work, wall work, and individual letters and spaces between letters comprising part(s) of the sign. Computations of sign area shall include only one side of a double-faced sign structure. If a sign has two sides joined at an angle of greater than 60°, the surface of both sides of the sign shall be included in the computation of area.



(F) Wall signs shall not project higher than the eave or parapet of the building where mounted.

SECTION 10.23 SIGNS ALLOWED WITHOUT A PERMIT

The following types of signs are allowed in all zoning districts, unless specifically limited herein, and do not require a sign permit:

(A) Signs unlighted and bearing only property numbers, post box numbers, and the name of the owner or occupant of the premises. These signs shall not exceed two square feet in area per dwelling. If more than one sign or nameplate is required, the total allowable sign area shall not exceed eight square feet;

(B) Flags and insignia of any government except when displayed in connection with commercial promotion;

(C) Holiday decorations in season;

(D) Legal notices and warnings, regulatory, informational or directional signs erected by any public agency or utility;

(E) Integral decorative or architectural features of buildings, including signs, which denote only the building name, date of erection or street numbers; and

(F) The following signs, including portable or mobile signs on wheels, but such signs shall not be closer than five feet from the edge of any street pavement or any other property line:

(1) On a property which is offered for lease, rent or sale during the period which property is so offered:

(a) One unilluminated sign per street frontage. The maximum size of the signs shall be as follows:

1. In all residential districts, 12 square feet; and

2. In all other districts, the signs shall be limited to one square foot of area for each five lineal feet of advertised property which abuts a public street, provided, however, no such sign shall exceed 128 square feet in area.

(b) One additional unilluminated sign per street frontage only on those days the property is available for inspection (i.e., days when an open house is being conducted on the premises). No such sign shall exceed six square feet in area.

(2) One unilluminated sign may be erected on a site during the period of construction or reconstruction of a building or other similar project. The sign shall be removed no more than two days after the construction work has been completed. The maximum size of the sign shall be follows:

(a) In residential districts, 32 square feet.

(b) In all other districts, 64 square feet or one square foot of sign area for each five lineal feet of property abutting a public street, whichever is greater. In no instance, however, shall any such sign exceed 128 square feet in area.

(3) Banners, pennants, ribbons, balloons, posters, streamers may be displayed for a period of not more than 30 days in any one calendar year on the occasion of the opening of a new business.

(4) Signs painted or displayed on the interior or exterior of commercial building windows, provided, however, the signs shall not exceed 25% of the total window area.

(5) Signs by individual for profit businesses may be placed on their premises in the Central Business District and the Highway Commercial District for an aggregate period not to exceed 30 days in a calendar year. There shall not be more than one such sign at any time and such sign shall not exceed six square feet in area.

(6) One unilluminated sign may be displayed on a property where a local public event, non-commercial in its primary purpose, is to take place, and a maximum of three other unilluminated signs may be placed by the person conducting such event at other

locations within the town (with permission of the property owner or occupant), on the following conditions:

(a) Signs shall be placed out not more than two weeks in advance of the local public event and must be removed not more than two days after the completion of the event.

(b) The maximum size of the signs shall be 30 square feet in area on the property where the event will occur and six square feet in area for signs on other properties.

(7) Unilluminated signs may be posted during the period beginning on the 30th day before the beginning date of "one-stop" early voting under G.S. § 163-227.2 and ending on the 10th day after the primary or election day.

(8) One unilluminated sign may be displayed on a property where a yard sale, garage sale or estate sale signs is being conducted, and a maximum of three other unilluminated signs may be placed by the person conducting such sale at other locations within the town (with permission of the property owner or occupant), on the following conditions:

(a) Signs shall be placed out no earlier than 24 hours before the sale, and shall be removed no later 12:00 p.m. the day after the sale.

(b) Each sign shall not exceed three square feet in area.

(c) Signs placed pursuant to this subsection (F)(8) shall display the owner's address.

(d) Failure to follow the above guidelines or to remove the signs within the proper time frame shall result in a fine as set forth in the town fee schedule.

(9) One sandwich board sign may be allowed per business. Signs shall be limited to a maximum height of three (3) feet and a maximum length of two (2) feet for each side of a double-faced sign. Folding and double-faced signs shall be considered one (1) sign. Sign placement shall not impede movement on the sidewalk.

SECTION 10.24 REQUIRED SIGNS

Every residence, office, retail business, industry or any other structure with a street number assigned to it shall display the number in such a way as to be easily visible from the street providing access. The numerals shall be of such size and color as to be easily recognizable and shall be attached to the wail of the building facing the street or, if the distance to the street or visibility due to other means makes this impractical, shall be displayed on a nameplate or number sign placed at the main entrance of the property, or displayed on a rural mailbox. Property owners may choose one of the latter methods of display in addition to attaching numerals to the building. No permit shall be required for these signs.

SECTION 10.25 SIGNS ALLOWED BY PERMIT

In addition to the signs allowed under Sections 10.23 and 10.24 above, the following signs shall be allowed, upon approval of a sign permit, in the following districts:

(A) *Signs Permitted in Residential Districts.*

(1) Signs for subdivisions and planned unit developments not exceeding 32 square feet in area. One sign may be erected at each entrance to the subdivision, but shall be located on private property and shall not exceed six feet in height above the ground level, and illumination shall be restricted to indirect white lighting.

(2) Signs for manufactured home parks and campgrounds not exceeding 16 square feet in area. One sign may be erected at each main entrance to the manufactured home park or campground but shall be located on private property no closer than ten feet to any property line. Illumination shall be limited to indirect white lighting.

(3) One sign for multi-family residential developments may be erected at each major entrance to the property. These signs shall not exceed 32 square feet in area and may be flat mounted against the wall of the building or freestanding. If freestanding, the signs shall be set back at a minimum of ten feet from any property line and shall not exceed six feet in height above ground level. Illumination shall be limited to indirect white lighting.

(4) One sign for non-residential uses may be erected on the premises, provided that the signs do not exceed 32 square feet in area and may be flat mounted against the wall of a building or freestanding. If freestanding, the signs shall be set back at a minimum of ten feet from any property line and shall not exceed six feet in height above ground level. Illumination shall be limited to indirect white lighting.

(5) One sign for each home occupation is permitted, but shall not be closer than ten feet to any property line or street right-of-way, shall not be higher than four feet above ground level and shall not exceed four square feet in area.

(6) For properties used for residential purposes, one unilluminated sign per lot. The sign may be flat mounted against the wall of a building or freestanding. If freestanding, the sign shall be set back at a minimum of ten feet from any property line and shall not exceed three feet in height above ground level. The sign shall not exceed four square feet.

(B) *Signs permitted in the Highway Commercial District and Public Service District.*

(1) One freestanding sign is permitted for each zoned parcel. Any such freestanding sign shall not exceed 30 feet in height or 50 square feet in sign area. Businesses fronting on more than one public street shall be permitted one freestanding sign for each road frontage;

(2) One additional freestanding sign is permitted for businesses with drive-through windows provided that the sign is facing the drive-through lane and does not exceed six feet in height or 20 square feet in sign area;

(3) Wall signs shall be permitted for each separate business provided the total allowable sign area for all signs shall not exceed 1.5 square feet for each foot of building wall facing a public street. The location and number of wall signs is at the option of the owner or tenant, however, where more than four signs are located on any zoning lot, the fifth sign, respectively, shall reduce the total allowable sign area by 20%;

(4) The total allowable sign area for all signs, including all wall and freestanding signs, shall not exceed two square feet for each lineal foot of building wall facing a public street. Sizes of each sign are at the option of the owner or tenant, but in no case shall a freestanding sign be more than 100 square feet in sign area;

(5) One sign per business may be suspended from or attached to the underside of a canopy or marquee, provided the sign does not exceed four square feet in area and maintains a clear distance of at least seven and one-half feet between the sidewalk and the bottom of the sign;

(6) No sign shall be less than 10 feet from the edge of any street pavement or 10 feet from any other property line.

(C) *Signs permitted for Industrial Districts and Central Business Districts.*

(1) One freestanding sign is permitted for each premise. The area of the sign shall not exceed the total allowable sign area, but in no case exceed 50 square feet in area, and shall not project more than 6 feet above the ground. Businesses fronting on more than one public street shall be permitted one freestanding sign for each frontage; provided however, the combined area of all signs shall not exceed the allowable sign area and, in no case, 80 square feet;

(2) Wall signs shall be permitted for each business. The location and number of wall signs is at the option of the owner or tenant, however, where more than four signs are located on any lot, the fifth sign and each succeeding sign, respectively, shall reduce the total allowable sign area by 20%;

(3) The total allowable sign area shall not be more than one square foot per lineal foot of building wall facing a public street, not to exceed 100 square feet;

(4) One sign per business may be suspended from or attached to the underside of a canopy or marquee, provided the sign does not exceed four square feet in area and maintains a clear distance of at least seven and one-half feet between the sidewalk and the bottom of the sign; and

(5) No sign shall be less than 10 feet from a street right-of-way or 10 feet from any other property line.

(D) *Off-Premises Signs.* One off-premises advertising sign per parcel is permitted in the Highway Commercial and Industrial districts which is not greater than 10' in height and 50 square feet in area.

(E) *Industrial Park Subdivision Signs.* For Industrial Parks, one additional sign on each street frontage other than those regulated in Signs Permitted for Industrial Districts shall be permitted, subject to the following: permanent signs for industrial park subdivisions shall not exceed 80 square feet in area. Ground mounted signs may be erected at each major entrance to the subdivision, but shall be located on private property no closer than ten feet to any property line. No sign shall exceed ten feet in height above ground level and illumination shall be restricted to indirect white lighting.

(F) *Common Signage Plan for Shopping Centers.*

(1) Signs presented on a Common Signage Plan must be uniform in design and features. The same type of materials must be used for all wall signage on any single or multi-unit structure. All types and colors of signs, as long as they produce a unifying theme and meet all area and height requirements, will be considered by the UDO Administrator except those expressly prohibited by this Part.

(2) Information required for a Common Signage Plan shall include specifications for each sign in sufficient detail to determine that the height and area requirements of the Sign Ordinance have been met. A site plan showing the layout of each sign is also required. An elevation of the freestanding sign shall be provided which shows provisions for shared usage and design type.

(3) A Common Signage Plan shall be a part of any development plan, site plan, unified development plan, or other plan required for development and may be processed simultaneously with the plans(s). A Common Signage Plan shall be approved prior to the issuance of any sign permit(s).

(4) A Common Signage Plan may be amended by filing a new plan which complies with all requirements of this Part. The UDO Administrator may approve minor changes to a Common Signage Plan provided the changes comply with all requirements of this Part.

(5) After approval of a Common Signage Plan, no sign shall be erected, affixed, placed, painted, or otherwise established except in conformance with the plan and the plan may be enforced in the same way as any other provision of this Part.

(6) The following height and size limitations shall apply to all shopping center signage:

SHOPPING CENTERS				
Permitted Sign Type(s)	*Specific Applicability*	*Maximum Sign Surface Area*	*Maximum Height*	*Maximum Number*
BUILDING MOUNTED				
Wall[1]	Per building entrance	The total area of all wall signs per business may not exceed 1 foot of area for each linear foot of building frontage. Businesses with two or more surfaces of exposure are allowed 1 square feet of sign area for each linear foot of frontage for the primary sign and 1 square foot of sign area for each linear foot of frontage for the secondary sign. Businesses shall have no more than a primary and secondary sign unless a property identification of less than 4 square feet is needed for deliveries or similar activities. No business shall exceed 500 square feet of total wall signage. In no case may the total amount of wall signage exceed 500 square feet for each business.	N/A	2
Window	Per separate business	25% of first floor total building front facade window and/or door area	N/A	N/A
Projecting	Per separate business	Not to exceed 12 square feet and may not project more than 5 feet from the building wall[2]	N/A	1
Canopy or Awning	Per premises	Copy area of the sign is limited to the drip flap; logos may be placed on the awning itself	N/A	1
ID Plaques	Identifies tenants in building	4 square feet	N/A	1
FREESTANDING				
Monument or Ground Mounted	Per street frontage	Not to exceed 50 square feet of sign area.	6 ft	3
Freestanding	Per street frontage	Not to exceed 1 square foot of sign area for each linear foot of street frontage. In no case may the total amount of any freestanding signs exceed 200 square feet.	30 ft	1
Temporary[4]	Message neutral	6 sq ft	6 ft	[5]

SHOPPING CENTER OUTPARCELS				
Permitted Sign Type(s)	*Specific Applicability*	*Maximum Sign Surface Area*	*Maximum Height*	*Maximum Number*
BUILDING MOUNTED				
Wall	Per building entrance	The total area of all wall signs may not exceed 1 square foot of sign area for each linear foot of building frontage, not to exceed 50 square feet.	N/A	2

SHOPPING CENTER OUTPARCELS				
Permitted Sign Type(s)	*Specific Applicability*	*Maximum Sign Surface Area*	*Maximum Height*	*Maximum Number*
FREESTANDING				
Monument or Ground Mounted	Per street frontage	Not to exceed 50 square feet of sign area.	6 ft	2
Freestanding	Per street frontage	Not to exceed 1 square foot of sign area for each linear foot of street frontage. In no case may the total amount of any single sign exceed 50 square feet.	10 ft	1
Temporary[3]	Message neutral	6 sq ft	6 ft	[4]

[1]Walls signs may project a maximum of 12" from the wall to which it is mounted.
[2]Bottom edge of sign must be at least 10 feet above the sidewalk; except in cases where sign is located underneath an awning or canopy, the bottom edge shall be at least 8 feet above the sidewalk. Projecting signs will not extend vertically above the roofline or parapet of the building.
[3]Temporary signs may be displayed up to ten (10) days prior to and/or following the specific event with which the sign is associated. No temporary signs are allowed in the public right-of-way.
[4]The number of signs is limited to one (1) per 100 feet, or fraction thereof, of lot frontage of all immediately adjacent public streets.

(G) *Signs Erected by Institutions.* Signs erected by schools, churches, hospitals, governments and other institutions are permitted in all districts, but the size of any such signs shall not be in excess of 32 square feet. If the sign is freestanding it shall not be closer than ten feet from any property line and shall not project higher than six feet above ground level.

SECTION 10.26 PROHIBITED SIGNS.

The following signs are prohibited:

(A) Banners, pennants, balloons, posters, ribbons, streamers, spinners or other similar devices, except as permitted in Section 10.23(F), above;

(B) No sign or device shall be permitted which contains animation or is illuminated by any flashing, alternating, intermittent, or moving light or lights;

(C) No signs shall be permitted to be erected or maintained upon trees or painted or drawn upon rocks or utility poles;

(D) Roof signs;

(E) Projecting signs and freestanding signs located within a public right-of-way except when erected by the town, county, state or federal government, provided, however, that political signs may be located pursuant to the provisions of G.S. § 136-32; and

(F) No sign may be permitted which appears to direct the movement of traffic or resembles any official sign, signal or device.

SECTION 10.27 ILLUMINATION

Signs may be illuminated unless the provisions of this Part and Part V Outdoor Lighting explicitly state that they shall be unilluminated. Illuminated signs may be internally illuminated unless the provisions of this Part explicitly limit them to illumination by indirect (external) light. Where illuminated signs are permitted, they shall conform to the following requirements:

(A) All signs illuminated under the provisions of this section shall be constructed to meet the requirements of the National Electric Code;

(B) Internally illuminated signs shall be limited to those with glass or plastic panels bearing the advertisement; provided, however, that exposed neon tubing shall be permitted;

(C) Indirect external flood and display lighting shall be shielded so as to prevent direct rays or light from being cast into a residential area or district and/or vehicles approaching on a public right-of-way from any direction. The lighting shall also be shielded so 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; and

(D) Flame as a source of light is prohibited.

SECTION 10.28 MAINTENANCE AND REMOVAL OF UNSAFE SIGNS.

(A) All signs of any nature shall be maintained in a state of good repair. No sign shall be allowed to remain which becomes structurally unsafe, hazardous or endangers the safety of the public or property.

(B) Upon determination by the County Building Inspector or by the UDO Administrator in conjunction with the Town's Engineer or Public Works Director that a sign is structurally unsafe, hazardous or endangers the safety of the public or property, the UDO Administrator shall order the same to be made safe or removed subject to the following provisions:

(1) The owner of the sign, the occupant of the premises on which the sign or structure is located, or the person or firm maintaining the same shall, upon written notice by registered or certified mail from the UDO Administrator, forthwith in the case of immediate danger and in any case within ten days, secure or repair the sign or structure; and

(2) No sign shall be erected or maintained in such a manner that any portion of its surface or its supports will interfere in any way with the free use of access to any fire escape, exit or standpoint, or so as to obstruct any window so that light or ventilation is reduced below minimum standards required by any applicable law or building code.

SECTION 10.29 PENALTIES AND ENFORCEMENT

Violation of the provisions of these sign regulations shall be enforceable as set forth below in addition to any other enforcement provisions set forth in this Part. (However, any unsafe signs shall be removed pursuant to Section 10.28 above.)

(A) *Notice of Violation.* The UDO Administrator shall have the authority to issue a notice of violation for all violations of the sign ordinance. Where the owner of the sign is indicated on the sign or is otherwise apparent or known to the UDO Administrator, a copy of the notice of violation shall be delivered to the sign owner by hand delivery or by certified mail. In all other cases, a copy of the notice of violation shall be posted on the sign and a copy shall be delivered by hand delivery or certified mail to the property owner as shown on the County tax records. In addition, service hereunder may be made in accordance with Rule 4 of the State Rules of Civil Procedure.

(B) *Right to Appeal.* The sign owner and/or the property owner shall have the right to file an appeal from the notice of violation of the UDO Administrator to the Board of Adjustment pursuant to the procedure set forth in Section 4.26, above.

(C) *Time to Remedy Violation.* The sign owner and/or the property owner shall have 15 days to remedy all violations set forth in the notice of violation unless an appeal from the decision of the UDO Administrator is sought by the aggrieved party. The 15-day period shall commence upon the earlier of the posting of the notice of violation on the sign or the delivery of a copy of the notice of violation to the sign owner or property owner.

(D) *Extension of Time for Compliance.* The UDO Administrator shall have the authority to grant a single 30-day extension of time within which the sign owner must comply with the. notice of violation. The single extension of time may be issued based upon a written request for extension of lime, which sets forth valid reasons for not complying within the original 15-day period.

(E) *Remedies for Failure to Comply.* Pursuant to G.S. § 160A-175(f), the UDO Administrator may choose from the remedies set forth below to enforce the ordinance when there is a failure to comply with the notice of violation. These remedies are as follows.

(1) In addition to or in lieu of the other remedies set forth in this section, the UDO Administrator may issue a citation setting forth a civil penalty of $50. In the case of a continuing violation, each 24-hour period during which the violation continues to exist shall constitute a separate violation. The citation shall be served upon the person(s) described in subsection (A) by the means set forth therein. In the even the offender does not pay the penalty within ten days of service of the citation, the civil penalty shall be collected by the town in a civil action in the nature of debt, which shall not constitute a misdemeanor, and in so providing, the Town Council hereby chooses to exercise the option provided by G.S. § 160A-175(b).

(2) In addition to or in lieu of the other remedies set forth in the section, the UDO Administrator shall have the authority to issue a remove order for any sign not repaired or brought into compliance within the time required by the foregoing provisions.

Remove orders shall be issued to and served upon the person(s) described in subsection (A) above by the means set forth therein. The sign owner or the landowner shall be allowed a period of 30 days after the service of the remove order within which to remove the sign at his or her own expense. The remove order shall describe specifically the location of the sign to be removed and all of the reasons for issuance of the remove order, including specific reference to the provisions of the ordinance which have been violated.

(3) In addition to or in lieu of the other remedies set forth in this section, the UDO Administrator may seek injunctive relief in the appropriate court.

(F) *Removal and Recovery of Expense.* If a sign owner or property owner fails to comply with the requirements of a remove order, the UDO Administrator may cause the sign to be removed. The sign owner and property owner shall be jointly and severally liable for the expense of removal.

(G) *Notice; Collection of Sum.* Notice of the cost of removal shall be served upon the person(s) described in subsection (A) by the means set forth therein. If the sum is not paid within 30 days thereafter, the sum shall be collected by the town in a civil action in the nature of debt, which shall not subject the offender to the penalty provision of G.S. § 14-4.

SECTION 10.30 TO SECTION 10.35 RESERVED

PART V. OUTDOOR LIGHTING

SECTION 10.36 INTENT AND PURPOSE

Outdoor lighting shall be designed to provide the minimum lighting necessary to ensure adequate safety, night vision and comfort, nighttime use and enjoyment of property, reduce light pollution and not create or cause excessive glare on adjacent properties and street rights-of-way.

SECTION 10.37 IESNA CUTOFF CLASSIFICATIONS

The following descriptions are designed with minimal word modifications to provide non-technical clarity. See the appendix for diagrams of these cutoff classifications.

(A) *Full cutoff*. A fixture (luminaire) light distribution where no light intensity (zero candela) is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 10% of the lamp's light intensity is emitted at or above an angle ten degrees below that horizontal plane, at all lateral angles around the fixture.

(B) *Cutoff*. A fixture light distribution where no more than 2.5% of a lamp's light intensity is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 10% of the lamp's light intensity is emitted at or above an angle ten degrees below that horizontal plane, at all lateral angles around the fixture. Cutoff fixtures are prohibited in the Town of Columbus.

(C) *Semi-cutoff*. A fixture light distribution where no more than 5% of a lamp's light intensity is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 20% of the lamp's light intensity is emitted at or above an angle ten degrees below that horizontal plane, at all lateral angles around the fixture. Semi-cutoff fixtures are prohibited in the Town of Columbus.

(D) *Noncutoff*. A fixture light distribution where there is no light intensity limitation in the zone above the maximum distribution of light intensity. Non-cutoff fixtures are prohibited in the Town of Columbus.

SECTION 10.38 LIGHT MEASUREMENT TECHNIQUE

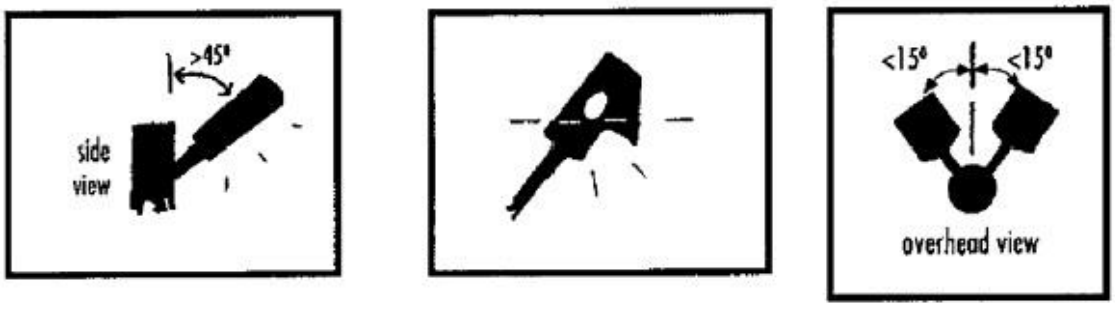
Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus 5%. Measurements shall be taken with a light meter that has been calibrated within the previous two years. Light levels are specified, calculated and measured in

footcandles (FC). All FC values are maintained footcandles unless specified otherwise. See the definition for maintained footcandles in Appendix A for maximum allowed light loss factors.

SECTION 10.39 GENERAL STANDARDS FOR OUTDOOR LIGHTING

(A) A lighting plan shall be provided for review and must be approved prior to the issuance of the building permit. The lighting plan shall demonstrate a consideration for reduced energy consumption through the selection of energy efficient fixtures which avoid intrusive lighting onto adjacent property and/or discharge of upward and scattered light. All exterior light fixtures shall be classified as providing full cutoff light distribution.

(B) Unless otherwise specified in the following divisions, the maximum light level shall be one- half maintained footcandle maintained at any property line in a residential district, or on a lot occupied by a dwelling, congregate care, or congregate living structure, unless otherwise approved by the town. Flood lights are prohibited in the Town of Columbus except as deemed necessary for sporting events or approved by town council. Existing Duke Energy owned flood lights and dusk to dawn security lights that do not meet the requirements of this ordinance shall be transitioned to acceptable fixtures as laid out in a five-year transition plan with Duke Energy. This plan states that Duke Energy will implement a transition plan to replace all lighting fixtures that are out of compliance with this ordinance over a period of the next five years. Residential flood lamps with a maximum lumen of 1,200 and angled down by 60 degrees or less are allowed. Lamps shall be aimed such that the main beam from the light source is not visible from adjacent properties or the public street right-of-way. Residential fixtures that do not meet the lighting code shall be brought into compliance at the time of repair and/or end of life of existing fixture, or if complaints are issued by adjacent landowners.



(C) All wall pack fixtures shall be full cutoff fixtures and mounted no higher than 15 feet above ground level.

(D) All fixtures installed for the purpose of illuminating public or private streets shall be full cut-off and shall comply with the standards of this section. LED lighting shall be restricted to 3000 kelvins.

(E) The lighting plan shall demonstrate a consideration for reduced energy consumption through the selection of energy efficient fixtures.

(F) All site lighting including security dawn to dusk fixtures shall be full cutoff, not to exceed 4500 lumens, with a mounted pole height not to exceed 15 feet above finished grade. With the exception of essential all-night security lighting, the plan shall demonstrate lighting reduction procedures, implemented using timers or other methods (such as fixtures that automatically change lumen output). The lighting reduction shall be active between approximately 10:30 PM and dawn. Commercial businesses will begin lighting reduction procedures within 1 hour of their closing time or by midnight, whichever comes first. For 24-hr commercial activities, this requirement may be adjusted by approval of the Town Council.

(G) Hazardous or emergency situational lighting (lighting for emergency vehicles, or lighting temporarily set up for emergencies shall be exempt.

(H) All LED lighting shall meet the B-U-G ratings noted in the applicable subsections and comply with all other applicable requirements, and shall also meet the following standards:

(1) The LED correlated color temperature (CCT) shall not be higher than 3000 K (Kelvin degrees).

(2) The maximum number of fixture lumens shall not exceed 4500 in residential districts and no more than 18,000 lumens in non-residential districts or for legal non-residential uses in residential districts, unless otherwise allowed or exempted.

SECTION 10.40 LIGHTING IN OUTDOOR AREAS (RESIDENTIAL AND NON-RESIDENTIAL)

(A) *Generally.*

(1) Other than flood lamps, all outdoor area and parking lot lighting fixtures shall be full cutoff fixtures. Any street lighting located in areas considered as "steep slope" as defined in the town's Steep Slope Ordinance, shall be full cutoff fixtures.

(2) The mounting height of all pole mounted outdoor lighting, except outdoor sports field lighting and outdoor performance area lighting shall not exceed 15 feet above finished grade, unless approved by the Town Council as having no adverse effect.

(3) Dusk-to-dawn open bottom security lights, even if privately owned, shall be fully shielded so as to provide a full cutoff lighting distribution. The Town of Columbus shall enter into a five-year transition plan with Duke Energy to replace all dusk to dawn security lighting including Duke Energy flood lights that do not currently meet the town requirements. All dusk to dawn street lighting should make the transition to acceptable full cutoff fixtures using either low sodium or LED lighting rated at no more than 3,000 kelvin temperature.

(4) Security lighting for open parking facilities: For lighted parking lots the minimum light level shall be no less than 0.2 footcandles. The minimum light level requirements vary

depending on the activity classification. The specified minimum FC value above 0.2 FC as outlined in the following table means that the lowest light level point or location in the parking lot must not exceed the minimum stated FC value in the table (i.e., 0.9 FC for large shopping centers). An average to minimum uniformity ratio of 4:1 means that the average FC to minimum FC ratio cannot be worse (higher) than 4:1. No place in any parking area in any zone may exceed a maximum footcandle reading of 5 times the minimum footcandle reading for that zone. See the following table.

Security Light Levels for Open Outdoor Parking Facilities*		
Use/Task	***Maintained Footcandles***	***Uniformity Avg/Min***
Parking, residential, multi-family (1) Low to medium vehicular/pedestrian activity	Range from 0.2 Min to 0.6 Min	4:1
Parking, industrial/commercial/ Institutional/municipal High activity, i.e., large shopping centers/fast food facilities, major athletic/civic cultural events	0.9 Min	4:1
Medium/low activity, i.e., community shopping, office parks, hospitals, commuter lots, cultural/civic/recreational events, residential neighborhood shopping, industrial employee parking, schools, church parking	Range from 0.2 Min to 0.7 Min	4:1
**Source: IESNA 8th Edition Lighting Handbook; Modification: Medium and Low Activity Level recommendations have been combined.*		
Notes: 1. Illumination levels are horizontal on the task, e.g., pavement or area surface. 2. Uniformity ratios dictate that average illuminance values shall not exceed minimum values by more than the product of the minimum value and the specified ratio. For example, for commercial parking medium/low activity, the average footcandles shall not be in excess of 2.8 (0.7 x 4). 3. A low/medium activity can be reclassified upward when appropriate and only with town Planning Department approval. 4. Examples of lighting measurements taken during the development of this Part are provided in the appendix.		

(B) *Exceptions.*

(1) Decorative post mounted fixtures must meet the full cutoff classification unless considered grandfathered by the town council. Any replacements must be brought to code. Mounting heights of 18 feet or less above ground are allowed when the maximum initial lumens generated by each fixture does not exceed 9,500 initial lamp lumens and if LED 3000 Kelvin.

(2) Temporary lighting for special events of short duration. Typically, these are low wattage or low voltage applications for public festivals, celebrations and the observance of holidays, carnivals, and celebrations. Portable (non-permanent) internally-illuminated signs come under this classification and, as such, can be used for up to 30 days only.

(3) Airport lighting controlled by the Federal Aviation Administration (FAA).

(4) Lighting of the United States of America and state flags and other flags or insignia of any governmental, non-profit or business organization.

SECTION 10.41 LIGHTING FOR VEHICULAR CANOPIES.

Areas under a vehicular canopy shall have an average maximum horizontal illuminance of 20 maintained footcandles (FC). Areas outside the vehicular canopy shall be regulated by the standards of Section 10.40 above. Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include one or both of the following: Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the vehicular canopy that provides a full cutoff or fully shielded light distribution. Surface mounted fixture incorporating a flat glass that provides a full cutoff or fully shielded light distribution.

SECTION 10.42 OUTDOOR SPORTS FIELD/OUTDOOR PERFORMANCE AREA LIGHTING

(A) The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed 50 feet from finished grade unless approved by the town Zoning Board of Adjustment.

(B) All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices).

(C) The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area. The maximum light level shall be one-half maintained footcandles at any property line in a residential district, or on a lot occupied by a dwelling congregate care or congregate living structure.

(D) Non-conforming fixtures lighting sports fields may be replaced or otherwise changed if no more than 30% of the existing non-conforming fixtures are replaced or changed. However, if more than 30% of the existing non-conforming fixtures are replaced, then all the fixtures must be brought into compliance with the requirements of these lighting standards.

(E) The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event.

(F) The maximum number of fixture lumens shall not exceed 38,600 lumens for sports courts and 121,000 lumens for sports fields and outdoor performance areas.

SECTION 10.43 NATURAL RECREATION AREAS

These locations are intrinsically dark landscapes at night. These areas include state and national parks, conservation areas, natural recreation areas and areas adjacent to optical astronomical observatories. These places are used for camping and the like, where a naturally dark environment is desired and are designated by the town.

(A) Light reduction procedures begin at approximately 10:30 PM with limited essential safety and security lighting.

(B) All fixtures shall be full cut-off fixtures using either low sodium or LED lighting rated at no more than 3000 Kelvin temperature.

SECTION 10.44 LIGHTING OF OUTDOOR DISPLAY AREAS

The following provisions apply to outdoor display areas except for car dealership parking lots, as specified in subsection (D) below.

(A) Parking lot outdoor areas shall be illuminated in accordance with the requirements for subsection 10.40(A)(4) above. Outdoor display areas shall have a maximum average maintained illuminance of 20 maintained footcandles.

(B) All light fixtures shall meet the IESNA definition of cutoff fixtures. Forward throw fixtures (type IV light distribution, as defined by the IESNA) are required within 25 feet of any public street right-of-way. Alternatively, directional fixtures may be used provided they shall be aimed in accordance with Section 10.39(A) and (B) above.

(C) The mounting height of outdoor display area fixtures shall not exceed 15 feet above finished grade.

(D) For car dealership parking lots, the following provisions shall apply.

(1) Full cutoff fixtures shall be used.

(2) Mounting heights: Up to a maximum of 15 plus two-foot raised base for parking areas as needed.

(3) Lighting at the plane defined by the row of car bumpers closest to the street right-of-way may not exceed a maximum average maintained illuminance of 20 footcandles.

(4) Lighting in the non-display area of the parking lot after hours shall be no higher than seven FC average maintained.

(5) After normal business hours, lighting in the display area must be turned off or illuminated at an average maintained illuminance not to exceed 7 footcandles.

(E) The use of klieg lights or search lights for the purpose of advertising sales or grand openings shall not be allowed.

SECTION 10.45 LIGHTING OF BUILDINGS

(A) Lighting fixtures shall be selected, located, aimed and shielded so that direct illumination is focused exclusively on the building facade, plantings and other intended site features, and away from adjoining properties and the public street right-of-way.

(B) Illumination on any vertical surface or angular roof shall not exceed five FC average maintained.

(C) To the extent practical and where possible, lighting fixtures shall be directed downward rather than upward.

(D) When upward aiming is used, placement of low lumen fixtures with shields (as needed) close to the building to graze the facade is required to minimize reflected light from windows and other surfaces. The Planning Department can waive this requirement in rare and unusual cases if it is demonstrated that the physical location of light fixtures close to the building to accomplish this design is not possible.

SECTION 10.46 PERMANENT SIGN AND BILLBOARD LIGHTING

(A) Lighting fixtures illuminating signs and billboards shall be aimed and shielded so that direct illumination is focused exclusively on the sign. Externally lighted signs shall be lighted from the top of the sign downward. The Planning Department can waive this requirement in rare and unusual cases if it is demonstrated that the physical location of light fixtures for top down aiming is not possible. The maximum watts permitted to illuminate a sign are determined by multiplying the sign face area by two watts per square foot. For additional guidance, see Article 10, Part IV. Exception: signs less than seven feet (two meters) in height above grade may be illuminated by ground mounted uplighting not exceeding 100 lamp watts per sign face.

SECTION 10.47 HOLIDAY/FESTIVE LIGHTING

Holiday/festive lighting is allowed provided it complies with the definition outlined in Appendix A. The connection of multiple holidays and/or festive events over a number of weeks and/or months is not permitted. Lamps below seven watts are exempt and have no restrictions on use.

SECTION 10.48 WALKWAYS, BIKEWAYS, AND PARKS (SECTIONS TO BE LIGHTED)

(A) *General*. The walkway, pathway or ground areas that are to be lighted shall be illuminated to a level of at least 0.2 and no more than one-half average horizontal maintained footcandles.

(B) *Driveway lighting*. Non-cutoff decorative or non-decorative post lighting shall be allowed when located at the end of a residential driveway. Typically, this type of driveway light is installed at the end of the drive for purposes of providing security to the residents of the dwelling. However, the driveway light shall not use a light bulb that uses energy at a rate higher than 60 watts.

SECTION 10.49 LANDSCAPE LIGHTING

All landscape and residential facade lighting systems shall employ shielded directional luminaires not to exceed 40 lamp watts. The luminaires shall be aimed such that the light source cannot be seen from any reasonable viewing point on an adjacent property.

SECTION 10.50 PERMITTING AND APPROVAL PROCESS

A permit shall be required for work involving outdoor lighting for commercial, office, industrial and institutional projects with a gross floor area of more than 5,000 square feet, residential projects of more than six units consisting of non-single-family detached dwellings, all major subdivisions, all vehicular canopies, and all outdoor display areas.

(A) The applicant for a permit shall submit the appropriate supporting documentation at the time the application is submitted for review. The documentation submitted shall include, but not be limited to the following, all or part of which may be part of, or in addition to, the information required elsewhere in this Part, and by the policies and procedures established by the town:

(1) A lighting plan to scale that shows a point-by-point footcandle array on a 10 feet by 10 feet grid in a printout format indicating the location and aiming of illuminating devices. The printout shall include a summary table to indicate compliance with the average maintained and minimum footcandles and average to minimum uniformity ratios. FC point values in the appropriate areas to determine light trespass compliance is also required. The lighting plan shall include as a minimum an arrangement of the subject outdoor lighting, a fixture schedule detailing the mounting height and technique, fixture type, bulb type and wattage, controls, lenses, and the like. The lighting plan shall demonstrate a consideration for reduced energy consumption through the selection of energy efficient fixtures as well as the implementation of the stated lighting practices as outlined throughout this Part; and

(2) A point-by-point photometric footcandle array created from industry recognized lighting software systems and/or manual calculations created by a professional engineer, lighting certified professional, vendor or an individual that possesses the skills to perform the calculations. Methods used for calculating the lighting footcandle levels shall be indicated in the application documentation. The footcandle array shall be provided in a hard copy printed format indicating the location and aiming of all applicable illuminating devices covered under the subject application based on the site and/or building arrangement plan complete with consideration of adjoining properties and roadways. Description of the illuminating devices, fixtures, lamps, supports, reflectors, poles, raised foundations and other devices (including but not limited to manufacturers or electric utility catalog specification sheets and/or drawings, and photometric report indicating fixture classification [cutoff fixture, wall pack, Hood light and the like]).

(B) Projects that are not required to submit items identified in this Section 10.50 are still subject to comply with the provisions of this Part and may be required to provide this information upon request.

(C) The Town UDO Administrator or his or her designee may modify and/or waive any part(s) of the above referenced permit requirements, provided the applicant can otherwise demonstrate

compliance with this code. Note: An example of this provision might be where a contractor or utility repeatedly installs the same lighting equipment on different projects in the town. One submittal containing the specification sheets of a particular group of fixtures may be sufficient for the Planning Department to modify the project requirement and require that only the other provisions of the ordinance be met since the fixture specification provisions have already been met. This modification would conserve town personnel and lighting supplier/installer resources.

SECTION 10.51 NONCONFORMITIES

(A) Any lighting fixture lawfully in place or approved by the town prior to the adoption of this Part shall be exempt from these requirements.

(B) All dusk to dawn utility type lights installed prior to the adoption of this Ordinance will be exempted from full cutoff requirements for up to five years from this date. After five years, all such lights shall be discontinued, removed or made to conform to the provisions of this ordinance.

(C) All utility owned flood lights installed prior to [insert effective date here] will be exempted from the prohibition on flood lights for up to five years from this adoption date. After five years, all such lights shall be discontinued, removed or replaced with conforming fixtures. Existing floodlights that are privately owned may continue to be used provided the light fixture is angled down and/or shielded so that it produces a full cutoff distribution until time of fixture change, or if complaints are issued by adjacent landowners.

(D) Routine maintenance, including changing the lamp, ballast, starter, photo control, lens and other required components, is permitted for all existing fixtures. When the fixture housing is changed, the fixture must come into compliance.

(E) Should the property owner fail to bring the lighting system into compliance, the property owner shall be subject to the civil penalties set forth in Section 1.14. Appeals regarding the interpretation or application of this ordinance may be taken to the Board of Adjustment in the manner provided in Section 4.26.

(F) Vehicular canopies do not qualify for the exemption for non-conforming structures described in subsection (A) above and shall have five years from the adoption date of this Part to bring the outdoor lighting into compliance. If a major renovation of the canopy (25% or more of the existing light fixtures) occurs at this facility prior to the expiration of the five-year term, the earlier date will apply regarding compliance.

(G) Property owners that install lighting fixtures after the effective date of this Part and are found to be in non-compliance shall receive written notification according to this Part.

(H) See Section 10.42(D) above for nonconformity provisions for outdoor sports fields and performance areas.

SECTION 10.52 TO SECTION 10.55 RESERVED

PART VI. ADEQUATE PUBLIC FACILITIES

SECTION 10.56 TITLE

This Part shall be known, and may be cited, as the Town's "Adequate Public Facilities Ordinance."

SECTION 10.57 PURPOSE; INTENT

The purpose and intent of this Part is:

(A) To ensure that public facilities needed to support new residential and commercial development meet or exceed the level of service standards established herein;

(B) To ensure that public facilities needed to support new development meet adopted level of service standards;

(C) To ensure that the town maintains realistic Capital Improvements Programs to accommodate new development based on its ability to provide adequate public facilities to that development;

(D) To protect the small town character of the town and to conserve the value of buildings and encourage the most appropriate use of land throughout the town;

(E) To ensure that adequate public facilities needed to support new development are available within a reasonable period of time as new development occurs;

(F) To establish uniform procedures for the review of adequate public facilities applications subject to the standards and requirements of this Part;

(G) To encourage the efficient development of land in the town;

(H) To ensure that new growth occurs at a rate that is consistent with the town's and its partnership agencies' obligation and ability to provide public facilities;

(I) To encourage development in areas where public facilities are adequate and/or planned in Capital Improvement Programs;

(J) To ensure that all applicable legal standards and criteria are incorporated in these procedures and requirements; and

(K) To ensure that proposed development will not adversely affect the public health, safety and general welfare of existing and future residents of the town.

SECTION 10.58 FINDINGS

In adopting this Part, the town hereby finds and determines as follows:

(A) The public facilities subject to the provisions of this Part are necessary for the public health, safety and general welfare;

(B) New growth and development within the town has an impact on the availability and capacity of public facilities, the capacity of which can be maintained if development is approved consistent with adopted level of service standards;

(C) The town has prepared and adopted a Capital Improvements Program to provide the public facilities needed to accommodate reasonable rates of growth and development, which CIP will be reviewed and updated if necessary annually to reflect changes in the town's growth rate, available financial resources, and other relevant factors;

(D) The level of service standards adopted for each public facility are necessary for the protection of the public health, safety and welfare, and will not unduly inhibit new growth and development within the town; and

(E) This Part is necessary so that continued growth does not outstrip the town's ability to plan for and fund necessary public facilities.

SECTION 10.59 LEVEL OF SERVICE STANDARDS

The level of service standards applicable to public facilities are as follows.

(A) *Law Enforcement.*

(1) For purposes of determining compliance with the level of service standard for law enforcement, an inventory of the number of law enforcement service units (LESU) shall be maintained by the Town Manager.

(2) The Town Manager shall forward the application to the Chief of Police of the town for his or her review and comments. The Town Manager shall consider the comments and recommendations of the Chief of Police, but shall remain the ultimate authority to determine whether LESLTs are adequate for the purposes of this Part.

(3) One police officer shall be added when 250 new residential and/or commercial units are added.

(B) *Fire Protection.* The Town Manager shall forward the application to the Fire Chief of the town for his or her review and comments. The Town Manager shall consider the comments and recommendations of the Fire Chief, but shall remain ultimate authority to determine whether the current fire protection is adequate for the purposes of this Part.

(C) *Community Parks and Greenways.*

(1) This subsection shall be according to Part VI of this Ordinance. For purposes of determining compliance with the level of service standard for parks, greenways and other recreational facilities, an inventory of the number of PTEs shall be maintained by the Town Manager.

(2) The Town Manager shall forward the application to the Public Works Director of the town for his or her review and comments. The Town Manager shall consider the comments and recommendations of the Public Works Director, but shall remain the ultimate authority to determine whether FTEs are adequate for the purposes of this Part.

(D) *Water Services.*

(1) For purposes of determining compliance with the level of service standard for water infrastructure maintenance, an inventory of the number of FTEs shall be maintained by the Town Manager.

(2) The Town Manager shall forward the application to the Public Works Director of the town for his or her review and comments. The Town Manager shall consider the comments and recommendations of the Public Works Director, but shall remain the ultimate authority to determine whether FTEs are adequate for the purposes of this Part.

(3) Water requirements shall not apply to agricultural uses. The water standard applies to water supply and water treatment needed to accommodate the gallons per capita per day (gpcd) generated by residential and non-residential uses. Usage figures for residential and non-residential usage are taken from actual historical usage of water as pumped and the town water supply plan. Flow rates used to estimate the demand produced by proposed development shall comply with 15A NCAC § 18C.0409, which is hereby incorporated by reference and made a part of this Part, unless a different standard is identified in any local water supply plan for the service area adopted pursuant to G.S. § 143- 55(1), in which case the flow rates identified for the particular use in the water supply plan may be used. If the category of development proposed in the application is not identified in the above-referenced regulations, the professional engineer shall use the applicable industry and manufacturer's standards to calculate average and peak daily flows and demands, in gallons per day. The capacity for elevated storage and distribution systems shall comply with 15A NCAC §§ 18C.0805 to 18C.0901, which regulations are hereby incorporated by reference. Approval through the adequate facilities process outlined in this section shall in no manner imply approval of required distribution systems.

(E) *Wastewater.*

(1) For purposes of determining compliance with the level of service standard for water infrastructure maintenance, an inventory of the number of FTEs shall be maintained by the Town Manager.

(2) The Town Manager shall forward the application to the wastewater treatment plant operator the town for his or her review and comments. The Town Manager shall consider the comments and recommendations of the Wastewater Treatment Plant Operator, but shall remain the ultimate authority to determine whether FTEs are adequate for the purposes of this Part.

(3) The wastewater standard applies to wastewater treatment plants (WWTPs), interceptor sewers and pumping stations. The standard for source facilities applies only to treatment capacity legally reserved for usage by the town wastewater plan. Flow rates used to estimate the demand produced by the proposed development shall be consistent with the assumptions set forth in 15A NCAC 18A.1949 (Sewage Flow Rates for Design Units), as the section may be revised from time to time. If the category of development proposed in the application is not identified in 15A NCAC 18A.1949, the professional engineer shall use the applicable industry and manufacturer's standards to calculate average and peak daily flows and demands, in gallons per day. Approval through the adequate facilities process outlined in this section shall in no manner imply approval of required interceptor and collection systems.

SECTION 10.60 TOWN MANAGER; WRITTEN DETERMINATION

After completion of the preliminary finding, the Town Manager shall make a separate written determination that:

(A) The application shall be approved because public facilities are at the adopted level of service;

(B) The application shall be denied because public facilities are not at the adopted level of service;

(C) The application shall be approved as to the portion of the development for which public facilities are available and adequate and shall be approved subject to the deferral of the remainder of the development until all public facilities are available and adequate if public facilities in the impact area are not adequate to meet the adopted level of service for the entire proposed development, consistent with the requirements of this Part; or

(D) The application shall be approved because the applicant has made an agreement with the Town Council to construct or secure funding for the necessary facilities, consistent with the requirements of Section 10.64 below.

SECTION 10.61 DETERMINATION; APPLICATION

A determination of adequate public facilities for an application shall remain valid until the earlier of:

(A) The expiration of the application; or

(B) If no expiration period is provided for in the approval of the application, the determination shall expire upon expiration of the preliminary plat application.

SECTION 10.62 TABLE OF STANDARDS.

The following level of service standards shall apply to each applicable public facility:

Facility	Applicability	Level of Service	Impact Area
Law Enforcement	All applications	1 LESU per 1,000 residents[1]; 7 police vehicles	Town limits
Fire Protection[2]	All applications	1 full-time M-F Paid Assistant Chief per 5,000 residents[3]; Fire station; 2; 8 vehicles	Town service area
EMS[2]	All applications	1 FTE per 1,600 residents[4]	County-wide
Community Parks	All applications	1 community park per 1,000 residents	Town limits
Planning and Inspections	All applications	1 FTE per 5,000 residents	Town limits
Streets	All applications	1 FTE per 2,500 residents[5]; 1 dump truck; 1 leaf machine; 1 tractor	Town limits
Water[6]	All applications	4 FTEs per 2,500 customers[7]; 2 administrative FTEs; 3,500 gpd; 4 wells with a 920 gpm capacity; 3 vehicles; 1 public works office 2,000 sq. ft.; 1 public works shed 3,000 sq. ft.	Town service area
Wastewater[8]	All applications	3 FTEs per 2,500 customers[7]; 2 administrative FTEs per 2,500 residents; 4,800 gpd; 5 lift stations; 3 vehicles; 1 wastewater treatment plant 800,000 gpd capacity	Town service area

[1]Police staff would need to increase by 3 staff members when population reaches 2,500.
[2]EMS and Fire protection are sections that function independently from the Town; they are operated by the County.
[3]Serves 5,000 people actual capacity 10,000 before adding one additional full-time staff. No new buildings added until over 10,000. Additional vehicles must be justified by the need for entire service area not just town corporate limits.
[4]EMS is currently understaffed by 3 FTEs and possibly 5 FTEs depending on the demographics of the population and call volumes.
[5]Streets would require the hire of one new full-time employee when population reaches 2,500.
[6]Serves 2,200 people recommended capacity is for 4,500 people without additional wells or other water sources. This would only be pumping wells at 67% capacity.
[7]Current water and sewer staff would need to be increased by one FTE each when population reaches 2,500.

[8]Serves 1,500 people recommended capacity is for 464,000 more gallons per day which would utilize only 70% of available capacity with plant working at optimal service standards.

SECTION 10.63 APPLICABILITY

Except as provided in subsection (D) below, the provisions of this Part shall apply only to development proposals submitted on or after the effective date of this Ordinance, as follows.

(A) *Residential Uses.* This Part shall apply to major residential subdivision proposals that involve more than six lots or dwelling units.

(B) *Nonresidential Uses.* This Part shall apply to nonresidential development proposals that either:

(1) Involve 5,000 square feet or more of floor area; or

(2) Five hundred or more daily vehicle trips.

(C) Consecutive or sequential applications.

(1) Proposed developments may not be phased or subdivided in piecemeal fashion to avoid application of this Part.

(2) Two or more developments represented to be separate developments shall be aggregated and treated as a single development under this Part if the Town Manager or his or her designee determines them to be part of a unified plan of development and physically proximate to one another, based on the fact there is unified ownership as indicated by the fact that:

(a) The same person has retained or shared control of the developments;

(b) The same person has ownership or a significant legal or equitable interest in the developments;

(c) There is common management of the developments controlling the form of physical development or disposition of parcels of the development;

(d) There is a reasonable closeness in time between the completion of 80% or less of one development and the submission to the town of a development proposal for a subsequent development that is indicative of a common development effort;

(e) The voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments;

(f) There is a common advertising scheme or promotional plan in effect for the developments; and/or

(g) Any information provided by the applicant that the project is not being phased or subdivided to avoid the requirements of this Part.

(D) *Exemptions.* The following development project proposals shall be exempt from complying with the requirements of this Part.

(1) *Essential public services.* The provisions of this Part shall not apply to essential public services.

(2) *Agricultural and farm uses.* Upon determination of the Administrator, the provisions of this Part shall not apply to any lands or structures dedicated to bona fide farm purposes.

(3) *Accessory structure or use.* The provisions of this Part shall not apply to any development proposal, or portion thereof, that is an accessory structure or use.

(4) *Previously-approved development.* The provisions of this Part shall not apply to any development proposal that was part of a conditional zoning plan or subdivision plan submitted prior to the effective date of this Part.

(5) *Vested rights.* This section shall not be interpreted or deemed to affect any rights that have vested prior to the effective date of this Ordinance, nor shall any provision of this Part be applied to a specific property or applicant in a manner that would result in a taking of a property.

SECTION 10.64 FINAL DETERMINATION OF ADEQUACY

(A) Subject to the requirements of this Part, a final determination of adequacy by the Town Manager or his or her designee must be submitted in conjunction with any development proposal.

(B) No development proposal will be accepted by the town unless a final determination of adequacy is submitted with the application.

(1) *Requirements for adequate public facilities (APF) application.*

(a) Prior to submission of an adequate public facilities (APF) application, the applicant must meet with the Town Manager or his or her designee to confirm the scope and applicability of this Part and to identify potential public facility deficiencies that may need to be mitigated.

(b) At or following the pre-submittal meeting, the Town Manager or his or her designee shall:

1. Provide the current APF schedule;

2. Identify planned and funded capital improvements that affect available capacity for the project;

3. Provide other relevant and available demand and capacity information for public facilities; and

4. Summarize the scope of the APF application requirements, which shall include, but not necessarily be limited to, the information listed in subsection (B)(2) below.

(2) *General APF application requirements.* The APF application shall include:

(a) A description of the proposed development, including the type and amount of each proposed land use;

(b) A phasing schedule, as applicable;

(c) A description of any past or proposed public facility dedicated, constructed or funded in order to mitigate the impacts of the proposed development;

(d) A mitigation plan, if applicable, proposing any improvements to be completed by the applicant; and

(e) Other information required by the Administrator in order to evaluate the APF application and to make a determination of adequacy.

(3) *Completeness review.* Within ten business days of its receipt, the Manager or his or her designee shall determine whether the APF application is complete and complies with the submission requirements set forth in subsection (B)(2) above. If the APF application is complete and the submission requirements have been met, the Manager or his or her designee shall provide copies of the application to responsible agencies and town departments for review and input regarding available capacity. If the APF application is not complete, the Administrator will notify the applicant of its deficiencies in writing within 15 business days of its receipt.

(4) *Determination of adequacy and allocation of capacity.* After consultation with the responsible agency or town department, the Town Manager or his or her designee shall determine whether available capacity exists for each applicable public facility, based on the level of service standards set forth in Section 10.62 above, and the following:

(a) The total capital improvements shall be calculated by adding:

1. Capacity provided by existing capital improvements, based on the LOS standards set forth in Section 10.62 above; and

2. The capacity of any planned capital improvements.

(b) The total available capacity shall be calculated by subtracting from the total capital improvements the sum of:

1. Used capacity;

2. Committed capacity;

3. Reserved capacity;

4. Allocated capacity; and

5. The demand on public facilities created by the proposed development.

(c) The Manager, or his or her designee's determination of adequacy shall be reflected in a written report that:

1. Identifies existing and planned capital improvements and any available capacity of public facilities that serve the proposed development, pursuant to the terms of this Part;

2. Describes capital improvements funded and assumed to be in place to serve the proposed development;

3. Identifies any previously dedicated, constructed or funded public facility made in order to mitigate the impacts of the proposed development;

4. Sets forth findings and conclusions related to the impact of the proposed development on available capacity; and

5. After consultation with the responsible agency or town department, states whether there is available capacity for each applicable public facility sufficient to accommodate the proposed development.

(d) Where available capacity exists for each applicable public facility, the UDO Administrator shall issue a determination of adequacy.

1. Upon issuance of a determination of adequacy by the Town Manager or his or her designee, the Manager or his or her designee shall:

a. Notify the applicant in writing within ten business days of the determination of adequacy and APF allocation; and

b. Record the APF allocation on the adequate public facilities schedule.

2. If a determination of adequacy is based on an advanced facility, the APF allocation and approval of the APF application shall be conditioned on the timely completion of the advanced facility.

(e) Once the Manager has made a determination of adequacy, this shall be presented to Council at the next regular Council for their approval.

SECTION 10.65 NON-AVAILABILITY OF CAPACITY; MITIGATION PLANS

If the Town Manager or his or her designee determines that available capacity does not exist for a particular public facility and no mitigation plan has been proposed pursuant to subsection (B)(3) below, the Town Manager or his or her designee shall deny the APF application and no determination of adequacy or APF allocation shall be entered.

(A) Upon denial of an APF application, the Town Manager or his or her designee shall notify the applicant in writing within ten business days of the denial and shall state the reasons for the denial and any actions that the applicant may take voluntarily to receive a determination of adequacy.

(B) Where there is no available capacity or upon a denial of an APF application, the applicant may:

(1) Submit a development proposal that has a reduced amount of development for which available capacity exists;

(2) Submit a phased development proposal that includes the following:

(a) A proposed phasing schedule setting forth the amount, location and timing of development associated with each proposed phase;

(b) The available capacity that will exist for each phase of development;

(c) The advanced facilities that are proposed and the location and timing of the proposed facilities based on the phasing schedule and mitigation plan as provided in subsection (B)(3) below; and

(d) Other additional information or materials identified by the Town Manager or his or her designee as necessary to ensure the timely and adequate provision of public facilities, based on the level of service standards and requirements of this Part.

(3) Propose a mitigation plan, at the applicant's expense, which provides advanced facilities that would mitigate the proportionate-shared impacts of the proposed development on public facilities, based on the level of service standards in Section 10.62 above.

(C) Should mitigation be required in conjunction with a development proposal, nothing shall preclude the participation of third-parties (public or private) in defraying all or a portion of the cost of the mitigation.

(D) Any mitigation plan that proposes the provision of advanced facilities must provide an estimate of the incremental cost of providing the advanced facilities, a schedule for commencement and completion thereof, and a description of how the advanced facilities will mitigate the impact of the proposed development.

(E) In order for a mitigation plan to be accepted, it must be approved by the Town Council.

SECTION 10.66 CAPITAL IMPROVEMENTS PROGRAM (CIP) AND APF MONITORING REPORTS

(A) *Capital Improvements Program (CIP).*

(1) The CIP is the mechanism by which the town and its partnering agencies provide new and expanded public facilities capacity needed to accommodate anticipated future population and employment at adopted level of service standards.

(2) Through the implementation of CIPs, the town will use all reasonable means to ensure that the provision of public facilities capacity is sufficient to accommodate new growth and development, consistent with the reasonable availability of revenue sources; contributions of capital improvements; and physical, environmental or topographical constraints on the expansion of the capacity of public facilities. Standard municipal services will be based on data from Rural Water, School of Government benchmarking or other widely accepted standard in the state.

(B) *Requirements for monitoring and evaluation.* The town and/or its partnering agencies shall maintain a CIP for the public facilities subject to this Article and shall implement this Part based on adopted CIPs.

(C) *Monitoring Reports.*

(1) At the beginning of each fiscal year, the Town Manager or his or her designee based on information from the responsible Department Head or agent shall prepare an annual report addressing the following:

(a) The available capacity of public facilities;

(b) Anticipated increases in residential and nonresidential development within the town;

(c) The current need for any public facilities resulting from changes in population increase, employment growth or other relevant factors;

(d) The development of lots and land uses approved prior to the effective date of this Part;

(e) Other matters or actions recommended to effectuate the purpose and intent of this Part, including any related to demand assumptions, need factors, level of service standards and other matters recommended by the Administrator for reconsideration or revision; and

(f) The projected financing for any additional capacity resulting from the factors set forth in subsections (a) through (e) above.

(2) The monitoring reports shall be made available to the Town Council and each agency or department responsible for public facilities.

SECTION 10.67 APPEALS AND VARIANCES

An applicant may seek a variance from the terms of this Part or appeal a determination by the UDO Administrator, Town Manager, or other town official or agency, in accordance with Article 4, Part V, Appeals, Variances, and Interpretations.

SECTION 10.68 APPLICATION SUBMISSION AND REVIEW PROCESS

(A) *Step 1: Pre-submittal meeting.*

(1) Prior to submittal of an APF application, the applicant shall meet with the APF Administrator to confirm the scope and applicability of the ordinance, as well as to identify potential public facility deficiencies that may need to be mitigated.

(2) At the pre-submittal meeting, the Administrator shall:

(a) Provide the current APF schedule;

(b) Identify planned and funded capital improvements that affect available capacity for the project;

(c) Provide other relevant and available demand and capacity information for public facilities; and

(d) Summarize the scope of the APF application requirements, which shall include, but not necessarily be limited to, the information listed in Section 10.64(B)(2) above.

(B) *Step 2: Submittal of APF application.* Submit APF application in accordance with Section 10.64(B)(2) above.

(C) *Step 3: Determination.* Within ten days of receipt of an APF application, the Administrator shall determine completeness of application.

(1) If application is complete, Administrator shall provide copies of application to responsible agencies and town departments for review.

(2) If application is not complete, Administrator shall notify applicant within 15 days of receipt of application.

(D) *Step 4: Determination.* Determination of adequacy (DOA) or determination of no available capacity (DONAC) by Town Manager or his or her designee, after consultation with agencies and town departments (goal of 20 working days).

(1) Where available capacity exists for each applicable public facility, sufficient to accommodate the proposed development, the Manager or his or her designee shall issue a determination of adequacy (DOA) in writing within ten business days of determination.

(2) Where no available capacity exists for a particular public facility, and no mitigation plan has been proposed, the Administrator shall issue a determination of no available capacity (DONAC), deny the APF application and notify applicant in writing within 15 business days of denial, stating the reasons for denial and any actions the applicant may take to receive a DOA.

(3) Where there is no capacity, the applicant may:

(a) Submit a development proposal that has a reduced amount of development for which available capacity exists; and/or

(b) Submit a phased development proposal that includes the following:

1. A proposed phasing schedule setting forth the amount, location and timing of development associated with each proposed phase;

2. A showing that available capacity will exist for each phase of development;

3. Where advanced facilities are proposed, the location and timing of the proposed facilities based on the phasing schedule and mitigation plan as provided in subsection (D)(3)(c) below; and

4. Other additional information or materials identified by the Administrator or other town staff as necessary to ensure the timely and adequate provision of public facilities, based on the level of service standards and requirements of this Part.

(c) Propose a mitigation plan that provides advanced facilities that would mitigate the impact of the proposed development on public facilities. Any mitigation plan that proposes the provision of advanced facilities must provide an estimate of the incremental cost of providing the advanced facilities, a schedule for commencement and completion thereof, and a description of how the advanced facilities will mitigate the impact of the proposed development.

(4) In order for a mitigation plan to be accepted, it must be approved by the Town Council.

SECTION 10.69 TO SECTION 10.75 RESERVED

PART VII. SUBDIVISIONS

SECTION 10.76 PURPOSE

The purpose of this Part is to establish the requirements for plat and plan submittal for subdivisions in accordance with the processes set forth in Article 6.

SECTION 10.77 SUBDIVISION TYPES

For all subdivisions of land as defined in Appendix A, the following categories of subdivisions shall be used to determine the procedures required for review.

(A) *Two Lot Subdivision.* A two-lot subdivision involves not more than two lots and does not adversely affect the remainder of the parcel or the adjoining property.

(B) *Family Subdivision.* A subdivision of land by a property owner among his immediate family as a gift, as settlement of the property owner's estate, or for nominal consideration; the conveyance of a tract or tracts to a grantee who would have been an heir of the grantor if the grantor had died intestate immediately prior to the conveyance; or the conveyance of a tract or tracts for the purpose of dividing lands among the tenants in common, all of whom inherited, by intestacy or by will, the land from a common ancestor.

(C) *Minor Subdivision.* A subdivision of land by a property owner into three, four or five lots or parcels.

(D) *Major Subdivision.* A subdivision of land by a property owner into six or more lots or parcels.

(E) *Cluster Development Subdivision.* A type of major subdivision that is intended to allow smaller than minimum lot sizes with dwelling units clustered in smaller areas in order to preserve larger areas of open space and environmental resources.

(F) *Special Subdivision.* A special subdivision is for purposes other than general, residential, or commercial development including:

(1) Building locations for condominiums or townhouses within an approved major subdivision;

(2) Utility facilities such as sub-station sites, meter vaults, pump station sites and the like; and

(3) Cemetery plots.

(G) *Other Subdivisions.* Any other subdivision of land which does not fall within a category designated above shall be subject to review by the Board of Adjustment.

SECTION 10.78 MASTER PLANS FOR PHASED MAJOR SUBDIVISIONS

(A) *Master Plan Labeling.* All phased major subdivision master plans shall include but are not limited to the following information:

(1) Title;

(2) Original submittal date;

(3) Revision dates;

(4) Vicinity map;

(5) North arrow;

(6) Scale (no smaller than one inch equals 200 feet);

(7) Phase lines;

(8) Proposed timetable for development;

(9) Proposed lot lines;

(10) Zoning districts;

(11) Adjacent property owner names, parcel numbers and zoning;

(12) Total acreage;

(13) Proposed acreage in lots;

(14) Proposed acreage in street right-of-way;

(15) Proposed acreage and percent of overall development in open space;

(16) Overall density per acre;

(17) Building setbacks in table format;

(18) Locations of existing structures;

(19) Boundaries of flood plains or note stating that property is not within one;

(20) Existing topography and designation of slopes greater than 50%;

(21) General environmental information;

(22) Proposed street types and cross sections;

(23) A statement regarding the proposed amount of grading to take place; and

(24) A statement regarding the proposed method of stormwater management.

(B) Master plan submittal requirements:

(1) Three full-size copies for staff review;

(2) Three full-size copies and one reduced (11 inches by 17 inches) copy for Planning Board; and

(3) One digital copy in .pdf format.

SECTION 10.79 PRELIMINARY PLATS FOR MINOR AND MAJOR SUBDIVISIONS

(A) The preliminary plat shall depict or contain the following information.

(B) Where "proposed/actual" is noted, the proposed information shall be shown on the preliminary plat and the actual information shall be shown on the final plat. Preliminary plats shall be clearly and legibly drawn at a scale of not less than 200 to one inch acceptable to the Register of Deeds of the county.

(1) *Labeling.*

(a) Name and address of owner of record;

(b) Name of subdivision;

(c) Location (town, county, state);

(d) Date(s) of survey(s);

(e) Graphic scale and written scale (common engineering scale between one inch equals 20 feet and one inch equals 200 feet);

(f) North arrow;

(g) Name, address and registration number of registered land surveyor;

(h) Tax parcel identification number;

(i) Vicinity map showing the relationship between the proposed subdivision and surrounding area;

(j) Boundaries of the tract shown with bearings and distances;

(k) Map depicting the proposed phases of the subdivision and lots and/or sections contained therein and a tentative phasing schedule/timeline;

(l) Names of adjacent property owners;

(m) Proposed lot lines and corners, lot and block numbers, and approximate dimensions including acreage;

(n) Existing buildings or structures, railroads and bridges on the land to be subdivided;

(o) Existing uses of the land within the proposed subdivision;

(p) Location of any cemetery;

(q) Proposed school sites, parks or other open spaces; and

(r) Location of the flood hazard, floodway and flood fringe boundaries, if applicable.

(2) *Roads.*

(a) Existing and platted roads on abutting properties and in the proposed subdivision with rights-of-way, location and dimensions;

(b) Road name(s) and designation of private or public dedication;

(c) Linear feet in roads;

(d) Street cross sections showing right-of-way-width, pavement width, and shoulder, as well as any additional features such as curb and gutter, sidewalks, street trees and street lights; and

(e) State Department of Transportation (NCDOT) written approval of any public road plans, if applicable.

(3) *Utilities.*

(a) Utility and other right-of-ways or easements of record on and abutting to the subdivision;

(b) Transmission lines;

(c) Approximate location of natural gas lines;

(d) Approximate location of water and sanitary sewers existing, approximate location, size and plans for connection to private community or public community or public systems; and

(e) Storm sewers, culverts, detention ponds and other drainage facilities, if any (proposed/actual).

(4) *Site Calculations.*

(a) Acreage in total tract to be subdivided;

(b) Total number of lots and/or units;

(c) Area of each lot in acres;

(d) Acreage in open space and percentage of total development area;

(e) Acreage in parks, lakes or other public land usage;

(f) Average lot size; and

(g) Proposed minimum building setback lines or note explaining setback lines.

(5) *Other Details.*

(a) Location and name of all water courses, as identified on U.S.G.S. seven and one-half minute series (topographic) maps;

(b) Note all lots or building sites with an elevation of 3,000 feet above sea level or greater;

(c) Stormwater plan and analysis;

(d) Environmental survey for major subdivisions in accordance with subsection 10.81(B)(2) showing existing conditions including topography, slopes greater than 50%, large stands of trees, any tree over 18 inches in diameter, significant rock outcroppings, slopes steeper than 15%, floodplains, floodways, wetlands, perennial streams, natural drainageways, lakes, other water bodies and the presence of any known endangered species indicated in any surveys completed by the state or other governmental agency. Photographs, representative of the property's features, shall also be provided;

(e) Landscaping plan, if applicable;

(f) Lighting plan, if applicable; and

(g) Other infrastructure details deemed necessary by the UDO Administrator.

(6) *Certificates and Other Documentation.*

(a) *Certificate of Approval for Preliminary Plat for Minor Subdivisions.* This certifies that the UDO Administrator approved the preliminary plat of the _____ Subdivision on the ___ day of _____, 20___.

_____
UDO Administrator

(b) *Certificate of Approval for Preliminary Plat for Major Subdivisions.* This certifies that the Town of Columbus Town Council approved the Preliminary Plat of the _____ Subdivision on the _____ day of _____, 20___.

_____
Mayor, Town of Columbus or Designee

(c) *Certificate of Steep Terrain Health Protection (if applicable).* I hereby certify that all lots on slopes of greater than 20% meet the provisions and minimum lot size requirements as set forth in Article 9 of the Town of Columbus Unified Development Ordinance.

_____ _____ _____
Professional Engineer or Surveyor Registration Number Date

(d) Grading and Erosion Control Plan and a North Carolina Department of Environment Natural Resources (NCDENR) written approval, if applicable.

(e) Written approval from the town for provision of public water and sewer, if applicable.

(f) NCDENR written approval for a community or public sanitary sewer system, if applicable.

(g) NCDENR written approval for a public or community water system, if applicable.

(h) A written statement, if applicable, that: "The Polk County Health Department has expressed no opinion as to the suitability of private septic systems or water systems on this property. Each lot is subject to individual inspection and approval of septic systems."

(i) A copy of any required NCDOT driveway permit application.

(j) Any other information considered by the subdivider, the Planning Board, the Town Council and/or UDO Administrator to be pertinent to the review of the plat.

(C) *Preliminary Plat Submittal Requirements.*

(1) Two full-size copies for staff review;

(2) Three full-size copies and one reduced (11 inches by 17 inches) copy for Planning Board and Town Council; and

(3) One digital copy in .pdf and .dwg formats.

SECTION 10.80 FINAL PLATS FOR ALL SUBDIVISIONS

(A) The final plats shall depict or contain the following information.

(B) Final plats shall be clearly and legibly drawn by a registered land surveyor currently licensed in the state by the State Board of Registration for Professional Engineers and Land Surveyors.

(C) The plat shall also be drawn at a scale of not less than 200 feet to one inch and shall be drawn on a sheet size of Mylar acceptable to the Register of Deeds of the county.

(D) *Final Plat Requirements for All Subdivisions.*

(1) *Labeling.*

(a) Name and address of owner of record;

(b) Name of subdivision;

(c) Location (town, county, state);

(d) Date(s) of survey(s);

(e) Graphic scale and written scale (common engineering scale between one inch equals 20 feet and one inch equals 200 feet);

(f) North arrow;

(g) Name, address, registration number and seal of registered land surveyor;

(h) Tax parcel identification number;

(i) Vicinity map showing the relationship between the proposed subdivision and surrounding area;

(j) Boundaries of the tract shown with bearings and distances;

(k) Names of adjacent property owners;

(l) Lot lines and corners, lot numbers, bearings and distances and other dimensions including acreage;

(m) Areas reserved for school sites, parks or other open spaces;

(n) Location of the flood hazard, floodway and flood fringe boundaries, if applicable;

(o) Existing buildings or structures, railroads and bridges on the land to be subdivided; and

(p) Names of adjacent property owners.

(2) *Roads.*

(a) Existing and platted roads location and dimensions; and

(b) Road name(s).

(3) *Utilities.*

(a) Utility and other easements of record on and abutting to the subdivision;

(b) Transmission lines;

(c) Approximate location of natural gas lines;

(d) Sanitary sewers, location and size if community systems are proposed; and

(e) Storm sewers, culverts, detention ponds and other drainage facilities, if any.

(4) *Site Calculations.*

(a) Acreage in total tract to be subdivided;

(b) Total number of lots;

(c) Linear feet in roads, if applicable;

(d) Area of each lot in acres; and

(e) Minimum setbacks in table and graphic form.

(5) *Other Details.*

(a) Location of control corners;

(b) Location and description of all monuments, reference markers and property and lot corners designation of any and all wetlands;

(c) For family subdivisions, a road maintenance agreement signed by all affected parties shall be filed with the final plat;

(d) A subdivision roads disclosure statement prepared in accordance with G.S. § 136-102.6(f) below:

Prior to entering any agreement or any conveyance with any prospective buyer, the developer and seller shall prepare and sign, and the buyer of the subject real estate shall receive and sign an acknowledgment of receipt of a separate instrument known as the subdivision streets disclosure statement (hereinafter referred to as disclosure statement). The disclosure statement shall fully and completely disclose the status (whether public or private) of the street upon

which the house or lot fronts. If the street is designated by the developer and seller as a public street, the developer and seller shall certify that the right-of-way and design of the street has been approved by the Division of Highways, and that the street has been or will be constructed by the developer and seller in accordance with the standards for subdivision streets adopted by the Board of Transportation for acceptance on the highway system. If the street is designated by the developer and seller as a private street, the developer and seller shall include in the disclosure statement an explanation of the consequences and responsibility as to maintenance of a private street, and shall fully and accurately disclose the party or parties upon whom responsibility for construction and maintenance of the street or streets shall rest, and shall further disclose that the street or streets will not be constructed to minimum standards, sufficient to allow their inclusion on the state highway system for maintenance. The disclosure statement shall contain a duplicate original which shall be given to the buyer. Written acknowledgment of receipt of the disclosure statement by the buyer shall be conclusive proof of the delivery thereof.

(e) Any other information considered by the subdivider and/or UDO Administrator to be pertinent to the review of the plat.

(6) *Certificates for All Plats.*

(a) *Certificate of Ownership and Dedication.* I hereby certify that I am (we are) the owner(s) of the property shown and described hereon, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, and dedicate all roads and other sites and easements to public use as noted in the Disclosure of Private Roadways, where applicable.

_____ _____

Date Owner(s)

(b) *Certificate of Survey and Accuracy.* I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page _____ and the like)(other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book_, page that the ratio of precision as calculated is 1: _____, that this plat was prepared in accordance with G.S. § 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____ A.D., 20____.

Official Seal _____

Registered Land Surveyor

_____

Registration Number

I, a Notary Public of the State aforesaid, certify that _____, a Registered Land Surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this _____ day of 20___.

Official Seal _____
Notary Public

Notary's Typed or Printed Name _____

My commission expires _____

(c) *Certificate of Final Approval and Recording.* I hereby certify that the subdivision plat shown hereon has been found to comply with the Town of Columbus, North Carolina Subdivision Ordinance and that this plat has been approved for recordation with the Polk County Register of Deeds.

_____ _____
UDO Administrator Date

(d) *Review Officer Certification.*

State of North Carolina

County of Polk

_____, Review Officer of Polk County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

_____
Review Officer

_____
Date

(e) *Certification of Private Water/Septic Systems (if applicable).* If the Health Department has not approved private water or septic systems then the following written statement shall be included on the plat:

"The District Health Department has expressed no opinion as to the suitability of private septic or water systems on this property. Each lot is subject to individual inspection and approval of septic systems."

(7) *Certificates for Major Subdivision Final Plats Only.*

(a) *Certificate of Approval of Design and Installation of Streets, Utilities, and Other Required Improvements (if applicable).* I hereby certify that all streets, public utilities and other required improvements have been installed in an acceptable manner and according to N.C. Department of Transportation and/or Town of Columbus specifications and standards or as otherwise provided for in this Part, or that guarantees for the installation of the required improvements in an amount and manner satisfactory to the Town of Columbus have been submitted.

Official Seal _____ _____ _____

Professional Engineer Registration Number Date

(b) *Private Road Maintenance Statement (if applicable).* A maintenance statement for private roads shall be submitted to the Planning Board with the final plat and recorded at the Register of Deeds at the time the plat is recorded.

(E) *Two-Lot, Family, and Special Subdivision Final Plat Submittal Requirements.*

(1) Two full-size paper copies and one Mylar copy for signature; and

(2) One full-size paper copy of the recorded plat.

(F) *Minor and Major Subdivision Final Plat Submittal Requirements.*

(1) Two full-size paper copies and one Mylar copy for signature;

(2) One full-sized paper copy of the recorded plat; and

(3) One digital copy in .pdf and .dwg format.

SECTION 10.81 SUBDIVISION DESIGN STANDARDS

(A) *General Provisions.*

(1) Each subdivision shall contain the improvements specified in this section, which shall be installed in accordance with the requirements of this Part and paid for by the subdivider, unless other means of financing are specifically stated in this Part.

(2) Land shall be dedicated and reserved in each subdivision as specified in this section.

(3) Each subdivision shall be constructed in accordance with minimum town, state and federal design standards, as applicable.

(4) In order to lessen possible confusion which could hamper the response time for emergency vehicles, the name of a subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the town.

(5) The applicant is required to check with the UDO Administrator prior to submission of the preliminary plat to avoid name duplication/similarity issues.

(B) *Environmental Assessment and Suitability of Land.*

(1) *Preservation of Trees and Natural Features Encouraged.*

(a) Significant forest stands, natural vegetation, specimen trees, severe natural topography, drainage features and water courses are encouraged to be preserved to the extent that is reasonable and practical while otherwise not reasonably prohibiting development.

(b) Forested and vegetated areas whose physical site conditions render them unsuitable for development should be set aside as conservation areas or as open space. Wooded sites should be developed with careful consideration of the natural characteristics of the site. When portions of forested stands must be developed, careful consideration should be given to preserving wooded perimeters or the most desirable natural features in order to retain the aesthetic or visual character of the site. Isolated pockets of existing trees or specimen trees should be protected as a valuable asset of the property.

(2) *Environmental Survey.*

(a) Environmental surveys are required at the preliminary plat stage for all major subdivisions. Identification of existing trees, known endangered species, wetlands, streams and creeks, floodplains and topographical features on a site prior to the advanced preparation of development plans enables the reasonable and practical planned preservation of existing vegetation while considering unique site conditions. An environmental survey is intended to identify forest stands, distinctive tree lines or forest edges, existing watercourses, and previously documented endangered species habitats.

(b) An environmental survey shall be completed as part of the preliminary plat in accordance with Section 10.79 above. Photographs representative of the properties features shall also be presented. The Planning Board, upon review of the environmental survey and findings that it is inaccurate or poorly done, may request the survey be redone by a professional environmental engineer.

(3) *Steep Terrain Health Protection.*

(a) *Purpose.*

1. The purpose and intent of this section is to regulate development in steep slope areas in order to preserve the public health, safety and general welfare of citizens, as well as preserve the unique character of the town.

2. The town is unique in its topography because it has mountainous terrain, substantial rolling hillsides, as well as smaller foothills. There is a higher risk associated with storm water drainage and a greater need for stronger erosion control measures in the mountainous terrain and substantial rolling hillsides.

3. This section is intended to promote environmentally sound site planning, as well as design practices that will significantly reduce risks associated with storm drainage, ground water contamination and improper disturbances in steep slope areas that cause erosion, structural failure of structures and roads and other hazards.

4. Development in steep slope areas within the town has an impact on woody and herbaceous vegetation that provides a filtering effect that directly affects water quality for all residents.

(b) *Objectives.* The following objectives serve as guidelines to fulfill the purpose of this section:

1. To protect life and property from potentially hazardous conditions particular to mountains and hillsides such as storm water runoff, erosion, slope failure and water contamination;

2. To protect vegetation that serves to stabilize steep hillsides, retain moisture, prevent erosion and enhance the town's natural scenic beauty;

3. To encourage innovative site design and planning in order for development to adapt to the natural terrain as well as be in harmony with the character of the area; and

4. To encourage road design that follows the natural topography wherever possible in order to minimize erosion, slope failure and other hazards.

(c) *Applicability and Exemptions.*

1. Except as exempted below, this section shall apply to all lots having any slopes at 20% (five:one) or greater in a subdivision.

2. Unless otherwise noted elsewhere, all subdivision regulations and applicable ordinances are in addition to those set forth in this section.

3. On the effective date of this section, property being subdivided in phases and those contiguous properties having been purchased or under contract for purchase as a part of the same subdivision shall not be required to meet the applicability of this section if:

   a. The entire tract of property to be subdivided is contiguous to an ongoing phase of a subdivision owned and developed by the same person or entity;

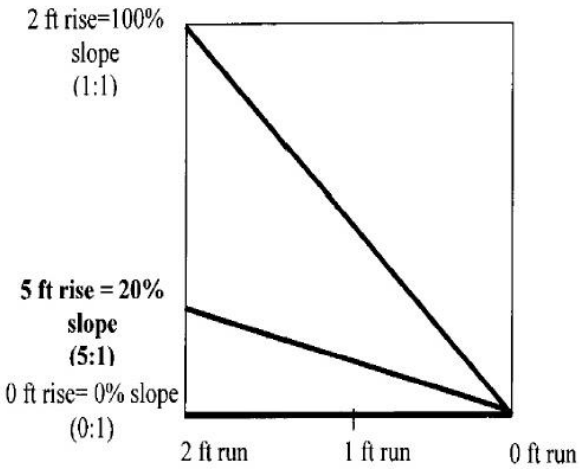
   b. A master plan of the contiguous property phases is submitted for approval by the Planning Board no later than June 1, 2007. The master plan shall follow the requirements of Section 6.5; and

   c. The contiguous property was the legal property of the person or entity or under contract for purchase by the person or entity on or before June 1, 2007.

(d) *Establishment of Steep Terrain Area.*

1. Steep terrain areas shall be identified on all site plans by a surveyor licensed to practice in the state with accurate calculations as to the acreage within each individual lot having a slope of 20% or greater. See the slope description diagram below.

Slope Description Diagram



2. The master plan or preliminary plat provided by the person or entity subdividing said property shall include the calculations for review by the Administrator.

3. The County GIS system shall be an additional resource for the Administrator's determination of acceptability.

(e) *Regulated Activity and Authority.*

1. For any portion of the acreage with a 20% slope or greater, the slope area at or above 20% grade shall be counted at 50% of its area. For example, in an area where the minimum lot size is two acres:

   a. A two-acre lot with one acre having a 20% or greater slope would be calculated as being one and one-half acres in area and would thus require additional acreage to meet the two-acre requirement; and

   b. A lot of five acres with two acres having a 20% or greater slope would be calculated as being four acres in area and would therefore meet the ordinance requirement.

2. A simple calculation method is to take the portion of property within the lot in question that has a slope of 20% or greater and divide it by two. The resulting sum plus the balance of the property having a slope less than 20% must equal at least the minimum lot required as described by this Ordinance.

   a. Subdivisions subject to this section if choosing to light the streets, shall install light fixtures of a type to emit the light toward the ground below and should be constructed and placed in a manner as to cause the least emission of lumens toward surfaces other than those directly beneath the fixture.

   b. Subdivisions subject to this section shall comply with those road specifications set forth in the current ordinance and use stabilizing techniques to strengthen banks of roadways within the subdivision.

      i. The techniques include any of the following approved by an engineer: retaining walls of materials sufficient to enhance both the safety of the roadway and appearance; or appropriate hydro seeding to stabilize the surface to both enhance the safety of the roadway

land appearance; or any other method approved by the Administrator.

ii. Where the possibility of slope failure is deemed sufficiently likely by an engineer, the Administrator is authorized to require the construction of a "bench" road, where no part of the road is built on fill.

(4) *Solid Waste and Soil Safety.*

(a) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the District Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.

(b) Areas that have been used for domestic sludge application shall be required to have a soils test performed by a certified testing laboratory prior to the subdivision of land. The results of the soils test must confirm that the land is safe for the purposes proposed.

(C) *Lots.*

(1) All lots shall abut on an approved public or private street.

(2) It is not permitted to average the lot areas in a subdivision to meet the minimum lot areas established in this section.

(3) Lot lines shall be drawn to the right-of-way of any adjacent road except where an existing property line is drawn within an existing road right-of-way.

(4) For lots utilizing private water and septic systems, all lots shall be adequate in size to accommodate 100% replacement of individual septic systems as per Health Department regulations. Also, prior to final plat approval, each multi-family residential development shall receive written approval from the District Health Department if municipal water and sewer services are not available. The approval shall state that the lot(s) proposed for multi-family residential units is (are) adequate to accommodate the proposed multi-family residential use.

(5) The Planning Board, upon recommendation by the Administrator, may approve the limited use of pan handle lots where it is impractical to serve an isolated lot by an existing or proposed road. A pan handle lot shall have a minimum road frontage of 35 feet for an access strip to an isolated building site. The access strip should not exceed 300 feet in length and the access strip shall not be used to calculate the minimum lot area unless the strip exceeds 70 feet in width.

(6) Minimum lot size requirements and setbacks are contained in the Article 9 of this Ordinance.

(D) *Open Space.*

(1) *Purpose and Applicability.*

(a) The purpose of this section is for the preservation of existing environmental resources and open space. These elements are of economic value to the town and make it a desirable place to live and visit.

(b) The requirements of this section apply to new developments with six or more residential dwelling units (major subdivisions) in which the construction of new roads is proposed. Developments in which all lots are five acres or more are exempt from this provision.

(2) *General Provisions for Open Space.*

(a) Land designated as open space on the approved development plan shall be maintained as open space and may not be separately sold, subdivided or developed.

(b) Access from a public or private street shall be provided to all designated open space with a minimum 15-foot wide access to the open space area.

(c) Open space shall be contiguous wherever possible.

(d) Town plans, particularly park and open space plans, shall be considered when evaluating proposals for dedication.

(3) *Minimum Open Space Dedication.*

(a) Open space shall be dedicated in accordance with the table below. Percentages are based on total development area.

Density	Percent Open Space
Less than 1 unit per 5 acres (less than 0.2 DUA)	N/A
Between 1 unit per 5 acres and 1 unit per 2 acres (0.2-0.5 DUA)	10%
More than 1 unit per 2 acres (more than 0.5 DUA)	15%

(b) Open space in major subdivisions to which the regulations of this section apply and which are designed for at least 15 residential dwelling units shall include at least one park area. For the purposes of this subsection (D)(3)(b) park space may be combined with playground space as those terms are defined in subsection (4) below. The amount of park space required shall be computed by first allotting one-half acre of park space for the first 15 dwelling units proposed and adding an additional half acre of park space for every 50 dwelling units thereafter

created. Park facilities required by this part may count toward a maximum of 50% of an applicant's open space dedication obligation under subsection (D)(3)(a) above. It is recommended that the park space be designed and sited as one centralized contiguous park. If the park space required by this subsection (D)(3)(b) is proposed to be broken into more than two non-contiguous smaller parks, then the area requirement shall be increased by 50%. The board or governing body charged with the responsibility of approving the proposed subdivision shall have and utilize discretion in approving multiple smaller parks (also known as pocket parks). If the proposed subdivision is to be a phased subdivision development, then the area of land that is to be the park area shall be defined prior to final plat approval and set aside and dedicated as such before beginning development of the initial phase; development of the park space situated in each phase, if any, shall proceed concurrently with the development of that phase. At least 10% of the park space required by this subsection (D)(3)(b) shall be sited and located within the boundaries of the proposed first phase of development.

(4) *Types of Open Space.* All required open space shall be classified in accordance with this section. Dedicated open space shall fit into one of the following categories and be classified as private common area open space or public open space.

(a) *Playground.* Playgrounds are for active recreational use and provide sunny and shaded play equipment and play areas for children as well as open shelter with benches. Playgrounds may be part of other types of open space, such as parks, or may stand alone. Minimum size: 10,000 square feet. Maximum size: 20,000 square feet.

(b) *Square.* Squares are areas for passive recreational use. Squares shall be bounded by streets on a minimum of 50% of their perimeter. Squares are encouraged to be entirely bounded by streets and/or lanes. Squares shall be planted parallel to all streets and shall contain canopy trees along street frontages. Minimum size: 2,000 square feet. Maximum size: one acre.

(c) *Park.* Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 10% of their perimeter. Large parks should create a central open space which services an entire neighborhood or group of neighborhoods; or incorporates physical features which are an asset to the community (i.e., lake or river frontage, high ground, significant stands of trees). Undergrowth should be limited and landscaping shall be installed in a manner that promotes attractiveness and safety. Parks may be combined with greenways and greenbelts and may include golf courses and community gardens. Minimum size: one acre.

(d) *Green.* The green is an open space which is more natural. Like the square, it is small and surrounded by buildings. Unlike the square, it is informally planted and may have irregular topography. Greens are usually landscaped with trees at the edges and open lawns at the center. Greens should contain no structures other than benches, pavilions, and memorials; paths are optional. Minimum size: 20,000 square feet.

(e) *Greenway.* Greenways are large, irregular open spaces designed to incorporate natural settings such as creeks and significant stands of trees within and between neighborhoods. Greenways are typically more natural and may contain irregular topography. Greenways shall be used for certain active recreational uses including, at a minimum, trails for walking, jogging, and biking. Greenways shall connect points of interest in the community such as schools, parks and other civic uses.

(f) *Greenbelt.* Greenbelts run along the perimeter of a neighborhood, and serve to buffer. neighborhood from surrounding non-compatible uses such as a highway corridor or industrial district, or a developed area from agricultural areas or adjacent towns. Greenbelts differ from the other types of open spaces in that they are left natural, and are not intended for recreational use.

(g) *Agricultural Preserve.* Open spaces designated as Agricultural Preserves shall be used for active farming in the form of crop cultivation, the keeping of livestock, or equestrian facilities. Agricultural preserves are encouraged to protect areas of agricultural and rural heritage and promote compatible active agricultural operations. Minimum size: five acres.

(h) *Nature Preserve.* Open spaces designated as Nature preserves shall be left largely undisturbed except for the optional clearing of underbrush for the provision of a walking trail (mulch or other natural material only). Nature preserve areas are encouraged to protect large stands of trees, wildlife, and natural water features. Nature preserves are the preferred form of open space for steep slopes in excess of 25% grade. Minimum size: three acres.

(5) *Open Space Ownership and Maintenance.*

(a) Open space may be owned or administered by one or a combination of the following methods:

1. Fee simple ownership by a unit of government or private non-profit land conservancy;

2. Common ownership by Homeowners Association;

3. Split deeded ownership by individual property owners within the subdivision;

4. By individual private ownership such as a farmer, developer or other private entity that maintains the open space in accordance with the purposes of this section, (i.e., farming, equestrian facility and the like, excluding confined livestock operations); and/or

5. Deed restricted open space easements on individual private properties.

(b) The Town Council shall have the authority to accept or reject land dedications made as a requirement of this section. They shall also have authority to sell land accepted pursuant to this section with the proceeds of the sale used only for the acquisition, expansion or improvement of recreation, park, or open space sites.

(c) The owner of dedicated open space shall be responsible for the continuing upkeep and proper maintenance of the same.

(d) In the case of common ownership by a Homeowners Association, the restrictive covenants shall provide that, in the event the Homeowners Association fails to maintain the open space according to the standards of this section, the town may, following reasonable notice, demand that deficiency of maintenance be corrected, or enter the open space to maintain it. The cost of the maintenance shall be charged to the Homeowners Association.

(e) The developer shall place in a conspicuous manner upon the final plat of the subdivision prior to final plat approval a notation concerning control of open space.

(f) The developer will provide proof of registration of the articles of incorporation with the appropriate state agency for the formation of the Homeowners Association to the Community Development Department.

(g) Homeowners' Associations or similar legal entities that are responsible for the maintenance and control of open space areas and common areas shall be established by the developer who shall record in the Register of Deeds a declaration of covenants and restrictions that will govern the association or similar legal entity. A copy of the recorded document shall be provided to the Administrator and the document shall include, but not be limited to, the following:

1. Provision for the establishment of the association or similar entity is required before any lot in the development is sold or any building occupied and membership shall be mandatory for each homeowner and any successive buyer.

2. The association or similar legal entity has clear legal authority to maintain and exercise control over the common open space areas.

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 the common areas. Further, assessments levied can become a lien on the property if allowed in the master deed establishing the homeowners association or similar legal entity.

4. The open space restrictions must be permanent, not just for a period of years.

5. The association or similar legal entity must be responsible for liability insurance, applicable taxes and the maintenance of open space and other facilities under their control.

6. The association or similar legal entity must be able to adjust the assessment to meet changing needs.

7. The association shall be responsible for maintaining all public storm water drainage systems and easements within the subdivision not being maintained by the town, county, state or other approved entity.

8. It shall be expressly stated within the restrictive covenants/homeowners association documents that it will be the responsibility of the developer or successors or assigns to enforce such covenants or restrictions until such time as control has been transferred to the Homeowners Association Board of Directors. It shall be the sole responsibility of the developer, successor or assigns to correct any deficiencies prior to transfer of control over to the Homeowners Association Board of Directors.

(E) *Easements.*

(1) *Utility Easements.* Utility easements shall be provided, where necessary, preferably centered on the side or rear lot lines and shall be at least ten feet wide.

(2) *Buffer Easement.*

(a) The Administrator may require a buffer easement not exceeding ten feet in width adjacent to a major street or between dissimilar uses of land.

(b) The Administrator also may require that the subdivider either arrange for, or be responsible for, the grading and planting of the buffer easement.

(3) *Crosswalk Easement.* A crosswalk easement of at least ten feet in width shall be provided if required by the Administrator.

(4) *Family Subdivision Road Easements.* All lots within a family subdivision may be accessed by a road easement providing a road maintenance agreement is signed by all affected parties and recorded with the family subdivision plat.

(5) *Water Course and Drainage Easements.*

(a) Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of the water course.

(b) If an easement is required for physical improvements to control drainage, it must be shown on the final plat, including access to the easement for repairs.

(c) The drainage way shall be of sufficient width to carry storm water runoff from a ten-year storm.

(F) *General Provisions for Road Design.*

(1) *Marginal Access Streets.* Where a tract of land to be subdivided joins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

(2) *Access to Adjacent Properties.* Where, in the opinion of the Planning Board, it is necessary to provide street access to an adjoining property, proposed streets shall be extended to the boundary of the property and a temporary turn-around provided.

(3) *Nonresidential Streets.* The subdivider of a nonresidential subdivision shall provide streets in accordance with the most recent edition of the NCDOT Division of Highways, Subdivision Roads, Minimum Construction Standards.

(4) *Blocks.* The lengths, widths and shapes of blocks should be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; local ordinances; needs for vehicular and pedestrian circulation and control of street traffic; and limitations and opportunities of topography.

(5) *Intersections.*

(a) Subdivision streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than 60 degrees.

(b) Right-of-ways at street intersections shall be rounded with a minimum radius of 20 feet. At an angle of intersection of less than 75 degrees, a greater radius may be required.

(c) Where public and private streets intersect, the design standards of the NCDOT Division of Highways, Subdivision Roads Minimum Construction Standards shall apply.

(d) Offset intersections are to be avoided unless exception is granted by the Planning Board and Town Council. Intersections which cannot be aligned should be separated by a minimum length of 200 feet between survey centerlines.

(e) Intersections with arterial, collectors and thoroughfares (major intersections) shall be at least 1,000 feet from centerline to centerline, or more if required by the Planning Board and Town Council.

(6) *Cul-De-Sacs.*

(a) Permanent dead-end streets should not exceed 2,500 feet in length unless necessitated by topography or property accessibility.

(b) When cul-de-sacs are required to exceed 2,500 feet in length, vehicle turn-arounds shall be provided at 1,000-foot intervals. The required turn-around on a dead-end road in a subdivision shall have an unobstructed roadway radius of not less than 35 feet.

(c) If the road length does not exceed 300 feet and if construction difficulties will not permit a turnaround, the use of "Y" or a "T" or other turning space of a design which will allow a vehicle with a wheelbase of at least 25 feet to complete a turning movement with a maximum of one backing movement, shall be permitted.

(d) Cul-de-sacs shall not be used to avoid the extension of a road, unless an exception is granted by the Planning Board and Town Council.

(7) *Through Traffic.*

(a) Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged.

(b) Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools or other places of public assembly.

(8) *Street Names.*

(a) Proposed streets which are obviously in alignment with existing streets shall be given the same name.

(b) In assigning new names, duplication of existing names shall be avoided, and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court and the like.

(9) *Street Lighting.* All developers shall refer to the town lighting policy if they choose to install streetlights in any subdivision.

(G) *Public Road Standards.*

(1) *Public Roads Defined.* A public street or road is defined as a dedicated public right-of-way for vehicular traffic which affords access to abutting properties, and is intended to be taken over by the State Department of Transportation (NCDOT).

(2) *Public Road Dedication and Maintenance.*

(a) All roads proposed for public use by the developer and seller, including those proposed streets which are not eligible to be placed on the state highway system because there are too few lots or residences, shall be dedicated to the public and shall be designed and constructed in accordance with the standards necessary to make the streets eligible to be put on the state system at a later date.

(b) A written maintenance agreement sufficient for recording in the Office of the Register of Deeds shall be submitted with the final plat. The maintenance agreement will provide for the subdivider or a property owner's association to maintain the street, drainage facilities and right-of-way until a time as the street is accepted for maintenance by the state.

(3) *Public Road Design.*

(a) Public streets shall be designed and constructed in accordance with the requirements of the most recent edition of NCDOT, Division of Highways, Subdivision Roads, Minimum Construction Standards.

(b) If a request for dedication of public roads is made, inspection and approval by the NCDOT must have taken place, and roads must be inspected and approved by the organization, but acceptance is not required, before the final plat can be approved by the UDO Administrator.

(H) *Private Road Standards.*

(1) *Private roads defined.*

(a) A **PRIVATE STREET OR ROAD** is defined as a dedicated private right-of-way which affords access to abutting properties, and is required to be built to the road design standards listed in this section of the ordinance. All new private roads shall directly access a state-maintained road or shall connect to a private road meeting the standards of this section.

(b) New roads within a subdivision may be designated by the subdivider as private, provided all streets proposed for private use shall be limited to the following:

1. Streets providing exclusive access to residential subdivisions and private resort developments;

2. Streets in subdivisions or portions of subdivisions serving too few lots for inclusion into the state secondary road system; and

3. Streets providing exclusive access to family subdivisions.

(c) A private local subdivision road includes:

1. Cul-de-sac or dead-end roads less than 2,500 feet in length;

2. Short roads that connect blocks; and/or

3. Other roads that do not connect to thoroughfares or serve major traffic generators.

(d) A private subdivision collector road includes:

1. Cul-de-sac or dead-end roads more than 2,500 feet in length;

2. Connecting roads between the local residential subdivision roads and the thoroughfare system;

3. Loop roads more than 5,280 feet (one mile) in length; and

4. Other roads having a "collector" type function in the thoroughfare system.

(2) *Maintenance of Private Roads.* All subdivision plats which include private roads shall be accompanied by a disclosure statement (G.S. § 136-102.6) for recording, which provides for the maintenance of any kind and all private streets designated within a subdivision by a property owner's association.

(3) *Private Road Design.*

(a) No road in an area subject to flooding shall be approved if any portion is more than two feet below the elevation of a 100-year flood.

1. The UDO Administrator and/or the Planning Board may require, where necessary, profiles and elevations of roads for areas subject to flooding. Fill may be used for roads provided the fill does not unduly increase flood heights.

2. Drainage openings for roads in areas subject to flooding shall be provided and shall be so designed as to not restrict the flow of water and unduly increase flood heights. The UDO Administrator and/or the Planning Board will require a state-certified engineer stamp stating that the road is suitable for use in a floodplain.

(b) Every road shall be designed to accommodate a ten-year storm water run-off by natural or artificial means.

(c) Road signs shall be installed and maintained by the developer and/or the Homeowners' Association and shall be approved by the County Emergency Management office at all intersections within the subdivision.

(d) The following minimum dimensional standards shall apply for private local subdivision roads:

Road Element	Dimension
Minimum right-of-way width	45 feet
Minimum road surface width One to five lots Six to 15 lots Fifteen +	 12 feet 16 feet 20 feet
Minimum road surface	Six-inch gravel
Minimum cul-de-sac right-of-way radius	50 feet
Minimum cul-de-sac surface radius	35 feet
Minimum shoulder width	3 feet
Maximum cut and fill slopes	1.5:1
Design speed	20 mph
Minimum sight distance on vertical curves	110 feet
Minimum centerline radius	90 feet
Minimum superelevation rate for minimum radius	0.02 feet per 1 foot
Maximum grade	18%

Road Element	Dimension
Maximum grade within 100 feet of intersection	5% (unless deemed safe by engineer)
K=Rate of vertical curvature for minimum sight distance*	
CREST	Ten
SAG	Ten
STOP	Five
*Apply the following formula: L=KA; Where: L=Length; K=Rate of vertical curvature for minimum sight distance; A=Algebraic difference in grades in percent	

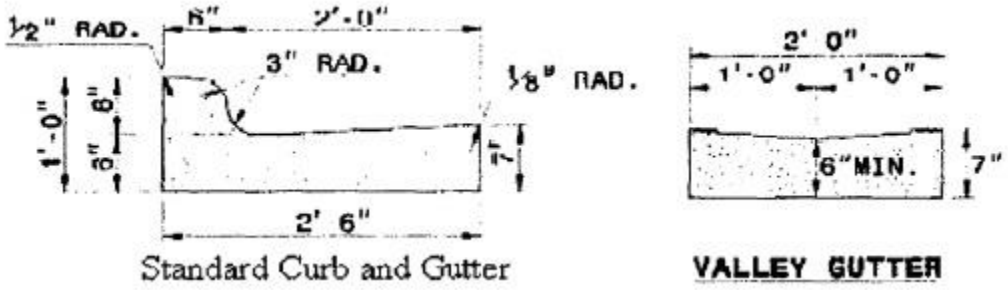
(e) The following minimum dimensional standards shall apply for private subdivision collector roads.

Road Element	Dimension
Minimum right-of-way width	50 feet
Minimum road surface width	20 feet
Minimum road surface	Six-inch gravel
Minimum cul-de-sac right-of-way radius	50 feet
Minimum cul-de-sac surface radius	35 feet
Minimum shoulder width	Three feet
Max. cut and fill slopes	1.5:1
Design speed	25 mph
Minimum sight distance on vertical curves	150 feet
Minimum centerline radius	150 feet
Minimum superelevation rate for minimum radius	0.04 feet per one foot
Max. grade	18%
Max. grade within 100 feet of intersection	5% (unless deemed safe by engineer)
K = Rate of vertical curvature for minimum sight distance*	
CREST	20
SAG	20
STOP	9
*Apply the following formula: L = KA; L = Length; K = Rate of vertical curvature for minimum sight distance; A=Algebraic difference in grades in percent	

(l) *Street Edge.* All newly constructed roads shall be provided with a defined street edge. The provision of defined street edges shall help delineate areas that are appropriate for vehicular traffic, increase the aesthetic appeal of public spaces within the town, and help manage and control storm water runoff from areas of impervious surface. Different types of streets shall dictate the appropriate manner in which to define the street's edge.

(1) *Standard Curb and Gutter.*

(a) Curb and gutter systems shall be constructed according to the State Department of Transportation's Division of Highways' standards. The following shall be typical cross sections of standard curb and gutter systems:



(b) The standard curb and gutter system or the valley gutter system shall be used to convey storm water runoff. Typically, this type of storm water runoff control is used to collect and convey the runoff to a centralized (end of pipe) treatment facility. If a treatment facility is not required and is not installed, then the runoff shall be released from the conveyance mechanism in a non-erosive manner. The standard or valley system shall also serve the purpose of effectively defining the street's edge and separating, both horizontally and vertically, the vehicular traffic from any pedestrian activity.

(2) *Standard or Valley Curb and Gutter Systems and Bio-Retention Facilities.*

(a) More development is incorporating storm water management techniques within the site design of a project. This is typically known as an aspect of low impact development. Not to be construed as an exhaustive list, bio-retention cells, grassed swales, rain gardens and storm water wet lands are all facilities that are designed to treat storm water on site with little or no concrete or metal conveyance (micromanagement). These techniques are typically viewed as positive due to the fact that the systems mitigate large quantities of water flowing at high velocities, they generally can treat the runoff for pollutants, and typically aid in groundwater recharge. To facilitate the use of these systems, standard curb and gutters or valley gutters may be used by incorporating curb cuts. In this fashion the road's edge is defined and storm water is effectively conveyed, but for short distances to infiltration aiding systems. While this street edge technique does provide vertical separation of vehicular traffic from

pedestrian activity, the larger separation comes from the implementation of the storm water control system.

(b) Inlets to the storm water control system shall be provided with energy dissipaters in order to prevent erosion from entering waters. Inlets shall also be spaced at least every 12 feet on center and shall be a minimum of 12 inches wide. Other than these curb cuts, the curb and gutter system shall be designed and constructed according to subsection (I)(1) above. This subsection (I)(2) shall not be construed to offer a comprehensive guide on the construction of the storm water systems, rather the curb adjacent to the system.

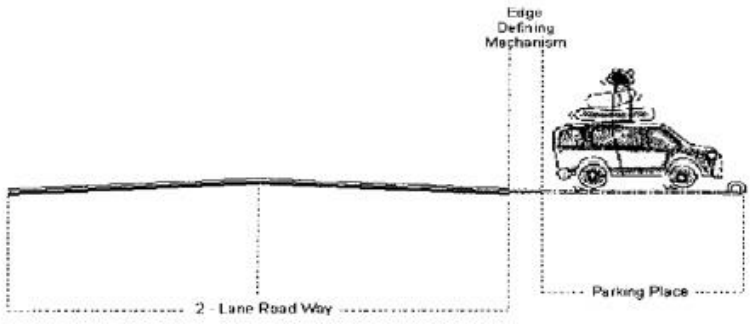
(3) *Flat Curb.*

(a) This method of street edge definition includes the curb, but not the gutter. Typically, this type of curb is used in conjunction with the micromanagement storm water systems discussed in subsection (I)(2) above as it facilitates sheet flow into the management system. However, flat curb systems may be utilized in other applications, such as alleyways, as well as other appropriate applications. The flat curb system defines the street's edge, offers minor traffic calming capabilities, allows storm water to enter retention facilities as sheet flow, and can offer minor separation of pedestrians from vehicles. The following is an example of a flat curb system:

(b) It is highly recommended that the flat curbs be constructed of permeable materials, such as permeable pavers, permeable concrete, or permeable asphalt. These flat curb areas will not be heavily used and so these types of permeable materials will remain structurally sound for a considerable time.

(4) *Streets with On-Street Parking.*

(a) For streets that are provided with on-street parking, an edge defining mechanism shall be installed on the moving vehicular traffic side of the parking spaces. The edge defining mechanism shall be a flat curb, a wide painted stripe or some other effective means. The following diagram shall illustrate the placement of the edge definition:



(b) In most cases a similar curb or edging system will be provided on the opposite side of the parking space as well, but for the purposes of this subsection (I)(4), the edge definition along the street side of the parking places shall be required.

(5) *Streets with Bike Lanes.*

(a) When a street is constructed and the street incorporates the provision of a bicycle lane, then the bicycle lane may serve as the street edge defining mechanism. The street edge may be comprised of the typical white line that delineates the bicycle lane, a different colored material as the bicycle lane, or a combination of both. For the purposes of this subsection (I)(5) the street edge shall be deemed defined by the bicycle lane; however, another edge defining mechanism may be used on the non-vehicular side of the bicycle lane. The following is an example of a street whose edge is defined by a bicycle lane:

(b) While it is desirable to incorporate permeable, porous and/or recycled materials into traditionally impervious surfaces, the material chosen to construct a bicycle lane should be done in a manner that weighs the texture of the surface (as it relates to a bicyclist's riding experience) against the desired environmental benefit of the material.

(6) *Other Edge Defining Techniques.* It is recognized that other methods of supplying an adequate road edge exist and may be more appropriate for a given project than those listed above. As such, proposed alternative approaches shall be considered on a case-by-case basis.

(7) *Preliminary Meeting.* If a proposed development project is governed by this section, then a clear description and/or depiction of the proposed street edge defining method shall accompany the applicant's first application for development approval. Upon review of the application, the town UDO Administrator shall forward the application to the Town Manager and Public Works Director for comments specifically relating to the proposed method of street edge definition. The approved street edge defining method shall be a part of the approved development plan and shall be binding as such.

(J) *Connection to Public Water and Sewer.*

(1) *Connection to System Required.*

(a) Any development which has town water and/or sewer system lines available shall be required to extend the public water and/or sewer system throughout the development to each lot located therein. All required line extensions shall include appropriate valves, hydrants, taps, service, manholes, lift stations, pumps and clean outs to the property line of each lot as required by town standards.

(b) In any case where a public water and/or sewer system intended to serve more than two lots is proposed to be installed in a development as part of the plan approval process, the system shall be considered to be a required improvement within the context of this section regardless of whether such a system is an extension of the town system or not and the system shall be required to be installed by the developer. This requirement includes both facilities within the development and off-site facilities which are essential to providing the service to the property.

(c) Where public sanitary water and sewer are not available as defined below in subsection (J)(2), structures shall be connected to private water supply and sewage disposal systems (i.e., wells and septic tanks or community systems).

(2) *Availability Defined.*

(a) For developments within or partially within the town, the term AVAILABLE, shall mean that there is an existing line of adequate size and flow and/or pressure either crossing the development property or immediately available from an adjacent public right-of-way or the town indicates its commitment to extend such a line to the property line of the development at no cost to the developer.

(b) For developments located entirely outside the boundaries of the town but within the jurisdiction of this Part, "availability" shall be determined by the threshold levels indicated in the table below. Within the range of lots, water and/or sewer lines shall be within the distance indicated to be considered "available", extension of the water and/or sewer lines shall be paid for by the developer, and the development shall be connected to the system. For example, if the water and sewer lines are within 300 feet of a proposed 15 lot subdivision, then the developer shall pay for the extension and the development shall be connected to the system. If a nonresidential subdivision is proposed, comparable demand estimates for residential uses shall be used.

Number of Proposed Lots	*Distance to Nearest Line (Feet)*
Zero to ten	200
11 to 20	300
21 to 50	600
51 to 100	1,000
101 or greater	2,500

(3) *Exemption from Extension of Lines.* In the event the town elects not to extend a line of sufficient size, flow and/or pressure, to the development (if in the town) or within 400 feet of the development boundary (if outside the town) because of topographic features, legal obstacles or financial reasons, then, the developer shall not be required to extend water lines to each lot nor provide water and/or sewer service to the development.

(4) *Annexation Required.* In any case where a new development connects to the town water and/or sewer system, the development shall be voluntarily annexed into the town prior to the approval of a final plat, for a subdivision, or the issuance of a zoning permit, where the subdivision of land is not involved.

(5) *Installation Requirements.*

(a) All water and sewer extensions for new development inside or outside the corporate limits will be made by the town's Public Works Department or approved licensed contractors.

(b) No water or sewer line may be connected to the system of the town unless the line is properly designed and constructed to service the properties intended to be served directly by the line and of a size and design sufficient to accommodate any necessary expansion of the water and sewer system to serve other properties, including fire protection.

(c) The town shall own and control any and all water and sewer lines and related facilities connected to and serviced by its water or sewer system, except those lines and facilities of other public bodies connected to and serviced by the town's water or sewer system under contracts approved by the Town Council between the town and other public bodies.

(d) Because the extension of water or sewer lines to certain properties benefits the owners of the properties by raising property values, the cost of the extension shall be borne by the developers of the properties as provided in this subchapter except in instances when the Town Council makes a determination that the town is obligated to extend the utilities when it determines that it is the best interest of the town to do so. In making such a conclusion, it must be demonstrated by the developer to the Town Council that ad valorem taxes to be gained by the town from the properties which will be served by the proposed utilities will over a five-year period exceed the cost incurred by the town for making the utility extensions.

(6) Extensions required by state law and emergency situations. To comply with municipal obligations by state statutes or in cases of emergency where it is found to be in the public interest or necessary to protect the public health, the town may authorize extensions of water or sanitary sewer into specific areas.

(K) *Private Water and Sewer.*

(1) *Submittal Requirements and Approval.*

(a) If the subdivision in question is to have a sewer system other than one connected to a municipal system, the following is required:

1. Depiction of the system and its location with sufficient area for repair if needed;

2. An engineered plan as to the system; and

3. Sealed approval of the local District Health Department.

(b) The local Health Department or agency currently in authority, shall certify that the soil conditions are suitable to support a septic system.

(c) All preliminary plats which will require the installation of any water and/or sewerage systems prior to final plat approval shall be accompanied by a written application and/or notice submitted to the appropriate state or local agency responsible for approving the particular system or systems.

(2) *Subdivisions with Individual Septic and Wells.*

(a) A subdivision containing individual septic systems and individual wells shall conform to those requirements as set forth by the local Health Department or agency currently in authority as to sewer disposal.

(b) There shall be no requirement as to a well or septic system being in place prior to sale of any lot or parcel.

(3) *Water Quality and Quantity Standards.*

(a) No water supply system shall deliver water without first having the water tested by a certified laboratory and the test approved by the state and/or agency thereof having responsibility for water quality assurance. (This provision shall not apply to an individual well providing water to a single-family residence located on the property of the well).

(b) Any and all water systems including but not limited to individual wells shall comply with the appropriate standards set forth by the state and/or any agency granted authority to regulate and/or otherwise enforce regulations.

(L) *Utilities*. All utilities in any subdivision shall be placed underground and within the street right-of-way.

(M) *Stormwater Drainage Facilities.*

(1) The preliminary plat shall be accompanied by evidence satisfactory to the Planning Board and Town Council as to the proposed method of providing for storm water drainage.

(2) It shall be the responsibility of the subdivider to provide a drainage system which is designed to meet the following objectives:

(a) No surface water shall be channeled or directed into a sanitary sewer;

(b) Where feasible, the subdivider shall connect to an existing storm drainage system;

(c) Where an existing storm drainage system feasibly cannot be extended to the subdivision, a drainage system shall be designed to protect the proposed development and adjacent properties from water damage;

(d) Stormwater design shall follow the most recent edition of NCDENR Division of Water Quality Stormwater Best Management Practices;

(e) Surface drainage courses shall have side slopes, where feasible, or at least two feet of horizontal distance for each one foot of vertical distance (two:one). Courses should be of sufficient size to accommodate the drainage area and be designed to comply with the standards and specifications for erosion control as required by the State Sedimentation Pollution Control Act, G.S. Ch. 113k, Art. 4, § 143-34.12, and the State Administration Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinance;

(f) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one foot in each 200 feet of horizontal distance;

(g) Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the State Sedimentation Pollution Control Act, G.S. Ch. 113A, Art. 4, and the State Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances; and

(h) Any dam constructed within a subdivision which is greater than 15 feet in height (measured from the lowest point on downstream top of the dam to the highest point on the fill) and is also greater than ten acre-feet in area (measured from the top of the dam) shall comply with the State Dam Safety Law of 1967, being G.S. §§ 143-215.23 et seq., and the State Administrative Code Title 15, Subchapter 2K.

(N) *Fire Protection.*

(1) Where public water is available, fire hydrants shall be installed every 500 feet.

(2) In subdivisions where public water is not available and where there is an existing or proposed pond feature, a dry hydrant shall be provided for area fire protection wherever possible.

(O) *Erosion and Sedimentation Control.* The preliminary plat shall be accompanied by a written statement from the State Department of Environment and Natural Resources (NCDENR) that any required soil erosion and sedimentation control plan has been approved in accordance with Article 11, Part I.

(P) *Surveying.* Prior to the approval of the final plat, permanent reference points shall have been placed in accordance with the following requirements.

(1) *Subdivision Corner Tie.* At least one corner of the subdivision shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coast and Geodetic Station or State Grid System coordinated monument, then this corner shall be marked with a monument so designated by computed X and Y coordinates which shall appear on the map with a statement identifying this station or monument. When such a monument or station is not available, the tie shall be made to some pertinent and readily recognizable land marker or identifiable point, physical object, or structure.

(2) *Monuments.* Within each block of a subdivision at least two monuments designed and designated as control corners shall be installed. The surveyor shall employ additional monuments if and when required. All monuments shall be constructed of concrete and be at least four inches in diameter or square and not less than three feet in length. Each monument shall have imbedded in the top or attached by a suitable means a metal plate of non-corrosive materials and marked plainly with the point, the surveyor's registration number, the month and year it was installed, and the words "monument" or "control corner." A monument shall be set at least 30 inches in the ground with at least six inches exposed above the ground unless this requirement is impractical.

(3) *Property Markers.* A steel or iron pipe or the equivalent not less than three-fourths inches in diameter and at least 30 inches in length shall be set at all corners, except those located by monuments. A marker shall also be set at a point of curve, point of intersection, property corner, point of urgency and reference point unless a monument has already been placed at those points. Additional markers shall be placed at other points as required.

(Q) *Construction Procedures.* No building or other permits shall be issued for the erection or location of a structure, nor shall any construction or installation of improvements commence in a proposed subdivision until the preliminary plat and any required soil erosion and sedimentation control plan have been approved.

SECTION 10.82 TO SECTION 10.85 RESERVED

PART VIII. MINIMUM HOUSING CODE

SECTION 10.86 INTENT AND SCOPE

The regulations and provisions set forth in this Part are construed to secure the interests of the public within the corporate limits of the town, being the health, safety, morals and welfare of the public to the extent that each is affected by the occupancy and maintenance of structures and/or buildings and premises. Any structure, building and/or premise that is not in compliance with the provisions and regulations of this Part shall be altered, repaired or in some manner remedied so as to ensure a minimum standard health, safety and welfare within the Town, as authorized by NCGS 160D-1205.

SECTION 10.87 ENFORCEMENT AND PROCEDURES

(A) *Housing Administrator.*

(1) The UDO Administrator or anyone appointed by the Town Manager, is authorized and charged with the duty to exercise and utilize any powers necessary and convenient to carry out and effectuate the purpose and provisions of this Part. The designated person shall be hereinafter referred to as the Housing Administrator. The Housing Administrator is granted the following powers, but is not limited to the following:(a) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;

(b) To administer oaths, affirmations, examine witnesses and receive evidence;

(c) To enter upon premises for the purpose of making examinations in a manner that will do the least inconvenience to the persons in possession. It shall be unlawful for any owner or person in possession of premises on which housing is located within the corporate limits and jurisdictional areas of the town to refuse, after being presented with a warrant as issued under G.S. § 15-27.2, to permit the Housing Administrator, or a duly appointed agent thereof to enter upon the premises for the purpose of making examinations as authorized by this code. Violation of this section shall constitute a misdemeanor;

(d) To appoint and fix the duties of officers, agents and employees necessary to carry out the purposes of this code; and

(e) To delegate any of his or her functions and powers under this code to other officers and other agents.

(2) No officer, agent or employee of the town shall be rendered personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties under this code.

(B) *Appeals and the Zoning Board of Adjustment.* Any appeals from decisions of the Housing Administrator shall be brought before the Zoning Board of Adjustment in accordance with Article 4, Part V.

(C) *Finance.*

(1) The Town Council, upon adopting this code, shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings within the corporate limits for the purpose of determining the fitness of dwellings for human habitation, and for the enforcement and administration of its ordinances adopted under this code.

(2) The town is authorized to make appropriations from its revenues necessary for this purpose and may accept and apply grants or donations to assist the town in carrying out the provisions of the ordinances.

(D) *Abatement; Hearing on Charges.* As provided by G.S. § 160D-1203, whenever it is petitioned to the Housing Administrator by a public authority, by at least five residents of the town, or when it appears to the Housing Administrator (on his or her own motion) that any dwelling is unfit for human habitation, the Housing Administrator shall, if his or her preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and parties in interest in the dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Housing Administrator. The hearing will be held before the Housing Administrator (or designated agent) at a place within the corporate limits of the town, therein fixed not less than ten days nor more than 30 days after serving the complaint. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law and equity shall not be controlling before the Housing Administrator.

(E) *Service of Order.*

(1) If, after notice and hearing, the Housing Administrator determines that the dwelling under consideration is unfit for human habitation according to the standards herein set forth, he or she shall state in writing his or her findings of fact for the determination and shall issue and cause an order to be served upon all parties in interest as provided in subsection 10.87(F) below. The order shall contain a notice of right to appeal within ten days of the issuance of the order to the Zoning Board of Adjustment.

(a) *Deteriorated Dwelling.* If the repair, alteration or improvement of the dwelling can be made at a cost no more than 55% of the present market value of the dwelling, the order shall require the owner, within a specified period of time not longer than 90 days, to repair, alter or improve the dwelling so as to render it

safe. The order may also direct and require the owner to vacate and close the dwelling until the repairs, alterations or improvements have been made and/or the unsafe and dangerous character of the dwelling has been corrected.

(b) *Dilapidated Dwelling.* If the repair, alteration or improvement cannot be made at a cost equal to or less than 55% of the present market value of the dwelling, the order shall require the owner, within a specified period of time no longer than 90 days, to either repair, alter or improve the dwelling so as to bring it into compliance with the standards set forth herein, or to demolish and remove the dwelling.

(2) If the dwelling is located in a historic district of the town and the Historic District Commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. § 160D-949(a).

(F) *Methods of Service of Complaints and Orders.*

(1) As provided by G.S. § 160D-1206, a complaint or order issued by the Housing Administrator and/or the Zoning Board of Adjustments pursuant to this code shall be served upon the owner and/or parties in interest personally, by registered mail, or by certified mail. When service is made by registered or certified mail, a copy of the complaint may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(2) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Housing Administrator in the exercise of reasonable diligence, or, if the owners are known, but have refused to accept service by registered or certified mail and the Housing Administrator makes an affidavit to that effect, the serving of the complaint or order to the owner or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the provisions of this code. Whenever service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place of the premises thereby affected.

(G) *Market Value.*

(1) The Housing Administrator shall fix a reasonable market value of any dwelling pursuant to this code and that value shall be binding, unless challenged by the owner in writing to the Housing Administrator within a period of ten days after the receipt of an order. After the protest, the Housing Administrator shall nominate one competent and

disinterested person; the protesting party shall nominate one competent and disinterested person; and the two persons so nominated shall nominate a third competent and disinterested person; and the three persons so nominated shall serve as commissioners of appraisal.

(2) The Commissioners shall make their appraisal of the value of the dwelling under consideration, shall return their appraisal to the Housing Administrator and the protesting party within ten days of their appointment, and the appraisal shall be binding and conclusive for the purposes of this code. The cost of such an appraisal shall be paid by the protesting party to the Housing Administrator at the time of filing the written protest.

(H) *Enforcement.*

(1) If the owner of a dwelling found to be deteriorated fails to comply with an order issued by the Housing Administrator to repair, alter or improve, or to vacate and close the dwelling, unless an appeal is taken from such an order as provided in subsections 4.26 and 10.87(B), the Housing Administrator may:

(a) Secure the issuance of a warrant charging the owner with a violation of the standards set forth within this code;

(b) Cause the dwelling to be repaired, altered, or improved, or pending the repairs, alterations or improvements, may order the dwelling to be vacated and closed; and

(c) Cause to be posted on the main entrance of any dwelling so closed, a placard with the following words:

"THIS BUILDING IS UNFIT FOR HUMAN HABITATION; THE USE OR OCCUPATION OF THIS DWELLING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL."

Occupation of a building so posted shall constitute as a Class 1 misdemeanor.

(2) If the owner of a dwelling found to be dilapidated fails to comply with an order issued by the Housing Administrator to vacate and close, or fails to remove or demolish the dwelling, unless an appeal is taken from such an order as provided in subsections 4.26 and 10.87(B), the Housing Administrator may:

(a) Secure the issuance of a warrant charging the owner with a violation of the standards set forth within this code;

(b) Order the dwelling to be vacated and closed and removed and demolished; and

(c) Cause to be posted on the main entrance of any dwelling so closed a placard with the following words:

"THIS BUILDING IS UNFIT FOR HUMAN HABITATION; THE USE OR OCCUPATION OF THIS DWELLING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL."

Occupation of a building so posted shall constitute as a Class 1 misdemeanor.

(3) The duties and powers of the Housing Administrator set forth in subsections (H)(1) and (H)(2) above, and in subsections 10.87(J) and (K) below shall not be exercised until the Town Council shall have by ordinance ordered the Housing Administrator to proceed and effectuate the purpose of this code with respect to the particular property or properties which the Housing Administrator shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. This Part shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index. No such ordinance as described in this subsection (H)(3) shall be adopted until the owner has first been given a reasonable opportunity to bring the dwelling unit into conformity with this code. As provided by G.S. § 160D-1203(7), if any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the town to remove the occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the dwelling. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing body pursuant to this subsection (H)(3), authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30.

(4) An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of the judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing body has ordered the Housing Administrator to proceed to exercise his or her duties under this section and subsections 10.87(J) below to vacate and close or remove and demolish the dwelling.

(I) *Lien.*

(1) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Housing Administrator shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. Ch. 160A, Art. 10.

(2) If the real property upon which the cost was incurred is located within the corporate limits of the town, then the amount of the cost is also a lien on any other real property of the owner located within a distance of one mile from any portion of the corporate limits of the town except for the owner's primary residence. The additional lien provided in this subsection is inferior to all prior liens and shall be collected as a money judgment.

(3) If the dwelling is removed or demolished by the Housing Administrator, he or she shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the Housing Administrator, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

(J) *Abandonment of Intent and Purpose.*

(1) After the Housing Administrator has issued an order and the Town Council has adopted an ordinance ordering a dwelling to be repaired or vacated and closed as provided in subsections 10.87(E) above, and the owner has vacated and closed the dwelling and kept the dwelling vacated and closed for a period of one year pursuant to the ordinance or order, the Town Council of the town may find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the town in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this state and township; then in those circumstances, the Town Council may, after the expiration of the one-year period, enact an ordinance and serve the ordinance on the owner, requiring the owner to either:

(a) Repair or demolish and remove the dwelling within 90 days, if the repair necessary to render the dwelling fit for human habitation would cost less than 50% of the present value of the dwelling; or

(b) Demolish and remove the dwelling within 90 days if the repair necessary to render the dwelling fit for human habitation would cost in excess of 50% of the present value of the dwelling.

(2) The ordinance shall be recorded in the Office of the Register of Deeds in the county and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this Part, the Housing Administrator shall effectuate the purpose of the ordinance.

(K) *Methods for Repairing, Closing, or Demolishing Certain Abandoned Structures.*

(1) As provided in G.S. § 160D-1201, in addition to the exercise of police power authorized herein, the town may by ordinance provide for the repair, closing or demolition of any abandoned structure which the Town Council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities.

(2) The repair, closing or demolition of the structures shall be pursuant to the same provisions and procedures as are prescribed in this code for the repair, closing or demolition of dwellings, found to be unfit for human habitation.

(L) *Affordable Housing Organization Notification.*

(1) Under the provisions of G.S. § 160D-1203(8), whenever a determination is made pursuant to this code that a dwelling must be vacated and closed, or removed or demolished, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for the notices.

(2) A minimum period of 45 days from the mailing of the notice shall be given before removal or demolition by action of the Housing Administrator, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease or purchase the property for the purpose of providing affordable housing.

(3) The Public Officer or Clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for the notices may raise the issue of failure to mail the notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition.

(M) *Supplemental Nature.* Nothing in this code shall be construed to abrogate or impair the powers of the courts or of any department of the town to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this code shall be in addition and supplemental to the powers conferred by any other law.

(N) *Compensation.* As provided in G.S. § 160D-1209, nothing in this code shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this state, nor as permitting any property to be condemned or destroyed except in accordance with the police power of the state.

SECTION 10.88 GENERAL STANDARDS

No persons shall occupy as owner/occupant or let to another person(s) for residential occupancy any dwelling or dwelling unit designed for or intended to be used for the purposes of living, eating, sleeping or cooking therein, which does not comply with the following required standards.

SECTION 10.89 BASE EQUIPMENT FACILITIES

(A) Every dwelling and dwelling unit shall be equipped with sanitary facilities, which include not less than one kitchen sink, lavatory, tub or shower, and a water closet, all of which being in good working condition and connected to an approved water supply and sewage disposal system. The sanitary facilities shall be located within the dwelling and/or dwelling unit and be accessible to all occupants. The water closet and tub or shower shall be located in a place, which allows privacy to the user.

(B) Hot and cold water shall be supplied in adequacy with proper and good working connections to the kitchen sink, lavatory, tub or shower, and the water closet. All water shall be supplied through an approved pipe distribution system from an approved water supply.

(C) A heating facility shall be furnished for every dwelling unit and shall be installed in accordance with all appropriate local, county and/or state building, gas or electric codes.

(1) The heating facilities shall be a central or electrical heating system or sufficient chimneys, flues or gas vents, with heating appliances connected so as to be capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit therein to a temperature of no less than 68°F when there is an outside temperature of 20°F at a distance of three feet above the floor at a distance no less than two feet from any exterior wall.

(2) Portable kerosene heaters are not acceptable as a permanent source of heat as required herein, but may be used as a supplementary source in single-family dwellings and duplex units. An owner who complied with subsection (C) above shall not be in violation of this section where an occupant of a dwelling unit uses a kerosene heater as a primary source of heat.

(D) All cooking equipment shall be installed in accordance with all applicable building, gas or electrical codes and shall be maintained in a good and safe working condition.

(E) Each occupied dwelling unit shall be required to contain at least one approved operable smoke detector installed outside each sleeping area on or near the ceiling. The smoke detector shall be electrically or battery operated, and provide an audible alarm. The smoke detector is operable when it is furnished with a working battery or the electricity is on. The occupant head of household is responsible for maintaining a lawful source of electricity.

(F) No person shall occupy as an owner or occupant or allow another person to occupy any building or structure which does not comply with the applicable provisions of the Fire Prevention Code of the state and any other applicable governing body.

SECTION 10.90 NATURAL LIGHT AND VENTILATION

In lieu of the means for natural light and ventilation prescribed herein, artificial light or mechanical ventilation complying with the State Building Code(s) shall be permitted.

(A) Every habitable room shall be provided with at least one window or skylight facing directly to the outdoors or to a court, with a minimum total window/skylight area equal to that of 8% of the floor area of the habitable room. When a window faces a portion of another structure and such a structure is located less than three feet from the window and extends to a level above that of the ceiling of the habitable room, such a window shall be deemed as not facing the outdoors nor to a court and shall not be contributing to the minimum total window/skylight area of the room.

(B) Where natural light for rooms or spaces without exterior windows or skylights is provided via an adjoining room, the unobstructed opening to the adjoining room shall be at least 8% of the floor area of the interior room or space. The size of the outdoor facing window(s) or skylight(s) shall be based on the total floor area being served.

(C) The area of the window/skylight that can be opened in every habitable room shall be equal to at least 45% of the required window area, or the room shall have other mechanical ventilation.

(D) Each bathroom and toilet room shall comply with the ventilation and light requirements of habitable rooms except that when a mechanical ventilation system is used the air exhausted by such shall discharge to the outdoors and shall not be re-circulated.

(E) All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, the safe occupancy of the space, and the utilization of the appliances, equipment and fixtures.

(F) Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted to the outside and in accordance with the manufacturer's instructions.

SECTION 10.91 ELECTRICAL SYSTEMS

(A) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed and connected to the source of electrical power in accordance with the Electrical Code of the state, for existing dwellings.

(B) The minimum capacity of the service supply and main disconnect switch shall be sufficient to carry the total load required in accordance with the Electrical Code of the state, for existing dwellings.

(C) Every dwelling shall be safely and adequately wired for electric lights and convenient receptacles. Every habitable room shall have provisions for adequate lighting and other necessary electrical service, with kitchen, bath, hall and exits having ceiling and/or wall mounted fixtures.

(D) Every common hall and stairway of every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every common hall and stairway in every multiple dwelling containing less than five dwelling units shall be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed instead of full-time lighting. Where the difference between floor levels is six steps or more, there shall be a wall switch at each floor level.

SECTION 10.92 SANITATION

(A) Every occupant of a dwelling unit shall be responsible for maintaining it in a clean and sanitary condition, and the occupant shall avoid creating unclean, unsanitary or unsafe conditions in the common areas. Every owner of a multiple dwelling shall maintain in a clean and sanitary condition the common areas of a dwelling and premises thereof.

(B) Every person who occupies and controls a dwelling unit shall dispose of all garbage and rubbish in a clean and sanitary manner by placing it in proper storage facilities. In the case of single-family and two-family dwellings, the persons who occupy and control the dwellings shall be responsible for providing the approved receptacles for disposing of garbage and rubbish. In the case of multi-family housing the owner shall be responsible for providing the approved receptacles for the storage of garbage and rubbish.

(C) Every occupant of a single-family dwelling and every owner of a multiple dwelling shall be responsible for the extermination of insects, rodents or other pests within the building or premises by a generally accepted method.

SECTION 10.93 EXTERIOR PREMISE AND STRUCTURE

(A) All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon, except for

approved retention areas and reservoirs. Lots shall also be properly graded to prevent surface water run off from being directed onto adjoining properties.

(B) All driveways, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

(C) Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(D) All accessory structures, including detached garages, fences and walls shall be maintained structurally sound and in good repair.

(E) Each dwelling shall have address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. Address numbers shall be Arabic numerals or alphabet letters.

(F) All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. All siding and masonry joints shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit the rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(G) The building's foundation, walls, piers or other elements shall be maintained in a safe manner capable of supporting the load which normal use may cause to be placed thereon. All foundation walls shall be free of open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

(H) All exterior walls shall be substantially weather tight and water tight and shall be free from holes, breaks and loose or rotting materials and properly surface coated where required to prevent deterioration.

(I) The roof and flashing shall be maintained in a sound and tight manner so as to not have defects that admit rain. Significantly deteriorated shingles shall be replaced and a maximum of two layers of roofing shingles is allowed. Roof drainage shall be adequate to prevent dampness and deterioration in the walls or any interior portion of the structure. Roof water shall not be discharged in a manner that creates a public nuisance and is in compliance with subsection (A) above.

(J) All chimneys shall be maintained in a safe and sound condition showing no loose brick or mortar. Deteriorated chimneys may be closed down and sealed off.

(K) Every dwelling unit shall have two safe and unobstructed means of egress with a minimum ceiling height of seven feet leading to a safe and open space at ground level, except where one means of egress is permitted by the State Building Code.

(L) Every exterior stairway, deck, porch or balcony, and all appurtenances attached thereto shall be maintained structurally sound, in good repair, with proper anchorage, and capable of supporting the imposed loads.

(M) Every window and door (including basement or cellar door and hatchway) shall be substantially weather tight, water tight, rodent proof and shall be kept in sound working condition. All exterior doors shall have workable locks.

(N) Every structural element of the dwelling unit shall be structurally sound and have no deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon.

(O) Protective railings shall be required for any unenclosed structure that is 36 inches above the adjacent finish grade. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(P) Accessory structures, which include but are not limited to garages and storage buildings, shall be maintained and kept in a safe and sound structural condition.

SECTION 10.94 INTERIOR STRUCTURE

(A) All interior structural components shall be maintained structurally sound, and be capable of supporting the imposed loads.

(B) All interior surfaces including windows and doors shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

(C) Every stair, ramp, landing, porch, deck or other walking surface shall be maintained in sound condition and good repair.

(D) Each stairwell with more than four risers shall have handrails located in accordance with requirements of the Building Code. Every handrail shall be firmly fastened and capable of supporting normally imposed loads.

(E) Every bathroom and bedroom shall have a door that fits reasonably well within its frame in good working condition with a privacy lock on the door.

(F) Every floor, wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use

may cause to be placed thereon. Each shall be free from cracks, breaks or holes which permit air to excessively penetrate the room.

SECTION 10.95 SPACE AND USE

(A) Dwelling and rooming units shall be arranged to provide privacy and be separated from other adjoining spaces.

(B) Every dwelling unit shall contain at least 150 square feet of floor area for the first occupant thereof and at least 100 square feet of additional floor area per additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.

(C) In every dwelling unit at least 70 square feet of bedroom floor area shall be provided for the first occupant; at least 20 square feet of additional bedroom space shall be provided for a second occupant; and at least 30 square feet of additional bedroom floor space shall be provided for each occupant over the number of two (children under the age of two shall not be counted).

(D) A habitable room, other than a kitchen, shall not be less than seven feet in any horizontal dimension. Kitchens shall have a clear passageway of not less than three feet between counter fronts and appliances or walls.

(E) Doors of habitable rooms shall be a minimum of 32 inches wide and six feet eight inches in height.

(F) (1) Habitable rooms shall have a minimum ceiling height of not less than seven feet for at least 50% of the floor area except for beams and girders that are spaced not less than four feet on center, which may project no more than six inches below the required ceiling height.

(2) All other rooms including kitchens, baths and hallways may have a minimum ceiling height of six feet eight inches measured from the lowest projection of the ceiling.

(G) Portions of a habitable room with a ceiling height less than five feet shall not be considered as contributing to the minimum required habitable floor area.

(H) Kitchens and non-habitable spaces shall not be used for sleeping purposes.

SECTION 10.96 UNFIT FOR HUMAN HABITATION

The Housing Administrator may determine that a residential building is unfit for human habitation if he or she finds that any of the following conditions exist in the building:

(A) Interior walls or vertical studs which list, lean or buckle to such an extent as to render the building unsafe;

(B) Supporting members or members which show 33% or more of damage or deterioration, or non-supporting, enclosing or outside walls or covering which show 50% or more of damage or deterioration;

(C) Floors or roofs which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;

(D) Damage by fire, wind or other causes as to render the building unsafe;

(E) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people;

(F) Inadequate facilities for egress in case of fire or panic;

(G) Defects significantly increasing the hazards of fire, accident or other calamities;

(H) Lack of adequate ventilation, light, heating, or sanitary facilities to such an extent as to endanger the health, safety or general welfare of the occupants or other residents; or

(I) Lack of proper electrical, heating, or plumbing facilities required by this Part which constitutes a health or a safety hazard.

SECTION 10.97 RENTAL UNITS

(A) *Noncompliant Rental Units.* Any rental unit shall be judged and determined as substandard or unfit for human habitation as any dwelling, dwelling unit, rooming house, rooming unit, building or structure is determined as such herein set forth in this code.

(B) *Landlord Duties.* According to G.S. § 42-42(a), the landlord of a rental unit shall:

(1) Comply with the current applicable building and housing codes, whether enacted before or after October 1, 1977, to the extent required by the operation of the codes; no new requirement is imposed by this subsection (B)(1) if a structure is exempt from a current building code;

(2) Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(3) Keep all common areas of the premises in safe condition;

(4) Maintain in good and safe working order and promptly repair all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appliances supplied or required to be supplied by the landlord provided that notification of needed repairs is made to the landlord in writing by the tenant, except in emergency situations;

(5) Provide operable smoke detectors, either battery-operated or electrical, having an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory

approval, and install the smoke detectors in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the landlord shall retain or provide as proof of compliance. The landlord shall replace or repair the smoke detectors within 15 days of receipt of notification if the landlord is notified of needed replacement or repairs in writing by the tenant. The landlord shall ensure that a smoke detector is operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord shall place new batteries in a battery-operated smoke detector at the beginning of a tenancy and the tenant shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord; and

(6) If the landlord is charging for the cost of providing water or sewer service pursuant to G.S. § 42-42.1 and has actual knowledge from either the supplying water system or other reliable source that water being supplied to tenants within the landlord's property exceeds a maximum contaminant level established pursuant to G.S. Ch. 130A, Art. 10, then he or she shall provide notice that water being supplied exceeds a maximum contaminant level to the tenant.

(C) *Tenant Duties.* According to G.S. § 42-43(a), the tenant of a rental unit shall:

(1) Keep that part of the premises that the tenant occupies and uses as clean and safe as the conditions of the premises permit and cause no unsafe or unsanitary conditions in the common areas and remainder of the premises that the tenant uses;

(2) Dispose of all ashes, rubbish, garbage and other waste in a clean and safe manner;

(3) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(4) Not deliberately or negligently destroy, deface, damage or remove any part of the premises, nor render inoperable the smoke detector provided by the landlord, or knowingly permit any person to do so;

(5) Comply with any and all obligations imposed upon the tenant by current applicable building and housing codes;

(6) Be responsible for all damage, defacement or removal of any property inside a dwelling unit in the tenant's exclusive control unless the damage, defacement or removal was due to ordinary wear and tear, acts of the landlord or the landlord's agent, defective products supplied or repairs authorized by the landlord, acts of third parties not invitees of the tenant, or natural forces; and

(7) Notify the landlord, in writing, of the need for replacement of or repairs to a smoke detector. The landlord shall ensure that a smoke detector is operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord shall place new batteries in a battery-operated smoke detector at the beginning of a tenancy and the tenant shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord.

(D) *Remedies.*

(1) If a governmental agency responsible for the enforcement of a building, housing or other appropriate code has notified the landlord that a dwelling is condemned or unlawful to occupy due to the existence of conditions that violate applicable codes, statutes, ordinances or regulations, a landlord shall not enter into a rental agreement for the dwelling unit until the conditions are corrected.

(2) If a rental unit is found to be noncompliant with this code by a tenant, the tenant shall notify the landlord in writing of the needed repairs. If the repairs needed constitute as an emergency, then an oral agreement with the landlord can be made and notification can be written later attesting to that conversation. Upon notification the landlord's duty to repair the noncompliant aspects of the rental unit shall begin.

(3) Either the tenant or the landlord shall notify the Housing Administrator of the noncompliant nature of the rental unit.

(4) If a landlord knowingly violates subsection (D)(1) above, the tenant shall recover either three months' periodic rent or up to treble the actual damages sustained as a result of the violation, whichever is greater, cost of suit or arbitration and reasonable attorneys' fees. If the tenant elects to terminate the tenancy as a result of the conditions leading to the posting, or if the appropriate governmental agency requires that the tenant vacate the premises, the tenant also shall recover:

(a) The entire amount of any deposit prepaid by the tenant; and

(b) All prepaid rent.

(5) If a governmental agency responsible for the enforcement of a building, housing or other appropriate code has notified the landlord that a dwelling will be condemned or will be unlawful to occupy due to the existence of conditions that violate applicable codes, statutes, ordinances or regulations, a landlord, who knew or should have known of the existence of these conditions, shall be required to pay relocation assistance to the displaced tenants except that:

(a) A landlord shall not be required to pay relocation assistance to any displaced tenant in a case in which the condemnation or no occupancy order affects one

or more dwelling units and directly results from conditions caused by a tenant's or any third party's illegal conduct without the landlord's prior knowledge;

(b) A landlord shall not be required to pay relocation assistance to any displaced tenant in a case in which the condemnation or no occupancy order affects one or more dwelling units and results from conditions arising from a natural disaster such as, but not exclusively, an earthquake, tsunami, wind storm or hurricane; and

(c) A landlord shall not be required to pay relocation assistance to any displaced tenant in a case in which a condemnation affects one or more dwelling units and the tenant's displacement is a direct result of the acquisition of the property by eminent domain.

(6) Relocation assistance provided to displaced tenants under this subsection shall be the greater amount of $2,000 per dwelling unit or three times the monthly rent. In addition to relocation assistance, the landlord shall be required to pay to the displaced tenants the entire amount of any deposit prepaid by the tenant and all prepaid rent.

(7) The landlord shall pay relocation assistance and any prepaid deposit and prepaid rent to displaced tenants within seven days of the governmental agency sending notice of the condemnation, eviction or displacement order to the landlord. The landlord shall pay relocation assistance and any prepaid deposit and prepaid rent either by making individual payments by certified check to displaced tenants or by providing a certified check to the governmental agency ordering condemnation, eviction or displacement, for distribution to the displaced tenants. If the landlord fails to complete payment of relocation assistance within the period required under this subsection, the town may advance the cost of the relocation assistance payments to the displaced tenants.

(8) During the period from the date that a governmental agency responsible for the enforcement of a building, housing or other appropriate code first notifies the landlord of conditions that violate applicable codes, statutes, ordinances or regulations to the time that relocation assistance payments are paid to eligible tenants, or the conditions leading to the notification are corrected, the landlord may not:

(a) Evict, harass or intimidate tenants into vacating their units for the purpose of avoiding or diminishing application of this section;

(b) Reduce services to any tenant; or

(c) Materially increase or change the obligations of any tenant, including but not limited to any rent increase.

(9) Displaced tenants shall be entitled to recover any relocation assistance, prepaid deposits and prepaid rent required by subsection (D)(4) above. In addition, displaced

tenants shall be entitled to recover any actual damages sustained by them as a result of the condemnation, eviction or displacement that exceed the amount of relocation assistance that is payable. In any action brought by displaced tenants to recover any payments or damages required or authorized by subsections (D)(4) and (D)(5) above that are not paid by the landlord or advanced by the town, the displaced tenants shall also be entitled to recover their costs of suit or arbitration and reasonable attorneys' fees.

(10) lf, after 60 days from the date that the city, town, county or municipal corporation first advanced relocation assistance funds to the displaced tenants, a landlord has failed to repay the amount of relocation assistance advanced by the town under subsection (D)(7) above, then the town shall assess civil penalties in the amount of $50 per day for each tenant to whom the town has advanced a relocation assistance payment.

(11) In addition to the penalties set forth in subsection (D)(6) above, interest will accrue on the amount of relocation assistance paid by the city, town, county or municipal corporation for which the property owner has not reimbursed the city, town, county or municipal corporation. The rate of interest shall be the rate determined by the Secretary of Revenue, commencing 30 days after the date that the town first advanced relocation assistance funds to the displaced tenants.

(12) If the town must initiate legal action in order to recover the amount of relocation assistance payments that it has advanced to displaced tenants, including any interest and penalties under subsections (D)(10) and (11) above, the town shall be entitled to attorneys' fees and costs arising from its legal action.

(13) The government agency that has notified the landlord that a dwelling will be condemned or will be unlawful to occupy shall notify the displaced tenants that they may be entitled to relocation assistance under this section.

(14) No payment received by a displaced tenant under this section may be considered as income for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law or for the purposes of any tax imposed on the recipient.

SECTION 10.98 TO SECTION 10.100 RESERVED

PART IX. BUILDING DESIGN STANDARDS

SECTION 10.101 PURPOSE AND INTENT.

The review and approval of building design is critical to upholding and promoting high quality development. The purpose of this section is to ensure that proposed developments are designed in a way that promotes compatibility throughout the commercial and industrial zoning districts. Specifically, the intent of this section is as follows:

(A) To encourage high quality appearance for commercial and industrial developments, thoroughfares, and streets;

(B) To provide proper standards that ensure a high-quality appearance for Columbus, and promote good design while also allowing individuality, creativity, and artistic expression;

(C) To encourage the proper use of the land by promoting an appropriate balance between the built environment and preservation/conservation of open space (note that some places may be appropriate for more urban type development and less open space, such as the downtown);

(D) To preserve and improve property values and protect private and public investment; and

(E) To preserve and protect the identity and character of Columbus, and to enhance the business economy.

SECTION 10.102 APPLICABILITY.

These standards shall apply to all permanent structures in the following zoning districts: Central Business District (CBD), Highway Commercial District (HC), Industrial District (IND), and commercial areas of Conditional Zoning Districts and/or PUD developments.

SECTION 10.103 GENERAL REQUIREMENTS.

(A) *Development within the Areas Specified in Section 10.102.* All proposed buildings within non-residential centers shall be designed to be consistent within the center in terms of architectural design, exterior building materials, colors, and arrangement of buildings and other features. A Statement of Design Compatibility (SDC) shall be required prior to the approval of the first site plan within the development (see Section 10.104).

(B) *Building Placement.* Non-residential buildings that are placed close to public streets to provide a more urban appearance will be permitted, especially within designated activity centers as recommended in the Comprehensive Plan. Such developments must follow the provisions of this Ordinance, including, but not limited to: building orientation, arrangement, mass, elements, and materials.

(C) *Review Considerations.* The Town Council may consider alternative colors and designs for buildings provided that they meet the intent of this section. The Town Council should consider such things as the intensity of the colors, the extent of the design difference, and the spatial separation of each building. Plans or proposals that are not consistent with this Ordinance shall

require Town Council approval. The use of high intensity colors, metallic, or fluorescent pigments is prohibited.

SECTION 10.104 STATEMENT OF DESIGN COMPATIBILITY (SDC).

A Statement of Design Compatibility (SDC) shall be included with all plans for buildings within the areas specified in Section 10.102 and shall be submitted with the plan submission. The Town Council shall consider the SDC as part of the plan review. The SDC shall include:

(A) Primary physical characteristics including predominant color(s), exterior materials and architectural features;

(B) Primary landscape theme;

(C) Building height;

(D) Lighting elements;

(E) Other elements which may be relevant to a specific development and how they are compatible with the adjacent sites; and

(F) Signage Plan (general).

The SDC shall designate the unifying elements that are to be incorporated within the entire project (including any outparcel) and specifically how these elements are to be used, to include the following:

- Use of high quality exterior finishes such as stone, heavy timber, brick or some other approved material;
- Include varied architectural elements such as arcades, archways, recesses, projections, entrance ways or some other approved elements;
- Use of carefully designed landscaping and screening to effectively visually break down the mass of the building;
- Use of neutral/earth toned colors on the exterior façade;
- Careful site design and layout; and
- Other approved architectural, design or engineering methods.

SECTION 10.105 CRITERIA FOR REVIEW OF SDC.

(A) *Primary Color(s).* A maximum of three predominant colors shall be designated as a primary unifying element (this does not include accent colors). Flexibility may be used to allow additional colors and/or a range of predominant colors provided that these colors are in the same family of colors (similar to each other). Any color specified as a primary unifying element shall be dominant in the building facade. Color "samples" shall be provided to the staff at the time of site plan review. Colored renderings may be required, but shall not be a substitute for this requirement. In addition to listing the color(s), the SDC shall also describe how and where the color will be used. It is recognized that the same color on a different material may not match exactly.

(B) *Accent Colors.* These colors may be used as a secondary unifying element provided they are used throughout the development. Non-illuminated accent bands (e.g., canopies with gas stations and the roof of fast-food buildings) on roofs, canopies, or other features shall be one of the primary colors of the development or be white or earth tone in color.

(C) *Exterior Materials.* The dominant material or combination of materials shall be defined. For each building material selected, the color of that material shall also be defined.

(D) *Architectural Features.* Architectural features refer to a number of building elements that are repeated throughout the development. These include, but are not limited to: roof lines, canopies, building ornamentation, patterns, and building form. Any architectural feature designated as a unifying element throughout all buildings shall contribute to the identity of the development and not be just a minor architectural detail.

(1) *Use of Awnings.* No awnings/canopies shall be internally lit. All awnings/canopies shall utilize the same design and color throughout the development.

(2) *Roof Type.* Outparcels may use a different roof (e.g., pitch vs. flat) than the main buildings within a shopping center provided that the building on the outparcel is a size where the different roof type does not dominate the center and/or the roof type has a tie to the other buildings (e.g., mansard roofs).

(3) *Detached Canopies.* Detached canopies are subject to the color and roof type requirements, above.

(E) *Landscaping.* All landscaping shall comply with Article 10, Part I.

(F) *Building Height.* A standard height among a group of buildings is required unless varying height is approved by the Town Council.

SECTION 10.106 AMENDMENT PROCESS

(A) The SDC may be amended if the amendments are approved by the Town Council and signed by the owner of the applicable property. The Administrator shall review the amendments based on their ability to meet the intent of this Ordinance. The SDC for the main structures of the development shall be approved as part of the first site plan within a development.

(B) Any revision to the SDC that involves a change in the primary characteristics of an existing development (such as a change in color or addition of a canopy) shall be reviewed and approved by those with the authority to approve plans and all owners of property falling under the SDC governance. Any change in primary or secondary characteristics shall be implemented comprehensively throughout the entire development including outparcels within a reasonable time frame (i.e., less than one year unless otherwise approved by the Town Council). Any approved changes shall meet the criteria of Section 10.105.

SECTIONS 10.107 THROUGH 10.110 RESERVED.

ARTICLE 11. ENVIRONMENTAL REGULATIONS

PART I. SOIL EROSION AND SEDIMENTATION CONTROL

SECTION 11.1 PURPOSE

This Part is adopted for the purposes of:

(A) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and

(B) Establishing procedures through which these purposes can be fulfilled.

SECTION 11.2 SCOPE AND EXCLUSIONS

(A) *Geographical Scope of Regulated Land-Disturbing Activity.* This Part shall apply to land-disturbing activity within the territorial jurisdiction of the town, and to the extraterritorial jurisdiction of the town as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

(B) *Exclusions from Regulated Land-Disturbing Activity.* Notwithstanding the general applicability of this Part to all land-disturbing activity, this Part shall not apply to the following types of land-disturbing activity:

(1) An activity, including breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to humans, including, but not limited to:

(a) Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts;

(b) Dairy animals and dairy products;

(c) Poultry and poultry products;

(d) Livestock, including beef cattle, sheep, swine, horses, ponies, mules, and goats;

(e) Bees and apiary products; and

(f) Fur producing animals.

(2) An activity undertaken on forest land for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department;

(3) An activity for which a permit is required, under the Mining Act of 1971, G.S. Ch. 74, Art. 7;

(4) A land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in G.S. § 113A-56(a); and

(5) An activity, which is essential to protect human life during an emergency.

(C) *Plan Approval Requirement for Land-Disturbing Activity.* No person shall undertake any land-disturbing activity without first obtaining a plan approval therefor from the town. The plan must comply with e-NOI or e-NOT requirements under NCG01 and NCG25.

(D) *Protection of Property.* Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

(E) *More Restrictive Rules Shall Apply.* Whenever conflicts exist between this Part and federal, state, or other local laws, ordinances, or rules, the more restrictive provision shall apply.

(F) *Plan Approval Exceptions.* Notwithstanding the general requirement to obtain a plan approval prior to undertaking land-disturbing activity, a plan approval shall not be required for land-disturbing activity that does not exceed one acre in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

(G) *Implementation.* The responsibility for implementing the Erosion and Sedimentation Control plan shall be passed from the previous owner [developer] to the new owner for individual or multiple lots during all construction activity.

SECTION 11.3 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY

No land-disturbing activity subject to the control of this chapter shall be undertaken except in accordance with the following mandatory standards.

(A) *Buffer Zone.*

(1) *Standard Buffer.* No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land-disturbing activity.

(a) *Projects On, Over, or Under Water.* This subsection (A) shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

(b) *Buffer Measurement.* Unless otherwise provided, the width of a buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25% of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

(2) *Trout Buffer.* Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Commission may approve plans which include land-disturbing activity along trout waters when the duration of the disturbance would be temporary and the extent of said disturbance would be minimal.

(a) *Projects On, Over, or Under Water.* This subsection shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

(b) *Trout Buffer Measurement.* The 25-foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank to the nearest edge of the disturbed area.

(c) *Limit on Land Disturbance.* Where a temporary and minimal disturbance has been permitted as an exception to the trout buffer, land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of 10% of the total length of the buffer zone within the tract to be disturbed such that there is not more than 100 linear feet of disturbance in each 1,000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the UDO Administrator.

(d) *Limit on Temperature Fluctuations.* No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations in the trout waters, as set forth in 15 NCAC 2B.0211 “Fresh Surface Water Classification and Standards.”

(B) *Graded Slopes and Fills.* The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.

(C) *Fill Material.* Unless a permit from the Department’s Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete, and brick in sizes exceeding 12 inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.

(D) *Ground Cover.* Whenever land-disturbing activity that will disturb more than one acre is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction upon and development of the tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in Section 11.6(C)(5) below, provisions for a ground cover sufficient to restrain erosion must be accomplished within 15 working days or 90 calendar days following completion of construction or development, whichever period is shorter.

(E) *Prior Plan Approval.* No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract, unless 30 or more days prior to initiating the activity, a plan for the activity is filed with and approved by the town. An erosion and sedimentation control plan may be filed less than 30 days prior to initiation of a land-disturbing activity if the plan is submitted under an approved express permit program. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved. The town shall forward to the Director of the Division of Water Resources a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

(F) *Conduct.* The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

(G) *Parcels Smaller than One (1) Acre.*

(1) For all land-disturbing activities, control measures adequate to prevent off-site erosion and sedimentation shall be provided regardless of size of disturbance. All land-disturbance less than one acre not requiring an ESC permit are required to install silt fence on the low side of the lot, erosion and sediment control measures as needed to prevent sediment from leaving the site, and, at the discretion of the Town, tree protection fence around the remaining perimeter.

(2) While sites with land-disturbing activities smaller than one (1) acre do not have to meet the requirement for prior submittal and approval of an ESC plan, all rules regarding protection of adjacent properties, easements, rights-of-way, storm sewer systems, stormwater impoundments, and open channels shall be adhered to.

(3) Where, in the opinion of the Town, off-site erosion and sedimentation has resulted either directly or indirectly from a land-disturbing activity, which uncovers less than one (1) acre of land, the Town may require the submission of an ESC plan. Except for cleanup and interim protection measures, all other construction activities on the site shall cease until the ESC plan has been approved and implemented.

SECTION 11.4 EROSION AND SEDIMENTATION CONTROL PLANS

(A) *Plan Submission.* A plan shall be prepared for all land-disturbing activities subject to this Part whenever the proposed activity will disturb more than one acre on a tract. At least 30 days prior to the commencement of the proposed activity, the applicant shall file three copies of the plan with the town and simultaneously one copy of the plan with the Polk County Soil and Water Conservation District. The town shall forward to the Director of the Division of Water Quality a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

(B) *Financial Responsibility and Ownership.*

(1) Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his or her attorney in fact.

(2) The statement shall include the mailing and street addresses of the principal place of business of:

(a) The person financially responsible;

(b) The owner of the land; and

(c) Any registered agents.

(3) If the person financially responsible is not a resident of the State of North Carolina, a State of North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this Part, or rules or orders adopted or issued pursuant to this Part.

(4) If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

(5) Except as provided in subsections (B)(2) or (J) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

(C) *Environmental Policy Act Document.* Any plan submitted for a land-disturbing activity for which an environmental document is required by the State Environment Policy Act (G.S. § 113A-1 et seq.) shall be deemed incomplete until a complete environmental document is available for review. The town shall promptly notify the person submitting the plan that the 30-day time limit

for review of the plan pursuant to this Part shall not begin until a complete environmental document is available for review.

(D) *Content.* The plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this Part. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the town, on request.

(E) *Soil and Water Conservation District Comments.* The district shall review the plan and submit any comments and recommendations to the town, within 20 days after the district received the plan, or within any shorter period of time as may be agreed upon by the district and the town. Failure of the district to submit its comments and recommendations within 20 days or within any agreed-upon shorter period of time shall not delay final action on the plan.

(F) *Timeline for Decisions on Plans.* The town will review each complete plan submitted to it and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a complete plan within 30 days of receipt shall be deemed approval. The town will review each revised plan submitted to them and within 15 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a revised plan within 15 days of receipt shall be deemed approval.

(G) *Approval.* The town shall only approve a plan upon determining that it complies with all applicable state and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations, and rules. The town shall condition approval of plans upon the applicant's compliance with federal and state water quality laws, regulations, and rules. The town may establish an expiration date, not to exceed three years, for plans approved under this Part.

(H) *Disapproval for Content.* The town shall disapprove a plan or draft plan based on its content. A disapproval based upon a plan's content must specifically state in writing the reasons for disapproval.

(I) *Other Disapprovals.*

(1) The town may disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of the rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The town may disapprove an erosion and sedimentation control plan or disapprove a transfer of a

plan under subsection (J) of the section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

(a) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this section and has not complied with the notice within the time specified in the notice;

(b) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to this section by the time the payment is due;

(c) Has been convicted of a misdemeanor pursuant to G.S. § 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this section; or

(d) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to this Article.

(2) In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the town pursuant to subsection (I)(1) of this section, the local government shall so notify the Director of the Division of Energy, Mineral, and Land Resources within ten days of the disapproval. The town shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section 4.26, the applicant may appeal the local government's disapproval of the plan directly to the Commission. For purposes of this subsection (I)(2), an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

(J) The town administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection (J).

(1) The town may transfer a plan if all of the following conditions are met.

(a) The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.

(b) The Town finds all of the following:

1. The plan holder is one of the following:

a. A natural person who is deceased;

b. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved;

c. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur; or

d. A person who has sold the property on which the permitted activity is occurring or will occur.

2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur;

3. The successor-owner is the sole claimant of the right to engage in the permitted activity; and

4. There will be no substantial change in the permitted activity.

(2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

(3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

(4) Notwithstanding changes to law made after the original issuance of the plan, the town may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the town from requiring a revised plan pursuant to G.S. § 113A-54.1(b).

(K) *Notice of Activity Initiation.* No person may initiate a land-disturbing activity before notifying the agency that issued the plan approval of the date that land-disturbing activity will begin.

(L) *Preconstruction Conference.* When deemed necessary by the approving authority a preconstruction conference may be required.

(M) *Display of Plan Approval.* A plan approval issued under this section shall be prominently displayed until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.

(N) *Required Revisions.* After approving a plan, if the town, either upon review of the plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the town shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved plan, the town determines that the plan is inadequate to meet the requirements of this Part, the town may require any revision of the plan that is necessary to comply with this Part.

(O) *Amendment to a Plan.* Applications for amendment of a plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the town, the land-disturbing activity shall not proceed except in accordance with the plan as originally approved.

(P) *Failure to File a Plan.* Any person engaged in land-disturbing activity who fails to file a plan in accordance with this Part, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this Part.

(Q) *Self-Inspection.* The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. § 113A-57(2). In addition, weekly and rain-event self-inspections are required by federal regulations, that are implemented through the NPDES Construction General Permit No. NCG 010000. The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection (Q) shall be in addition to inspections required by G.S. § 113A-61.1. Where inspections are required by Section 11.4(Q) of this Part and G.S. § 113A-54.1(e), the following apply.

(1) The person who performs the inspection shall make a record of the site inspection by documenting the following items:

(a) All of the erosion and sedimentation control measures, practices, and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including but not limited to sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have initially been installed and do not significantly deviate (as defined in subsection (Q)(1)(e) of this Rule) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice, or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of the erosion and sedimentation control measures, practices, and devices as set forth by the

approved erosion and sedimentation control plan or if the measures, practices, and devices are modified after initial installation;

(b) The completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating, and signing an inspection report;

(c) The location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate (as defined in subsection (Q)(1)(e) of this rule) from the approved erosion and sedimentation control plan. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating, and signing an inspection report;

(d) That maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices, and devices have been performed. Such documentation shall be accomplished by completing, dating, and signing an inspection report (the general storm water permit monitoring form may be used to verify the maintenance and repair requirements); and

(e) Any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating, and signing an inspection report. A significant deviation means an omission, alteration, or relocation of an erosion or sedimentation control measure that prevents the measure from performing as intended.

(2) The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.

(3) The inspection shall be performed during or after each of the following phases of a plan:

(a) Installation of perimeter erosion and sediment control measures;

(b) Clearing and grubbing of existing ground cover;

(c) Completion of any phase of grading of slopes or fills that requires provision of temporary or permanent ground cover pursuant to G.S. § 113A-57(2);

(d) Completion of storm drainage facilities;

(e) Completion of construction or development; and

(f) Quarterly until the establishment of permanent ground cover sufficient to restrain erosion or until the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved and the agency that approved the plan has been notified. If the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved, the new owner or person in control shall conduct and document inspections quarterly until the establishment of permanent ground cover sufficient to restrain erosion.

(R) *Ordinance Administration.* Except where duties under this Part are expressly reserved to the Town Council, all duties of the town under this Part shall be performed by the Town Manager or his or her designee(s).

SECTION 11.5 BASIC CONTROL OBJECTIVES

An erosion and sedimentation control plan may be disapproved if the plan fails to address the following control objectives:

(A) *Identify Critical Areas.* On-site areas, which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention;

(B) *Limit Time of Exposure.* All land-disturbing activities are to be planned and conducted to limit exposure to the shortest feasible time;

(C) *Limit Exposed Areas.* All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time;

(D) *Control Surface Water.* Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure;

(E) *Control Sedimentation.* All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage; and

(F) *Manage Stormwater Runoff.* When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, a plan is to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

SECTION 11.6 DESIGN AND PERFORMANCE STANDARDS

(A) All design shall comply with NCDEQ Land Quality's Erosion and Sediment Control Planning and Design Manual, and the Mountain and Hillside Development requirements of this UDO.

(B) Except as provided in Section 11.6(C)(2) below, erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices", or other acceptable calculation procedures.

(C) In High Quality Water (HQW) zones the following design standards shall apply.

(1) *Limit on Uncovered Area.* Uncovered areas in HQW zones shall be limited at any time to a maximum total area of 20 acres within the boundaries of the tract. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the UDO Administrator.

(2) *Maximum Peak Rate of Runoff Protection.* Erosion and sedimentation control measures, structures, and devices within HQW zones shall be planned, designed, and constructed to provide protection from the runoff of the 25-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

(3) *Settling Efficiency.* Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70% for the 40 micron (0.04 millimeter) size soil particle transported into the basin by the runoff of that two year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

(4) *Grade.* Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical (2:1) if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

(5) *Ground Cover.* Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.

SECTION 11.7 STORM WATER OUTLET PROTECTION

(A) *Intent.* Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity.

(B) *Performance Standard.*

(1) Persons shall conduct land-disturbing activity so that the post construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

(a) The velocity established by the Maximum Permissible Velocities Table set out below; or

(b) The velocity of the ten-year storm runoff in the receiving watercourse prior to development.

(2) If condition (B)(1)(a) or (b) above cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by 10%.

(3) The following is a table for maximum permissible velocity for storm water discharges in feet per second (F.P.S.) and meters per second (M.P.S.):

Maximum Permissible Velocities Table		
Material	**F.P.S.**	**M.P.S.**
Fine sand (noncolloidal)	2.5	.8
Sandy loam (noncolloidal)	2.5	.8
Silt loam (noncolloidal)	3.0	.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.7
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8

Material	F.P.S.	M.P.S.
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8
Source: Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.		

(C) *Acceptable Management Measures.* Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The town recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:

(1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;

(2) Avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections;

(3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;

(4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and

(5) Upgrade or replace the receiving device, structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

(D) *Exceptions.* This rule shall not apply where it can be demonstrated to the town that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

SECTION 11.8 BORROW AND WASTE AREAS

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department's Division of Waste Management shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

SECTION 11.9 ACCESS AND HAUL ROADS

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of the activity.

SECTION 11.10 OPERATIONS IN LAKES OR NATURAL WATERCOURSES

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.

SECTION 11.11 RESPONSIBILITY FOR MAINTENANCE

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this Part, the Act, or any order adopted pursuant to this Part or the Act. After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

SECTION 11.12 ADDITIONAL MEASURES

Whenever the town determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

SECTION 11.13 EXISTING UNCOVERED AREAS

(A) All uncovered areas existing on the effective date of this Part which resulted from land-disturbing activity exceeding one acre, are subject to continued accelerated erosion, and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(B) The town shall serve upon the landowner or other person in possession or control of the land a written notice to comply with the Act, this Part, a rule or order adopted or issued pursuant to the Act by the Commission or by the town. The notice to comply shall be sent by registered or certified mail, return receipt requested, or other means provided in G.S. §1A-1, Rule 4. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology and quantity of work required, and shall set reasonable and attainable time limits of compliance.

(C) The town reserves the right to require preparation and approval of a plan in any instance where extensive control measures are required.

(D) This rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

SECTION 11.14 INSPECTIONS AND INVESTIGATIONS

(A) *Inspection.* Agents, officials, or other qualified persons authorized by the town, will periodically inspect land-disturbing activities to ensure compliance with the Act, this Part, or rules or orders adopted or issued pursuant to this Part, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan.

(B) *Willful Resistance, Delay, or Obstruction.* No person shall willfully resist, delay, or obstruct an authorized representative, employee or agent of the town, while that person is inspecting or attempting to inspect a land-disturbing activity under this section.

(C) *Notice of Violation.* If the town determines that a person engaged in land-disturbing activity has failed to comply with the Act, this Part, or rules or orders adopted or issued pursuant to this Part, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. §1A-1, Rule 4. The notice shall specify a date, by which the person must comply with the Act, or this Part, or rules, or orders adopted pursuant to this Part, and inform the person of the actions that need to be taken to comply with the Act, this Part, or rules or orders adopted pursuant to this Part. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. § 113A-64 and this Part.

(D) *Investigation.* The town shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this Part, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.

(E) *Statements and Reports.* The town shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

(F) *Additional Protective Action.* If through inspections the town determines that significant erosion and sedimentation is occurring as a result of land disturbing activity, despite application and maintenance of all protective practices required by the approved soil erosion and sedimentation control plan, the person conducting the land disturbing activity will be required to take additional protective action.

SECTION 11.15 INJUNCTIVE RELIEF

(A) *Violation of Local Program.* Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation, or order adopted or issued by the town or any term, condition, or provision of an approved plan, it may, either before or after the institution of any other action or proceeding authorized by this Part, institute a civil action in the name of the town for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

(B) *Abatement of Violation.* Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

SECTION 11.16 RESTORATION AFTER NON-COMPLIANCE

The town may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. § 113A-57 (3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this chapter.

PART II. MOUNTAIN AND HILLSIDE DEVELOPMENT

SECTION 11.17 FINDINGS

(A) The Town contains and is bounded on the north and northwest by mountains and hills, which contain soils that range in depth, including very thin soils.

(B) Land-disturbing activities on high elevation, steep-slope mountain sides potentially threaten the public health, safety, welfare and economic progress of the town.

(C) The land-disturbing activity has the potential to cause the following:

(1) Endanger the quality of surface water by increasing erosion, stream sedimentation and stormwater runoff;

(2) Induce landslides;

(3) Adversely affect ground water due to the difficulty of providing proper sewage disposal and mitigating the potential for rainwater infiltration;

(4) Damage the habitat of some species of wildlife (plants and animals); and

(5) Detract from the mountain's scenic and natural beauty, which is vital to the recreation and tourism industry of the town.

(D) The Town Council finds the following:

(1) Steep hillsides are inherently unstable.

(2) Changes to slopes due to undermining by humans, flowing rivers, heavy rains, or the focusing of stormwater runoff by human built channels or storm drain outlets can cause erosion and/or landslides. Soil slips, which cause avalanche-style failures, as well as slower moving earth flows can occur on slopes of 20% or greater. Serious erosion can occur on much shallower slopes; however, steeper slopes are far less forgiving of construction errors than are shallower slopes.

(3) When steeper slopes fail, the failures can have disastrous consequences. Development can result in the alteration of land surfaces that can contribute to slope destabilization. Alterations that have the potential to further the instability of slopes include placing fills on top of marginally stable slopes, including organic matter such as tree limbs in the fill, cutting slopes at too steep of an angle, undermining the toe of a slope, redirecting storm water runoff in a way that artificially concentrates flows onto portions of the landscape that are not prepared to receive the concentrated flows, removing vegetation, and adding water to the slope by means of hillside septic systems or by means of inadequately supplying storm water drainage systems. All of these factors work together and can cumulatively decrease the stability of slopes and eventually lead

to disaster. Landslides and other slope failures pose a variety of hazards to both life and property.

(4) Hillside development, if unregulated, can take place at the expense of environmental concerns. Stormwater runoff from humanly altered slopes is greater in both quantity and velocity than it would be from naturally graded and vegetated ground. Preserving existing vegetation reduces erosion by maintaining roots, which increase infiltration and bind soils. Vegetation also reduces the velocity of raindrops and slows the velocity of surface water flow by increasing the roughness and/or friction of the ground, thereby increasing groundwater recharge. Constructing hillside roads involves cuts in the upslope side and fill in the down slope side. Such cuts and fills are often much wider than the minimum required road right-of-way and can be more susceptible to failure.

(5) Hillsides and ridge lines are unique vegetation communities and wildlife habitats. Hillsides in developing areas are often the last remaining natural areas and are the final refuges for many species of wildlife. Development needs to be sensitive to the hillside's function of providing biodiversity.

(6) Hillsides have aesthetic value to the town and its surrounding areas and contribute to the community's sense of identity, as well as its tourism economy. Prominent mountains, peaks, hills and ridges have significance as identifiable landmarks to area residents. Hillside development, if unregulated, can take place at the expense of aesthetic concerns. Hills and ridges are highly visible from surrounding areas.

(7) Vegetation clearances and landform grading practices, if unregulated, can upset the natural shape of hills. The bulk, shape, height and color of buildings can contrast with the natural landscape if unregulated and thus intrude on the natural character of the landform. Regulations are needed to ensure that buildings and structures blend in with the natural environment through their placement on the land, shape, materials and colors.

SECTION 11.18 PURPOSE; INTENT; OBJECTIVES

(A) it is the purpose of this Part to provide development regulations applicable to mountains, hillsides and ridge tops to ensure that development occurs in the following manner:

(1) Protects the natural conditions and respects existing topography;

(2) Prevents inappropriate development;

(3) Preserves the aesthetic and scenic qualities of the areas; and

(4) Ensures the public health, safety and general welfare.

(B) The provisions of this Part are intended to prevent developments that will erode hillsides, result in sedimentation of lower slopes and bodies of water, cause damage from landslides or create the potential for damage from landslides, flood downhill properties, or result in the severe cutting of trees or the scarring of the landscape.

(C) It is the intent of this Part to encourage a sensitive form of development and to allow for a reasonable use that complements the natural and visual character of the community. These purposes cannot be met fully with existing development regulations such as subdivision, zoning, and flood damage prevention. This Part shall be considered the minimum necessary to attain these purposes. These regulations are also intended to encourage the application of principles of landscape architecture, architecture, planning and civil engineering to preserve the appearance and protect the resources of mountains and hills.

SECTION 11.19 APPLICABILITY

This Part shall apply to any subdivision plat, master subdivision plan, Planned Unit Development, land-disturbing activity permit, building permit or any other development proposal on property situated on a protected mountain ridge, as defined herein, or for which the average slope, as determined by Section 11.24(N) below, is 20% or greater. This Part shall apply, and the UDO Administrator shall apply and enforce the provisions of this Part, to the earliest application for development for building approval required of the applicant. When an application for preliminary subdivision plat, master subdivision plan, Planned Unit Development, or preliminary development plan as may be required by other provisions of this code of ordinances, land-disturbing activity or a building permit pertaining to property regulated by this Part is filed, the application shall be required to demonstrate compliance with applicable provisions of this Part, unless compliance has already been satisfactorily demonstrated by prior application and approval as determined by the UDO Administrator.

SECTION 11.20 EXEMPTIONS

The following land uses or activities are exempt from the requirements of this Part provided they comply with any limitations or conditions specified herein.

(A) *Agriculture and Forestry.* Agriculture and forestry on protected mountains, provided those uses or activities, including associated roads, are consistent with the best management practices established by the State Division of Forest Resources or the State Natural Resources Conservation Service, consistent with all state and federal laws, and all applicable regulations promulgated by the state. Logging roads shall be reclaimed in accordance with practices of the Division of Forest Resources when they are no longer in service.

(B) Landscape maintenance. Landscape maintenance activities, including the removal of diseased, dead or damaged trees may be carried out; provided, however, that those activities shall be carried out in conformance with applicable regulations of this and other applicable ordinances.

(C) Additions to single-family dwellings or two-family dwellings.

(1) On lots of record with existing single-family dwellings or two-family dwellings that were approved prior to the effective date of this Part, the existing single-family dwellings or two-family dwellings may be expanded without demonstrating compliance with this Part, provided that the height of the building addition does not exceed the height limitation contained in Section 11.24(G) below, no more than minimal land disturbance is required to accomplish the building addition, and the building addition is in conformity with the purposes and intent and consistent with regulations and guidelines of this Part as determined by the UDO Administrator.

(2) Existing lots of record shall not be exempt from the requirements of this Part. However, if a lot of record, existing at the time of adoption of this Part, is rendered unbuildable or unusable due to the standards contained herein, then the requirements within this Part may be relaxed to the minimum extent necessary to render the subject lot usable. The relaxation of applicable requirements of this Part shall be at the discretion of the approving administrator, board or council, whichever has the authority to grant final approval of the subject development proposal.

SECTION 11.21 DEVELOPMENT PERMIT AND PLAN REQUIRED

No preliminary subdivision plat, master subdivision plan, planned unit development, preliminary development plan, as may be required by other provisions of the ordinances of the town, land-disturbing activity permit, or building permit shall be issued by the UDO Administrator or other administrative official of the town for any land-disturbing activity , land use, building, or structure on property subject to the jurisdiction of this Part, unless the activity, land use, building or structure conforms to the requirements of this Part. All development activities or site work conducted after approval of the site plan shall conform to the specifications of the site plan as approved by the UDO Administrator. The UDO Administrator or his or her designee shall have the authority to inspect property developed under these regulations to ensure compliance therewith.

SECTION 11.22 RELATIONSHIP TO OTHER DEVELOPMENT PROCESSES

Prior to any land-disturbing activity permit, development approval or building permit being issued, the UDO Administrator shall require a site plan in sufficient detail to review the proposed development for compliance with the provisions of this Part. The application requirements of this Part hereof shall apply in addition to the submission requirements for subdivision plats, master subdivision plans, planned unit developments, preliminary development plans, land-disturbing activity permits, and building permits as specified in other ordinances or regulations of the town, as applicable. The UDO Administrator shall determine if the application provides the information required by this Part and shall refuse to process any such application that does not contain the information required for an application for development approval, subdivision, land-disturbing activity or building and for a permit under the terms of this Part.

SECTION 11.23 RELATIONSHIP TO OTHER REGULATIONS

Nothing in this Part shall be construed to modify or exempt development from applicable requirements of the state and other ordinances and/or regulations of the town, including but not limited to the following.

(A) *Land Disturbance.* Proposed land-disturbing activity shall meet all applicable state standards and any other applicable regulations of the town. The provisions of this Part may be more restrictive and may require the submission of plans and a permit which may not be required by the land disturbance and soil erosion requirements.

(B) *Septic Tanks.* Where one or more septic tanks are to be used for individual sewage disposal, the proposed land-disturbing activity shall meet all state standards and all applicable regulations of the county as well as any standards set forth by the town relating to septic tanks.

(C) *Sewage Disposal.* If sewage is to be provided by any means other than one or more individual septic tanks, the sewage treatment shall meet all applicable state standards and all applicable regulations of Polk County and all applicable regulations of the town relating to sewage disposal.

(D) *Individual Wells.* Where one or more wells are to be used for a potable water supply, the proposed land-disturbing activity shall meet all applicable regulations of the state, the county and the town relating to water wells.

(E) *Water Systems.* If a public water supply system is to be provided, the water supply system shall meet all applicable standards and regulations of the state and the town.

SECTION 11.24 APPLICATION REQUIREMENTS FOR ALL LAND-DISTURBING ACTIVITY OTHER THAN THAT ASSOCIATED WITH A SINGLE-FAMILY OR TWO-FAMILY DWELLING

(A) The information described in subsection (C) below, shall be submitted as part of the first town application requirement encountered by the applicant, including, without limitation, approval of a preliminary subdivision plat, a phased subdivision master plan, permit for land-disturbing activity, development plan approval or permit for a building, road, or driveway for anything other than a single-family dwelling or two-family dwelling.

(B) Family subdivisions, two-lot subdivisions, and any other subdivision of land that may be exempt as defined in Appendix A are excused from submitting a soils report, a hydrological report and plan, and a geotechnical analysis and plan; provided, however, if the subdivision is excused from the requirements, the plat shall contain, in a prominent location and of a prominent size, the following note: "This subdivision is located in an area of steep slopes as determined by the town. Steep slopes are inherently unstable and may be subject to severe erosion or landslides. No soils, hydrological or geotechnical analyses or reports have been prepared for this subdivision to determine the suitability of the lots contained herein for development."

(C) Once a topographic survey, as defined in subsection (C)(1) below, is performed for a slope district, and the slope is found to be greater than 20%, but less than 30%, then the application requirements for that slope district shall comply with Section 11.22(D)(2) below. If the slope for the given slope district is found to be at or above 30%, then all of the following information must be submitted for the slope district. This subsection (C) shall not prevent the submission of one analysis or report for multiple slope districts. (See Section 11.24(N) below for more details concerning slope calculations and submissions).

(1) *Topographic Survey.* A topographic survey of the project site shall be required for preliminary subdivision plat approval. Notes and details of existing terrain shall be included in the required topographic information. A topographic survey may be required by the UDO Administrator for any other application for land-disturbing activity or building approval where reliable data on existing topography including town and/or county GIS maps or other topographic maps which may be available do not provide sufficient detail to administer the requirements of this Part. The topographic survey, if required by this section or by the UDO Administrator pursuant to this section, shall provide contour intervals of no more than two feet unless otherwise approved by the UDO Administrator.

(2) *Certification of Maximum Structure Height.* Plans submitted with an application for a building permit shall contain a certification that the maximum height of any proposed structure complies with the height restrictions contained in this Part.

(3) *Soils Report.* This report shall include conclusions and recommendations regarding the effect of soil conditions on the proposed development. This report shall be prepared by a registered professional engineer, soil scientist, engineering geologist or other qualified professional approved by the UDO Administrator. The report may use the soil survey prepared and published by the Natural Resources Conservation Service for the county, as its basis, although site specific soil tests may be required at the discretion of the UDO Administrator.

(4) *Hydrology Report and Plan.* This report shall include a complete description of the hydrology of the site, conclusions and recommendations regarding the effect of hydrological conditions on the proposed development, and the capacity of the site to be developed. Hydrology reports shall be completed by a registered professional engineer experienced and knowledgeable in the practice of hydrology, or other qualified professional approved by the UDO Administrator. A hydrological control plan, prepared by a professional engineer experienced and knowledgeable in the practice of hydrology, or other qualified professional approved by the UDO Administrator, shall also be required. At a minimum, the plan shall show and take into account the direction of flow within the local drainage basin; all-natural drainage channels directed toward and away from the site within 50 feet of the perimeter of the site, and other natural drainage ways which may affect or be affected by the development proposal. Field verification of

existing drainage channels shall be required as there has not been a comprehensive survey of streams in the United States and therefore many available maps underestimate the presence of headwater streams. Alterations of natural drainage ways shall be prohibited except for approved road crossings and drainage structures. Natural drainage shall be rip-rapped or otherwise stabilized below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion. Special notations shall be included which highlight details of the terrain, existing natural surface drainage and areas subject to seepage or spring flow.

(5) *Geotechnical Analysis and Report.* This analysis and report shall address the existing geology, topographic and hydrological conditions of the site, including an evaluation of the ability of the site to accommodate the proposed activity. The analysis and report shall contain a professional opinion regarding the slope stability, soil bearing capacity, the potential for landslide or other geological hazards and their potential impact on structures or surrounding properties, and any other pertinent information. The geotechnical report and analysis shall also contain a recommendation regarding foundation design, cut or fill slope design, soil bearing potential, and building restrictions or setbacks, such as are necessary to satisfy the intent of this Part and to protect the public health, safety and welfare. Upon completion of all improvements shown on approved plans but prior to the issuance of any final approval of improvements by the town, the applicant shall submit a declaration by the geotechnical engineer or engineering geologist that all work was done in substantial accordance with the recommendations contained in the geotechnical analysis and report as approved and in accordance with approved plans.

(6) *Assessment.* Applications for preliminary and final plat approval for major and minor subdivisions (including multi-phased major subdivisions) shall be accompanied by a written assessment addressing the environmental, scenography, and public safety impacts of the effect that the project will have on the environment of the mountain or hill after the project has been completed and is in operation.

SECTION 11.25 APPLICATION REQUIREMENTS FOR LAND-DISTURBING ACTIVITY ASSOCIATED WITH A SINGLE-FAMILY OR TWO-FAMILY DWELLING

(A) For land-disturbing activity associated with development of a single-family dwelling or a two-family dwelling, a plot plan of the lot or site on which the building is to be located shall be submitted to the building inspector for review and approval by the UDO Administrator.

(B) The plot plan shall be prepared by a registered surveyor, professional civil engineer, or other qualified professional approved by the UDO Administrator and shall show the finished floor elevation of the building in relation to the natural ground surface and in relation to the uppermost point of the crest, summit or ridge top of the mountain or hill on which the building is constructed.

(C) The plot plan shall also indicate the limits of the area to be disturbed and the slope of the buildable area. Areas proposed or required to remain undisturbed shall be marked on the plot plan and in the field with tape, orange plastic fencing, or other approved marker until a certificate of occupancy is issued or as otherwise approved by the UDO Administrator.

(D) The following additional information shall be submitted along with the plot plan:

(1) *Level I Requirements.* Every application for authorization to undertake land disturbing activities associated with development of a single-family dwelling or two-family dwelling within a subdivision that was previously approved under the provisions of this Part shall contain a topographic survey and/or analysis as outlined in Section 11.22(C)(1) above.

(2) *Level II Requirements.* Every application for authorization to undertake land disturbing activities associated with development of a single-family dwelling or two-family dwelling not within a subdivision that was previously approved under the conditions of this Part shall contain a topographic survey of the lot with contour intervals of no more than two feet and a certification of maximum structure height as per Section 11.22(C)(1) and (2) above. An analysis of the county soils map shall accompany the application. If the soils map indicates the presence of problematic soils or the topographic survey indicates that the average slope of the proposed building and grading envelope is greater than 30%, then the application requirements found in subsection (D)(3) below shall apply.

(3) *Level III Requirements.*

(a) Level III requirements apply to any application to develop a single-family dwelling or two-family dwelling where:

1. The soils report confirms the presence of problematic soil types; and/or

2. The natural slope of the proposed building and grading envelope equals or exceeds 30%.

(b) In addition to the topographic survey and certification of maximum building height required in subsection (D)(2) above, level III applications shall also contain the following information:

1. A soils report meeting the requirements of Section 11.22(C)(3) above, if one has not already been provided;

2. A hydrological report and plan meeting the requirements of Section 11.22(C)(4) above; and

3. A geotechnical analysis and report meeting the requirements of Section 11.22(C)(5) above.

SECTION 11.26 ALL DEVELOPMENT AND OTHER LAND-DISTURBING ACTIVITY

The following minimum standards shall apply to earth moving and land-disturbing activity which is not otherwise exempt.

(A) *Minimum Alterations.* Earth moving shall be limited to the minimum required for building foundations, driveways and drainage control structures, and immediate areas surrounding the building, structure, road, driveway or drainage structure required by this Part. With the exception of approved stockpiling or restoration efforts, substantial earth moving beyond that which is required for the installation or construction of approved buildings, structures, driveways, roads or drainage structures shall not be permitted.

(B) *Cut and Fill.* Unless otherwise specifically approved by the UDO Administrator and a registered professional engineer, cut slopes shall be no steeper than one foot horizontal to one foot vertical (1:1) and fill slopes shall not be steeper than one-and-one-half feet horizontal to one foot vertical, except in circumstances where stable exposed rock is the intended end result of the manufactured slope and/or when sufficient evaluation is provided to support stabilization by a professional engineer registered in the state. Manufactured slopes exceeding 35 feet in height shall be benched at 35-foot intervals. Reforestation of manufactured slopes other than stable exposed rock shall consist of the placement of native species in a plan prepared by a professional landscape architect or arborist familiar with steep slopes and stabilization requirements. A maintenance plan shall be required for reforestation areas and the plan shall include provisions for replacement of dead vegetation when greater than a 30% mortality rate occurs.

(C) *Compaction of Fill.* All fill shall be stabilized in conformance with generally accepted engineering standards, including a compacted density of at least 95%. Vegetation which has been cut or cleared shall be removed from the site and shall not be covered by, or imbedded in, fill material. Extra care shall be taken in removing the woody and/or vegetative debris from fill materials, as it has been found and shown by the State Geological Survey that the material can increase the probability of slope destabilization and lead to such events as an embankment failure or other such earth moving phenomenon. The UDO Administrator may require certification of compaction by a qualified professional if necessary to determine compliance with this section.

(D) *Control of Stormwater Runoff.* Runoff from concentrated impervious surfaces shall be collected and transported in a pipe or other approved manner to an approved storm water system if available, or if unavailable, to the bottom of the drainage way or other location specified by the UDO Administrator and/or a registered professional engineer and in a safe, adequate, and non-erosive manner. Where required by other ordinances or regulations or by an engineer, storm water retention facilities shall be installed. Where required, interceptor ditches shall be established above steep slopes in such a way as not to avoid saturation or erosion of soil, and intercepted water shall be conveyed in a pipe or other manner to the bottom of the drainage way or other location specified by an engineer. The overall drainage system shall be completed and made operational at the earliest possible time during construction. The proposed storm

water control system shall utilize the principles and recommendations of the State Department of Environment and Natural Resources Stormwater Best Management Practices ("BMPs") Manual. Specifically, the methods of storm water management chosen, shall take into account the compatibility of the method with steeper slopes, applicable depth to the water table, soils present and the expected amount of sediment. Careful control of stormwater runoff and other surface waters is critical for the stability of steeply sloped lands. Marginally stable land can be rendered unstable by the increased pore pressure due to infiltrating water. So, while it is encouraged to retain and help storm water infiltrate the ground on site, it is important that proper analyses show the proper location on a site for that infiltration to take place. As a general rule of thumb, when an entire site is comprised of steeper slopes, it may be necessary to use a variety of smaller BMPs to fit the contours of the subject site. For proposed developments that are governed by this Part, a comprehensive storm water management plan shall accompany the submitted application. The proposed method of managing storm water shall utilize appropriate site-specific mitigation and structural practices to effectively provide no net increase in storm water runoff versus pre-development conditions.

(E) *Stream and Wetlands Protection.* It is recognized that areas of steep terrain produce higher amounts of storm water runoff at higher velocities. Development on those areas will only contribute to that trend. The direct discharge of the storm water to local drainage ways and wetlands can have significant negative effects on the quality of the waters within the drainage way or wetlands and the diversity of wildlife that the areas can sustain. While efforts are to be made to properly control and manage the runoff, there is no substitute to a stream's or wetland's health for the role of a riparian buffer. As such, a riparian buffer shall be provided by the developer and/or protected by the developer for all perennial and intermittent streams and wetlands. The buffers shall extend a minimum of 50 feet from the center line of a stream and 50 feet from the edge of any wetlands areas. See the below figure: All required riparian buffers shall be included as common areas within a development, instead of being included within the boundaries of individual lots. No land-disturbing activity may take place within the required stream or wetlands buffer except for approved street crossings. However, an encroachment into the required stream or wetlands buffer may be allowed at the discretion of the Town Council. The Town Council shall take into account the recommendation of town's staff in granting or denying an encroachment. There are multiple examples of when such an encroachment might be granted. For example, in certain instances the allowance of a roadway within the buffer zone may prevent large cut and fill and tree clearing operations further uphill of the stream or wetlands, especially if logging roads or some other pre-defined path exists within the prescribed stream or wetlands buffer. In such a case, the allowance of an encroachment may do more to protect the health of the stream or wetlands than adhering to the prescribed buffer requirement contained herein. The siting of a stormwater management facility may be optimal within a stream buffer due to soil conditions, slope conditions, the necessity to treat stormwater runoff before the runoff enters the applicable stream or wetlands, or some other characteristics. In this case, it may be more appropriate to allow an encroachment of the required stream buffer as well. In order for such an allowance to be granted, the applicant shall

demonstrate to the Town Council that such an encroachment will be within the intent of Section 11.25(E) below, and will benefit the stream's health more so than strict adherence to the prescribed stream buffer requirement. In the case where impervious surface is allowed within the stream buffer, the impervious surfaces shall not count towards the buffer width and so additional width shall be added to the buffer in order to comply with this subsection (E). All proposed ponds and/or lakes shall be built outside of stream channels. When built in-line (within stream channels), ponds and lakes pose many negative impacts to local streams.

(F) *View-sheds.* It is recognized that the scenic and aesthetic qualities of the mountains and hillsides in this region play an important role in the economy and the quality of life for residents within the community. As such, whenever a building is to be constructed which is governed by this Part, its building and grading envelope shall be sited so that the structure to be placed thereon shall not be readily visible from public rights-of-way or public lands, the elevation of which is equal to or less than the structure. This may be accomplished through natural terrain, existing vegetation, or some other means consistent with accepted industry standards and approved by the UDO Administrator. Views of the surrounding mountains from prominent state roads, such as N.C. 108, which generate significant amounts of traffic, shall especially be considered.

(G) *Building Height.* The height of any building shall not extend closer than 50 feet to the uppermost point of any protected mountain ridge, as that term is defined herein, on which the building is constructed. Nor shall any building be constructed closer than 20 feet to the shoulder of any protected mountain ridge. See Section 11.27(R) for more information on construction near and around the shoulder of a ridge). For the purposes of this Part, the uppermost point of the crest, summit or ridge top refers to geological formations and not vegetation. Items, such as chimneys, flues, flag poles and wires may be allowed to extend to within the 50-foot setback only at the UDO Administrator’s discretion.

(H) *Disturbance Limits.* No more than 20 acres may be disturbed at one time throughout the course of a development. If 20 acres is currently being disturbed, then all or a portion of that 20 acres must be re-stabilized before continuation of the project to other land disturbing activities within the tract.

(I) *Impact on Neighboring Properties.* Any negative externalities generated by a development shall be remedied at the expense of the party(ies) financially responsible for the development. As an example, if a stream is polluted by sediment washing off of a development, then the party responsible for creating the erosion shall incur the cost of repairing the stream. If such a situation arises, then the final plat of a development or phase of development shall not be approved until a written plan of remediation has been submitted to the town and corrective work has commenced. Depending on the scope of the repair work, a monetary surety of completion may be required.

(J) *Realignment of Streams.* Realignment of streams and natural drainage channels shall not be permitted except for the purpose of affecting a stream crossing and only as specifically approved by the UDO Administrator upon issuance of all necessary state and federal permits. In

such cases, natural or typical flow of surface or subsurface water shall not be altered or obstructed in any way by grade changes if the alteration may adversely affect the property of another by either contributing to pooling or collection of waters, the increased deposition of sediment into neighboring waterways and/or lands, or to the concentration or intensification of surface water discharge.

(K) *Impervious Surface Limits.* Development on lands that are subject to this Part shall meet the impervious surface and grading requirements shown in the table below.

Average Slope of Land to be Developed or Subdivided	*Maximum Amount of Grading*	*Maximum Amount of Impervious Surface*
20% - 25%	50%	10%
26% - 30%	40%	8%
31% - 35%	20%	4%
36% - 40%	10%	2%
> 40%	5%	1%
NOTE: These grading requirements shall not be construed to allow a violation of the town land Clearing, Grading and Tree Protection Ordinance.		

(L) *Density Limits.*

(1) Development on lands that are subject to this Part shall meet the density requirements shown in the appropriate table below.

Maximum Density for Developments with Public Water and Sewer Systems	
Average Slope of Land to be Developed or Subdivided	*Maximum Density (Lots per Acre)*
20% - 25%	0.50
26% - 30%	0.33
31% - 35%	0.20
36% - 40%	0.13
>40%	0.08

Maximum Density for Developments with Private Water or Single Family Wastewater Treatment and Disposal Systems, But Not Both	
Average Slope of Land to be Developed or Subdivided	*Maximum Density (Lots per Acre)*
20% - 25%	0.40
26% - 30%	0.24
31% - 35%	0.13
36% - 40%	0.07
>40%	0.05

Maximum Density for Developments with Private Water and Single Family Wastewater Treatment and Disposal Systems	
Average Slope of Land to be Developed or Subdivided	***Maximum Density (Lots per Acre)***
20% - 25%	0.25
26% - 30%	0.14
31% - 35%	0.08
36% - 40%	0.05
>40%	0.04

(2) Whenever a conflict arises in the allowable density of a development or minimum lot size as determined by this Mountain and Hillside Development Ordinance, the Town Zoning Ordinance, or the Town Subdivision Ordinance, the more restrictive regulation shall apply.

(M) *Recognition.* Developers that undertake exemplary developments that provide housing and/or commercial opportunities to the town while protecting view-sheds, avoiding habitat fragmentation, and protecting water quality shall be recognized as good stewards of the region's resources. It is the intent of this division to promote quality development and careful site design. Therefore, those that utilize the practices shall be granted a certificate from the town attesting to the quality of such a developer's work. Recognition of the developer's integrity and quality will also be posted on the town's official web site. Both the certificate and the web site posting may be used for the purposes of marketing the developer's services.

(N) *Determining Slope.* The following shall offer guidance and procedure for the purposes of calculating slopes for parcels, tracts and/or slope districts.

(1) Prior to commencing any development or land-disturbing activity and prior to making application for any permits and/or other approvals, the calculated average slope for a particular land tract shall be approved by the UDO Administrator. Average slope calculations and supporting documentation shall be submitted to the UDO Administrator for review. Within ten days of receipt, the UDO Administrator shall: request additional information; request revisions to the average slope calculation submittal; or issue written concurrence with the determination of average slope, as submitted.

(2) It is recognized that one average slope calculation may not be suitable for analyzing larger tracts of land that are proposed to be developed. As such, tracts of land that are proposed to be developed and are greater in size than 20 acres shall be broken down into smaller divisions. These smaller divisions of land shall be referred to as slope districts. When an application is submitted for a land-disturbing activity regarding a project that is greater than 20 acres, the submitted slope calculations shall be for each

created slope district. The applicant may arrange these slope districts in a manner suitable to him or her so long as any given slope district does not exceed 20 acres in size, the borders are contiguous with one another, and the borders coincide with proposed lot lines, the tract boundary, or the boundary of any delineated open space area. The slope districts shall exclude any areas proposed to be dedicated open space. For each slope district:

(a) Calculate each slope district's percent slope according to Section 11.24(N)(7) below;

(b) Find each district' s corresponding percent impervious surface, density and grading limits based on the calculated slope in accordance with the tables found in subsections (K) and (L) above;

(c) For each requirement (i.e., density, grading and impervious surface) multiply the result of (ii) above by the number of acres within the slope district. This will give the actual amount of impervious surface, grading and lots allowed per slope district; and

(d) Add the outcomes of subsection (c) above, for each slope district together. This will give the total limit for each requirement (i.e., density, grading and impervious surface) for the entire site.

(3) Each slope calculation submitted to the UDO Administrator for review shall include a scaled map, accurately showing (a) topography for the entire land tract, (b) a closed perimeter line delineating a single area proposed for the occurrence of any type(s) of land-disturbing activity, (c) the deeded land tract boundary, and (d) the boundaries of any slope districts. The accuracy and detail of the map shall be acceptable to the UDO Administrator for site specific conditions and the particular land disturbing activities proposed.

(4) Tracts of land greater than 20 acres. When a tract of land is proposed for any type of land-disturbing activity and the subject tract of land is greater than 20 acres, the applicant shall divide the tract into slope districts. The submitted slope calculation shall contain an average slope for each slope district.

(5) Tracts of land equal to or less than 20 acres. When a tract of land is proposed to be developed and is less than or equal to 20 acres in size, an average slope calculation shall be submitted for the entire tract.

(6) Single-family dwellings and two-family dwellings. The slope calculation submitted with an application for the construction of a single-family or two-family dwelling project only needs to incorporate the areas of land within the proposed building and grading envelope.

(7) Slope calculation preparation. The submitted slope calculation shall be prepared by a professional land surveyor, engineer, architect or other approved professional that is registered in the state. If such a professional does not prepare the submitted calculation, then the town's Planning Department shall keep a slope database in its GIS system and shall use the highest slope contained within the proposed tract of land to determine the slope of the tract for the purposes of administering the regulations contained within this Part.

(8) Slope calculation submittal. When a slope calculation is submitted, the methodology used by the approved professional, responsible for creating the calculation shall be submitted as part of that slope calculation submittal.

(O) *Hazardous Waste Facilities.* Handling areas for the receiving and storage of hazardous waste or solid waste disposal facilities are prohibited in areas regulated by this Part.

(P) *Mining.* Mining activity which requires a new permit from the State Department of Environment and Natural Resources shall be prohibited in the areas regulated by this Part. Expansion of an existing mining activity that would require a permit modification from the North Carolina Department of Environment and Natural Resources shall be prohibited in the areas regulated by this Part.

(Q) *Antennas and Towers.* Water, radio, television, cell or other towers shall not extend more than 40 feet, as measured from the highest point at which the foundation of the structure intersects the natural ground surface, above the uppermost point of the crest, summit, or ridge top of the protected mountain on which the structure is constructed.

(R) *Division of Area.* Where there is a drastic variation in the landform character within one site, the site may be divided into several distinct areas for the purposes of slope determination. This division must be approved by the UDO Administrator. Generally, this provision shall only be used in cases where large tracts of property encompass flat land as well as significant mountain and hillside terrain. Details for each division must be provided.

(S) *Landslide Hazard Advisory*. The following statement shall be recorded on the final plat with the Polk County register of deeds for any lot created whose surface slope is equal to or greater than 20%: "While landslides and other slope moving events have occurred as a result of less precipitation, storm events that produce five inches of rainfall during a 24-hour period significantly increase the risk of landslides on areas of 20% slope or more. Slopes that have been modified with excavations, embankments, and/or structures are at higher risk of earth movement than unmodified/natural slopes."

(T) *Lot Design.* All water supply sources and conveyance systems and all wastewater conveyance, treatment, disposal and reuse systems, if any, shall be sited prior to or in conjunction with lot layout in order to ensure adequate space is provided for each system. While this is preferred for

all developments, it is especially important to consider well and septic considerations on steeper terrain as such topography will usually mandate the provision of greater space for each system.

(U) *Ground Water Monitoring.* Developments regulated by this Mountain and Hillside Development Ordinance that propose to use groundwater for any reason, to include non-potable uses, shall initiate a well monitoring program. The program shall provide for the monitoring of all wells on site at a minimum of once every three years. A site-specific groundwater monitoring plan shall be described in detail and shall be submitted as part of the hydro-geological report required by Section 11.22(C)(4). The groundwater monitoring plan shall include the monitoring of ground water levels as well as those regulated and unregulated contaminants defined by the Environmental Protection Agency (EPA) and the State Department of Environment and Natural Resources' Public Water Supply Section. A groundwater monitoring plan shall not be required if the proposed development is not proposed to extract more groundwater than 6,000 gallons per day (four gallons per minute).

(V) *Conservation Design.* All subdivisions regulated by this Part shall utilize the town Subdivision Ordinance's clustering option. The clustering of structures shall be located on flatter and less sensitive lands, while preserving steep, more sensitive, and more fragile lands as open space.

(W) *Golf Courses.* No development regulated by this Part shall be provided with a golf course.

(X) *Grading Contractor Selection.* The grading contractor selected to work within a development governed by this Part shall have either completed an accredited formal certification program or have completed the Clear Water Contractor© program. A list of grading contractors that have completed the Clear Water Contractor© program since 1999 can be found at www.themayberrygroup.org.

SECTION 11.27 REQUIREMENTS FOR ROADS AND DRIVEWAYS

No new public road, private road, or driveway, including undeveloped lots of record, shall be permitted or constructed unless it complies with the appropriate requirements of the Town Subdivision Ordinance and this section.

(A) All new public and private roads and driveways shall be designed and constructed to minimize the potential for landslides, erosion, and runoff.

(B) Roads and driveways shall be located such that the maximum number of existing trees on the site is preserved.

(C) Roads and driveways shall be designed to create the minimum feasible amounts of land coverage and the minimum feasible disturbance of the soil. Variations in road design and road construction specified by the town in its subdivision ordinance regulations shall be permitted, as may be approved by the town, to prevent the dedication of unnecessarily large amounts of land to the roads or driveways. One-way streets shall be permitted and encouraged where appropriate for the terrain and where public safety would not be jeopardized in the opinion of

the town. For instance, a two-way road may have the directions of flow split into one-way pairs that differ in elevation, circumnavigate difficult terrain, or avoid tree clearance.

(D) While it is a benefit to the environment and the natural world to allow for narrower road widths and steeper road slopes, it is also recognized by the town that minimum standards for access drives are designed to provide emergency responders the ability to protect residents and their respective structures. So, while variations to the town's and the state's street standards will be heard and considered, the input from the Town Fire Department and the Polk County EMS will be collected. The applicant for any project that is to be governed by this Part wherein new streets are proposed to be built shall hold a preliminary conference with appropriate emergency response personnel to discuss the proposed provisions of access. It shall be considered by both parties that in these cases, care of the environment and care of safety issues may be conflicting issues and so compromises shall be considered. The overall objective of these preliminary meetings is to reach an understanding of how the development can be built in a way that reduces the environmental impacts associated with it, while preserving the safety of those who will be living in the development. Any agreements made at these meetings shall be submitted in writing upon application for any appropriate land-disturbing activity.

(E) When roads are approved to cross over streams and rivers, the use of bridges shall be preferred over the use of culverts. If a culvert is to be used it must be properly designed and installed to prevent erosion and to allow the passage of aquatic wildlife in either direction of the stream or river.

(F) if a specific roadway is the only access to other structures, then it shall remain unblocked at all times.

(G) All developments shall be provided with at least two points of access. Each access provided shall provide access to the entire development in case one access point is compromised. For phased subdivisions both points of access shall be open and unobstructed during any time in which one or more persons is living in the subdivision.

SECTION 11.28 FIRE PROTECTION

(A) Adjacent to residences or structures to be occupied in areas of high risk of forest fires, there shall be required a fire-buffer zone of no less than 30 feet on all sides of the residence or structures, or to the property line, whichever is nearer. within the fire buffer zone, all brush, flammable vegetation or combustible growth shall be maintained in a fire safe manner. This provision shall not apply to single specimens of trees, ornamental shrubbery, or similar plants used as ground cover, provided that they do not form a continuous means of rapidly transmitting fire from the native growth to a residence or structure to be occupied.

(B) In areas of high risk of forest fires as determined by the Fire Marshal, the following provisions may be made a condition of development or building permit approval:

(1) Roofs shall be covered with noncombustible materials, such as clay or concrete shake, or tile, or other fire retardant materials;

(2) Exterior walls shall be surfaced with noncombustible or fire-resistant materials; and

(3) Chimneys shall be provided with approved spark arresters.

(C) Where no public water is available to serve a development or subdivision, the Planning Director may, in the interest of public safety, require the establishment of ponds and dry hydrants to serve such development or subdivision.

SECTION 11.29 BEST MANAGEMENT PRACTICES

Applications for development authorization shall demonstrate compliance with the best management practices set forth herein unless waived by the UDO Administrator in those circumstances where: strict compliance would result in practical difficulty or unnecessary hardship; the public safety and welfare are assured; and the purposes of this Part are not compromised.

(A) *Accepted Professional Practices.* All development proposals subject to the requirements of this Part shall be designed to meet generally accepted principles of land use planning, soil mechanics, engineering geology, civil engineering, environmental management, civic design, architecture, landscape architecture, landscape ecology and related disciplines.

(B) *Planning.* Planning of the development shall take into account the topography, soils, geology, hydrology, vegetation and other features of the proposed site. Areas not well suited for development due to soil characteristics, geology, vegetation, existing plant and animal life, or hydrology limitations, shall not be developed.

(C) *Innovation.* Site designers are encouraged to propose and apply innovative concepts for slope and soil stabilization, grading, landscaping and building placement and design to meet the purposes and intentions of this Part.

(D) *Land Disturbance and Grading.* When grading is necessary, rigid contouring should be avoided; contours should be rounded to appear undulating and natural. Projects involving more than one use or phase should be phased into workable units in a way that minimizes the amount of soil disturbance at any given point in time. When grading must occur, it should blend with the natural land form as much as possible. Grading to form level pads and building sites is strongly discouraged and when required such grading should be minimized. Earth berms, rock forms or stone retaining walls should be used to minimize visual impacts of cuts. Hedges and fences may also be appropriate in some locations. Large, continuous surfaces of smooth concrete and related structures are considered inappropriate. The height of any retaining wall should not exceed four feet unless required to be higher for engineering reasons. In areas where cuts are steeper, a stepped or terraced wall should be used.

(E) *Vegetation, Landscaping and Habitat.* Plans for development should consider any characteristics of the area that make it unique or significant in the conservation of flora and fauna including threatened, rare and endangered species. Existing deep-rooted vegetation, including trees, bushes and ground covers, should be removed only in cases where necessary for buildings, roads, driveways, parking and minimal yards. Use of plant materials that blend with the mountainside or hillside shall be used. Landscape schemes that are rough, natural and/or subdued in character are encouraged. Extensive areas of exotic plants and sod are discouraged where they would be visible from the public right-of-way. Within stream protection areas, pesticides, herbicides and other similar chemicals should only be used in accordance with existing state and federal pesticide management rules and manufacturers' literature. The pesticides, herbicides, and similar chemicals should be avoided if possible, especially by selecting native plants that are resilient in the sites natural conditions.

(F) *Historic and Archaeological Resources.* Plans for development should consider the preservation of significant state historical and archaeological resources (defined as properties on or eligible for the National Register of Historic Places) within areas subject to the requirements of this Part. Cemeteries and grave sites shall be protected and family members shall be assured access thereto. Anyone developing properties containing roads, trails, and other travel ways connecting to national forests and other public lands shall assure continued public access thereto.

(G) *Sensitive Natural Areas.* Plans for development shall be sensitive toward and mitigate any negative effects of development activities on sensitive natural areas both on site and in immediately adjacent areas.

(H) *Building Colors.* Exterior colors for new buildings and structures, including roofs, should be coordinated with the predominant colors of the surrounding landscape to minimize contrast between the structure and the natural environment. It is strongly encouraged that dark or earth-toned colors be used to make the home less conspicuous as seen from off site.

(I) *Clustering of Buildings and Building Locations.* Buildings and structures should be clustered where possible to reduce disturbance and removal of vegetation. Buildings should be sited with different floor elevations to achieve height variation. For multi-family projects, alignments of buildings both horizontally and vertically shall be staggered to create unit identity, privacy at entry ways, private outdoor space, and to share common open space.

(J) *Building Setbacks.* Where appropriate, buildings and structures should be located as close to the road as possible to preserve the natural terrain of the land, to minimize disturbance thereto, and to shorten the length of driveways.

(K) *Screening and View Corridors.* The thinning of limbs of individual trees is preferred over tree removal as a means to provide a view corridor. Dwellings or buildings that are proposed to be sited to maximize views from the lot or that require removal of vegetation to produce a view corridor are strongly discouraged.

(L) *Road and Driveways should follow the Natural Terrain.* Road and driveway alignments should follow the natural terrain unless the project engineer can justify additional cuts or fills. Roads, walkways and parking areas should be designed to parallel the natural contours of the site.

(M) *Shared Driveways and Parking.* Combinations of collective private driveways, shared parking areas and on-street parallel parking bays should be used where possible to minimize land and soil disturbance, minimize impervious surface coverage and achieve excellence of design and aesthetic sensitivity.

(N) *Lighting.* Outside lighting shall be muted and directed so that it does not spill over on to neighboring properties. A reduced amount of light emanating from a development on a mountainside or hillside shall be provided, since lighting from buildings located on mountain or hillsides can be highly-visible at night and may affect the night character of the community. High-pressure sodium lights are prohibited. See the town Lighting Ordinance for specific requirements.

(O) *Building Pads.* For subdivisions and developments with multiple buildings, building pads (i.e., clearing and grading for buildings and structures) should be varied in elevation above or below road level to avoid the appearance of monotonous, flat, level pads.

(P) *Step-Down Design.* Single family dwellings and other structures should "step down" the hillside or mountainside to limit the amount of grading required. Large building pads and footings should be split into more than one (i.e., split level homes that step down the hillside} where possible to allow the building pad and structure to more closely follow the existing slope of the land. Building footprint coverage should be minimized where possible by using multiple-level (two or more stories) buildings. The visible mass of larger buildings and structures should be reduced by utilizing below-grade rooms cut into the natural slope.

(Q) *Natural Drainage Channels.* Natural drainage channels shall be preserved to the maximum extent possible.

(R) *Setbacks.* Setbacks should be used to protect natural features of the mountain and hillside terrain. Placing structures away from the shoulder reduces the visual impact of development as well as erosion on steep slopes. All structures should be set back a minimum of 20 feet from the shoulder of a ridge line. The shoulder is defined as the plane at which the slope of the land changes from greater than 15% to a ridge top of less than 15%. Natural vegetation should be maintained undisturbed within the setback area except for access to a lot or limited cutting to provide a view. All other setbacks including, but not limited to, those from streams, creeks, springheads, and property lines shall be met as required by the town or Polk County ordinances, and/or state regulations.

SECTION 11.30 SUBMISSION AND REVIEW OF APPLICATIONS

Upon the filing of a request for approval of a subdivision, land-disturbing activity, development or building permit, the following procedures shall be required and followed to determine whether the

proposed action is governed by provisions of this Part and whether a permit pursuant to this Part is required for a lot, parcel, part of a lot, or part of a parcel. The application shall be reviewed by the UDO Administrator or his or her designee. Applications for development authorization that are allowed by the regulations of the town to be authorized administratively shall be so done by the UDO Administrator; in cases when approval is required by the Planning Board, the Zoning Board of Adjustment, or the Town Council the approval shall be made by the appropriate board or council.

SECTION 11.31 CRITERIA FOR APPROVAL OF APPLICATIONS

No land-disturbing activity, development, building, structure, road, driveway or other development related activity which requires a permit under the terms of this Part or other ordinance of the town shall be permitted unless the UDO Administrator, the Planning Board, the Zoning Board of Adjustment, or the Town Council, whichever has final authority over the application, has determined that the project as designed and sited meets all of the requirements of this Part and substantially conforms to the best management practices set forth in this Part.

SECTION 11.32 ACTION ON APPLICATION

An application that meets the requirements of this Part shall be approved by the UDO Administrator who shall be authorized to place conditions on the land-disturbing activity, development, building, structure or other development related activity to ensure that the minimum requirements and the purposes and intentions of this Part are met. Applications that do not meet the standards contained in Section 11.29 above, shall be denied in writing, stating the reasons for denial.

ARTICLE 12. FLOOD DAMAGE PREVENTION ORDINANCE

PART I. AUTHORIZATION, FINDINGS, PURPOSE, AND OBJECTIVES

SECTION 12.1 STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D (Effective July 1, 2021) of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Town Council of the Town of Columbus, North Carolina, does ordain as follows:

SECTION 12.2 FINDINGS OF FACT

(A) The flood prone areas within the jurisdiction of the Town of Columbus are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION 12.3 STATEMENT OF PURPOSE

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

(A) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION 12.4 OBJECTIVES

The objectives of this ordinance are to:

(A) Protect human life, safety, and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business losses and interruptions;

(E) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

(F) Minimize damage to private and public property due to flooding;

(G) Make flood insurance available to the community through the National Flood Insurance Program;

(H) Maintain the natural and beneficial functions of floodplains;

(I) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(J) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

PART II. DEFINITIONS

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

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

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

“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of Shallow Flooding" means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)".

"Area of Future-Conditions Flood Hazard" means the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

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

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

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

"Building" see "Structure".

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

"Design Flood" See "Regulatory Flood Protection Elevation."

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

"Development Activity" means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

"Digital Flood Insurance Rate Map (DFIRM)" means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

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

"Elevated Building" means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Encroachment" means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

"Existing building and existing structure" means any building and/or structure for which the "start of construction" commenced before the effective date of the initial date of the floodplain management regulations adopted by a community.

"Existing Manufactured Home Park or Manufactured Home Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the initial date of the floodplain management regulations adopted by a community.

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

(a) The overflow of inland or tidal waters; and/or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Boundary and Floodway Map (FBFM)" means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

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

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

"Flood Insurance Study (FIS)" means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

"Flood Prone Area" see "Floodplain."

"Flood Zone" means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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

"Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain Development Permit" means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

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

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

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

"Flood-resistant material" means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

"Floodway" means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"Floodway encroachment analysis" means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

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

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

"Hazardous Waste Management Facility" means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

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

"Historic Structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or

(d) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

"Letter of Map Change (LOMC)" means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

(a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective

Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

"Light Duty Truck" means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

(a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(c) Available with special features enabling off-street or off-highway operation and use.

"Lowest Adjacent Grade (LAG)" means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

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

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

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

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

"Non-Conversion Agreement" means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

"Non-Encroachment Area (NEA)" means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground.

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

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

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and

(e) Is fully licensed and ready for highway use.

For the purpose of this ordinance, "Tiny Homes/Houses" and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

"Reference Level" is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

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

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

"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

"Solid Waste Disposal Site" means, 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 Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Part III, Section 12.6 of this ordinance.

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

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

"Substantial Damage" means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. "Substantial damage" also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement."

"Substantial Improvement" means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Part IV, Section 12.17 of this ordinance.

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

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

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

"Variance" is a grant of relief from the requirements of this ordinance.

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

"Water Surface Elevation (WSE)" means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

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

PART III. GENERAL PROVISIONS

SECTION 12.5 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), as allowed by law, [if applicable] of the Town of Columbus.

SECTION 12.6 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated September 3, 2008, for Polk County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto.

SECTION 12.7 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Part III, Section 12.6 of this ordinance.

SECTION 12.8 COMPLIANCE

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

SECTION 12.9 ABROGATION AND GREATER RESTRICTIONS

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

SECTION 12.10 INTERPRETATION

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

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION 12.11 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Columbus or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION 12.12 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the

Town of Columbus from taking such other lawful action as is necessary to prevent or remedy any violation.

PART IV. ADMINISTRATION

SECTION 12.13 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The UDO Administrator, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

SECTION 12.14 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS

(A) *Application Requirements.* Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

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

(a) The nature, location, dimensions, and elevations of the area of development/ disturbance; existing and proposed structures, utility systems, grading/ pavement areas, fill materials, storage areas, drainage facilities, and other development;

(b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Part III, Section 12.6, or a statement that the entire lot is within the Special Flood Hazard Area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Part III, Section 12.6;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in Part III, Section 12.6;

(e) The Base Flood Elevation (BFE) where provided as set forth in Part III, Section 12.6; Part IV, Section 12.15; or Part V, Section 12.20;

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

(g) The certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

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

(b) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and

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

(3) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

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

(a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

(b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Part V, Section 12.19(D)(4) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.

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

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(7) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

(8) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Part V, Section 12.19, subsections (F) and (G) of this article are met.

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both

upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) *Permit Requirements.* The Floodplain Development Permit shall include, but not be limited to:

(1) A complete description of all the development to be permitted under the floodplain development permit (e.g., house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).

(2) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Part III, Section 12.6.

(3) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.

(4) The Regulatory Flood Protection Elevation required for the protection of all public utilities.

(5) All certification submittal requirements with timelines.

(6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Part V, Section 12.22 have been met.

(7) The flood openings requirements.

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

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

(C) *Certification Requirements.*

(1) Elevation Certificates.

(a) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(b) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of

Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.

(2) Floodproofing Certificate.

(a) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/ Occupancy. It shall be the duty of the permit holder to submit to the Floodplain

Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

(3) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Part V, Section 12.19(C)(2).

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

(a) Recreational Vehicles meeting requirements of Part V, Section 12.19(F)(1);

(b) Temporary Structures meeting requirements of Part V, Section 12.19(G); and

(c) Accessory Structures that are less than 150 square feet and meeting requirements of Part V, Section 12.19(H).

(D) *Determinations for Existing Buildings and Structures.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION 12.15 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(A) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.

(B) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(C) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Part V, Section 12.22 are met.

(F) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Part IV, Section 12.14(C).

(G) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Part IV, Section 12.14(C).

(H) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Part IV, Section 12.14(C).

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Part IV, Section 12.14(C) and Part V, Section 12.19(B).

(J) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(K) When BFE data has not been provided in accordance with the provisions of Part III, Section 12.6, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Part V, Section 12.20(B)(3), in order to administer the provisions of this article.

(L) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Part III, Section 12.6, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.

(M) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(N) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(O) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(P) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to

comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(Q) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(R) Follow through with corrective procedures of Part IV, Section 12.16.

(S) Review, provide input, and make recommendations for variance requests.

(T) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Part III, Section 12.6 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(U) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

(V) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

SECTION 12.16 CORRECTIVE PROCEDURES

(A) *Violations to be Corrected*. When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(B) *Actions in Event of Failure to Take Corrective Action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) That the building or property is in violation of the floodplain management regulations;

(2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(C) *Order to Take Corrective Action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eighty (180) calendar days calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) *Failure to Comply with Order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

SECTION 12.17 VARIANCE PROCEDURES

(A) The Board of Adjustment as established by the Town of Columbus, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.

(B) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(C) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

(2) Functionally dependent facilities if determined to meet the definition as stated in Part II of this article, provided provisions of Part IV, Section 12.17(I)(2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(3) Any other type of development provided it meets the requirements of this Section.

(D) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined under Part II of this ordinance as a functionally dependent facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood

insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.

(I) Conditions for Variances:

(1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

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

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

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

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(J) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

(1) The use serves a critical need in the community.

(2) No feasible location exists for the use outside the Special Flood Hazard Area.

(3) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.

(4) The use complies with all other applicable federal, state and local laws.

(5) The Town of Columbus has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

PART V. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION 12.18 GENERAL STANDARDS

In all Special Flood Hazard Areas, the following provisions are required:

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

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.

(C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(D) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

(1) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

(2) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(H) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

(I) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Part IV, Section 12.17(J). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Part IV, Section 12.14(C).

(J) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(K) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(L) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(M) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(N) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

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

(P) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

SECTION 12.19 SPECIFIC STANDARDS

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Part III, Section 12.6, or Part V, Section 12.20, the following provisions, in addition to the provisions of Part V, Section 12.18, are required:

(A) *Residential Construction*. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Part II of this article.

(B) *Non-Residential Construction.* New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Part II of this article. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Part V, Section 12.23(B). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Part IV, Section 12.14(C), along with the operational plan and the inspection and maintenance plan.

(C) *Manufactured Homes.*

(1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Part II of this article.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of Part V, Section 12.19(D).

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(D) *Elevated Buildings.* Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

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

(2) Shall not be temperature-controlled or conditioned;

(3) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

(4) Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

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

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

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

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

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

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

(E) *Additions/Improvements.*

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

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

(b) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

(2) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

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

(a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(F) *Recreational Vehicles.* Recreational vehicles shall either:

(1) Temporary Placement

(a) Be on site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)

(2) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

(G) *Temporary Non-Residential Structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

(2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(H) *Accessory Structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(2) Accessory structures shall not be temperature-controlled;

(3) Accessory structures shall be designed to have low flood damage potential;

(4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(5) Accessory structures shall be firmly anchored in accordance with the provisions of Part V, Section 12.18(A);

(6) All service facilities such as electrical shall be installed in accordance with the provisions of Part V, Section 12.18(D); and

(7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Part V, Section 12.19(D)(4).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Part V, Section 12.19(B). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Part IV, Section 12.14(C).

(I) *Tanks.* When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(1) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(2) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(3) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Part V, Section 12.19(B) of this article shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(4) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(a) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(J) *Other Development.*

(1) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Part V, Section 12.22 of this article.

(2) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Part V, Section 12.22 of this article.

(3) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Part V, Section 12.22 of this article.

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

SECTION 12.20 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Part III, Section 12.6, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Part V, Section 12.18, shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

(1) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Part V, Sections 12.18 and 12.19.

(2) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Part V, Sections 12.19 and 12.22.

(3) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Part III, Section 12.6 and utilized in implementing this article.

(4) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Part II. All other applicable provisions of Part V, Section 12.19 shall also apply.

SECTION 12.21 STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(A) Standards of Part V, Sections 12.18 and 12.19; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.

SECTION 12.22 FLOODWAYS AND NON-ENCROACHMENT AREAS

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Part III, Section 12.6. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and

potential projectiles. The following provisions, in addition to standards outlined in Part V, Sections 12.18 and 12.19, shall apply to all development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

(1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

(2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

(B) If Part V, Section 12.22(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(C) Manufactured homes may be permitted provided the following provisions are met:

(1) The anchoring and the elevation standards of Part V, Section 12.19(C); and

(2) The encroachment standards of Part V, Section 12.22(A).

SECTION 12.23 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)

Located within the Special Flood Hazard Areas established in Part III, Section 12.6, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Part V, Sections 12.18 and 12.19, all new construction and substantial improvements shall meet the following requirements:

(A) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.

(B) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Part V, Section 12.19(2) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Part IV, Section 12.14(C) and Part V, Section 12.19(B).

(C) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION 12.24 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH)

Located within the Special Flood Hazard Areas established in Part III, Section 12.6, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Part V, Sections 12.18 and 12.19, all new construction and substantial improvements shall meet the following requirements:

(A) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

PART VI. LEGAL STATUS PROVISIONS

SECTION 12.25 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted July 17, 2008, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town enacted on July 17, 2008, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Polk County is April 18, 1988.

SECTION 12.26 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this article.

SECTION 12.27 SEVERABILITY

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

SECTION 12.28 EFFECTIVE DATE

This ordinance shall become effective insert upon adoption.

SECTION 12.29 ADOPTION CERTIFICATION

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Town Council of the Town of Columbus, North Carolina, on the 16th day of September 2021.

WITNESS my hand and the official seal of the Town of Columbus, this the _____ day of _____ 2021.

_____

Mayor, Town of Columbus

(SEAL)

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APPENDIX A. DEFINITIONS

SECTION A.1 WORD INTERPRETATION

Except as specifically defined herein, all words used in this chapter have their customary dictionary definitions. For the purpose of this chapter, certain words or terms used herein are defined as follows, and these definitions apply only to that subchapter and section of this chapter. Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

BOARD OF PLANNING AND ADJUSTMENT. The Town of Columbus Board of Planning and Adjustment. This Board serves to fulfill the duties of the town Planning Board and the town Board of Adjustments. In the context of its planning responsibilities, it is sometimes referred to in this chapter as the Planning Board. In the context of its Board of Adjustment responsibilities, it is sometimes referred to in this chapter as the Board of Adjustment or the Zoning Board of Adjustment.

BUILDING. Includes the word ***STRUCTURE***.

COUNTY COMMISSIONERS. The Polk County Board of Commissioners.

LOT. Includes the words ***PLOT*** or ***PARCEL***.

MAY. Permissive.

ORDINANCE. The Unified Development Ordinance of the town.

PERSON or ***APPLICANT.*** Includes a firm, association, organization, partnership, corporation, company, trust and an individual or governmental unit.

SHALL. Mandatory.

STREET. Includes the words ***COURT, ROAD,*** and ***HIGHWAY***.

TOWN COUNCIL. The Town of Columbus Town Council.

ZONING MAP or ***COLUMBUS ZONING MAP.*** The official zoning map of the town.

Whenever the words ***DWELLING, DWELLING UNIT, ROOMING HOUSE, ROOMING UNIT, RENTAL UNIT, STRUCTURE, BUILDING OR PREMISES*** are used it shall be understood as though they were followed by the phrase, "or any part thereof."

SECTION A.2 DEFINITIONS

ABANDONMENT. Cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this Ordinance.

ACCELERATED EROSION. Any increase over the rate of natural erosion as a result of land-disturbing activity.

ACCESSORY DWELLING UNIT. A self-contained apartment that is either attached to a single-family home (known as an ***ACCESSORY APARTMENT***) or in a separate structure on a single-family lot (known as an ***ACCESSORY DWELLING UNIT***).

ACCESSORY EQUIPMENT. Any equipment serving or being used in conjunction with a Wireless Facility or Wireless Support Structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

ACCESSORY USE. A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

ACT. The State Sedimentation Pollution Control Act of 1973, being G.S. §§ 113A-50 et seq., and all rules and orders adopted pursuant to it.

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

ADEQUATE EROSION CONTROL MEASURE, STRUCTURE OR DEVICE. One which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

ADEQUATE PUBLIC FACILITIES (APF) ALLOCATION. A reservation of capacity made by the Administrator upon a determination of adequacy.

ADEQUATE PUBLIC FACILITIES (APF) APPLICATION. An application for a determination of adequacy of public facilities.

ADEQUATE PUBLIC FACILITIES (APF) SCHEDULE. A schedule maintained by the Administrator that tracks the capacity of public facilities.

ADMINISTRATIVE DECISION. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS Chapter 160D or city development regulations. Also referred to as ministerial decisions or administrative determinations.

ADMINISTRATIVE HEARING. A proceeding to gather facts needed to make an administrative decision.

ADMINISTRATOR. The Columbus Town Manager or his or her designee.

ADULT AND SEXUALLY ORIENTED BUSINESSES. As defined in NCGS 14-202.10(2) which is incorporated in this definition by reference.

ADULT CARE HOME. An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes.

ADVANCED FACILITY. A capital improvement proposed to be constructed, dedicated or funded by an applicant pursuant to an approved mitigation plan.

AFFILIATE. A person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

AGRICULTURE. The commercial production, storage, processing, marketing, distribution or export of any agronomic, floricultural, horticultural, viticultural, silvicultural or aquacultural crop including, but not limited to, farm products, livestock and livestock, products, poultry and poultry products, milk and dairy products, fruit and other horticultural products, and seafood and aquacultural products (Source: the "North Carolina Agricultural Finance Act).

ALLEY. A public way, which affords only a secondary, means of access to abutting property and not intended for general traffic circulation.

ALTER or ***ALTERATION.*** Any change or modification to the construction or occupancy of a structure.

ALTERATION OF A WATERCOURSE. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

AMUSEMENT CENTER. Any room or place open to and available to the general public where 15 or more mechanical amusement devices and/or non-coin-operated amusement devices are kept, and where any person can play a game on a mechanical or amusement device by the insertion of a coin, slug or token, or by the payment of a fee or charge, or by the purchase, possession or presentation of a ticket or token.

ANIMATION. The movement, or the optical illusion of movement of any part of the sign structure, design or pictorial segment including the movement of any illumination or the flashing, scintillating or varying of light intensity. The automatic changing of all or any part of the facing of a sign shall be considered to be ***ANIMATION***. Also included in this definition are signs having a chasing action which is the action of a row of lights commonly used to create the appearance of action.

ANTENNA. Equipment used for transmitting or receiving radio frequency signals, which is attached to a tower, building or other structure, usually consisting of a series of directional panels, microwave or satellite dishes, or omnidirectional "whip" antenna. This definition also includes transmission lines between the ground-based equipment and the antenna.

APARTMENT GARAGE. A part of a garage consisting of a room or rooms intended, designed or used as a residence by an individual or a single family.

APARTMENT. A part of a building consisting of a room or rooms intended, designed or used as a residence by an individual or a single family.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

APPLICANT. A person, firm or corporation submitting an application for development or subdivision and upon whom final responsibility for ensuring compliance with the terms and conditions of the ordinance rests.

APPLICATION, TELECOMMUNICATION FACILITIES. A request that is submitted by an applicant to the Town for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, Town utility pole, or wireless support structure.

AREA OF FUTURE-CONDITIONS FLOOD HAZARD. The land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

AREA OF SHALLOW FLOODING. A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. See “Special Flood Hazard Area (SFHA).”

ART, WORK OF. All forms of original creations of visual art including but not limited to: sculpture, in any material or combination of materials, whether in the round, bas-relief, high relief, mobile, fountain, kinetic, or electronic; painting, whether portable or permanently fixed, as in the case of murals; mosiacs; photographs; crafts made from clay, fiber and textiles, wood, glass, metal, plastics, or any other material, or any combination thereof; calligraphy; mixed media composed of any combination of forms or media; unique architectural stylings or embellishments, including architectural crafts; environmental landscaping; or restoration and renovation of existing works of art of historical significance. Signs are not considered artwork.

ARTISAN’S WORKSHOP. A business for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items.

ASSISTED LIVING RESIDENCE. Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and

housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. There are three types of assisted living residences: adult care homes, adult care homes that serve only elderly persons, and multi-unit assisted housing with services.

BANNERS, PENNANTS AND BALLOONS. Any animated, rotating, fluttering or nonstationary device made of flexible materials designated to attract attention.

BASE FLOOD ELEVATION (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

BASE FLOOD. The flood having a one (1) percent chance of being equaled or exceeded in any given year.

BASEMENT. A story that is not a story above grade plane.

BASE STATION. A structure or equipment at a fixed location that enables Commission licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this ordinance or any equipment associated with a tower. The term includes, but is not limited to, the following:

(1) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(2) Radio transceivers, antennas, coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small cell networks).

(3) Any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in paragraph (1) and (2) above that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(4) The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment as described in paragraph (1) and (2) above.

BATTERY CHARGING STATION. An electrical component assembly or cluster or component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed federal, state, and/or local requirements.

BATTERY EXCHANGE STATION. A fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds federal, state, and/or local requirements.

BEING CONDUCTED. A land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

BILLIARD HALL or POOL HALL. Any room or place open to and available to the general public where one or more billiard tables or pool tables of any design or size and less than 15 mechanical amusement devices and/or non-coin-operated amusement devices are kept, and where any person can play a game on a mechanical or amusement device, or the game of billiards or pool, or any variation thereof, by the insertion of a coin, slug or token, or by the pavement of a fee or charge, or by the purchase, possession, or presentation of a ticket or token.

BONA FIDE FARM. Agricultural activities as set forth in NCGS 160D-903. Sufficient evidence that the property is being used for bona fide farm purposes includes the following: (1) a farm sales tax exemption certificate issued by the Department of Revenue; (2) a copy of the property tax listing showing that the property is eligible for participation in the present-use-value program pursuant to NCGS 105-277.3; (3) a copy of the farm owner's or operator's Schedule F from the owner's or operators most recent federal income tax return; or (4) a forestry management plan.

BORROW. Fill material which is required for on-site construction and is obtained from other locations.

BUFFER EASEMENT. An easement not less than ten feet in width adjacent to a major street, or between dissimilar uses of land which may be required by the Planning Board for new developments.

BUFFER STRIP. Vegetation consisting of evergreen trees or shrubs located along the side and rear lot lines, but along streets shall be set back sufficiently to avoid interference with street right-of-way.

BUFFER ZONE. The strip of land adjacent to a lake or natural watercourse.

BUILDING AND GRADING ENVELOPE (BGE). The limits of disturbance affected by the establishment of a building and grounds. All buildings, walls, lawns, site amenities and associated disturbance from construction activity shall be confined within this zone. The ***BGE*** may be sited in one mass or apportioned into several smaller compounds connected by walks or drives. Driveways are not included in the overall ***BGE***, but parking areas and garages are.

BUILDING HEIGHT. The distance measured from the highest ground level at the structure foundation to the highest point on the roof.

BUILDING, SETBACK LINE. A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided. ***SETBACK LINES*** shall be measured either from the highway right-of-way or from the centerline of the highway, whichever is greater.

BUILDING. PRINCIPAL. A building used for the same purpose as the principal use of the lot.

BUILDING. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals, or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other open structure, with or without a roof, shall not be deemed to make them one ***BUILDING***.

BUSINESS DESIGNATION SIGN. A sign to designate the legal name of the business.

BUSINESS OR PROFESSION OF MASSAGE. The massage of any person for a fee or for other consideration.

CANDELA. A measure of luminous or light intensity in a certain direction. Useful in determining how much light is shining out of a fixture and in what direction.

CAPACITY. The demand that can be accommodated by a public facility.

CAPACITY, ALLOCATED. Capacity reserved pursuant to an unexpired APF allocation made under this chapter.

CAPACITY, AVAILABLE. The circumstance where public facilities have sufficient capacity, based on adopted levels of service standards, to accommodate the demand created by a proposed development, including where an applicant has provided advanced facilities sufficient to mitigate the impacts of the proposed development on public facilities.

CAPACITY, COMMITTED. Capacity consumed by development approved prior to the effective date of this chapter and not subject to the requirements of this chapter.

CAPACITY, RESERVED. Capacity reserved for a specified development or use, other than those set aside pursuant to an APF allocation, including developments proposed after the effective date of this chapter, which impact public facilities, but which are exempt from the requirements of this chapter.

CAPACITY, USED. Capacity dedicated to habitable structures and existing land uses, served by the public facility at the time of the APF determination.

CAPITAL IMPROVEMENTS. A physical asset, including land, that mitigates the offsite impacts of new development on public facilities, the costs of which generally are nonrecurring, may require multi-year financing, and provide additional capacity needed to accommodate the demand for public facilities.

CAPITAL IMPROVEMENTS PROGRAM or ***CIP.*** Plans and budgets adopted by the town, or service provider of a particular public facility, which itemize planned capital improvements and the timing and means of funding the improvements.

CAPITAL IMPROVEMENTS, EXISTING. Capital improvements either constructed and operational at the time of an APF application or the portion of a capital improvement which was designed to serve existing residents and employees as of the effective date of this Ordinance.

CAPITAL IMPROVEMENTS, PLANNED. Capital improvements included on a CIP and expected to be available by the end of the third fiscal year following the date of the APF application.

CAPITAL IMPROVEMENTS, TOTAL. Existing capital improvements and planned capital improvements.

CARRIER ON WHEELS OR CELL ON WHEELS (COW). A portable self-contained Wireless Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

CELLAR. A portion of a building located partly or wholly underground having inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

CHEMICAL STORAGE FACILITY. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

CHIEF OF POLICE. The Police Chief for the town or his or her designee.

CHILDCARE. A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.

CHILDCARE FACILITY. Includes childcare centers, family childcare homes, and any other childcare arrangement not excluded by NCGS 110 86 (2) that provides childcare, regardless of the time of day, wherever operated, and whether or not operated for profit.

(1) ***CHILDCARE CENTER.*** An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving childcare.

(2) ***FAMILY CHILDCARE HOME.*** A childcare arrangement located in a residence where, at any one time, more than two (2) children, but less than nine (9) children, receive childcare.

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

COMMISSION. The State Sedimentation Control Commission.

COMMUNICATIONS FACILITY. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

COMMUNICATIONS SERVICE. Cable service as defined in 47 USC § 522(6), information service as defined in 47 USC § 153(24), telecommunications service as defined in 47 USC § 153(53), or wireless services.

COMMUNICATIONS SERVICE PROVIDER. A cable operator as defined in 47 USC § 522(5); a provider of information service, as defined in 47 USC § 153(24); a telecommunications carrier, as defined in 47 USC § 153(51); or a wireless provider.

COMMUNICATIONS TOWER. A lower, which supports communication (broadcast, receiving or relay) equipment, utilized by commercial, government or other public and quasi-public users. This does not include private home use of satellite dishes and television antennas or amateur radio operators as licensed by the Federal Communications Commission (FCC).

COMPLETION OF CONSTRUCTION OR DEVELOPMENT. That no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

COMPREHENSIVE PLAN. The comprehensive plan, land use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the City Council.

CONCEALED WIRELESS FACILITY. Any Wireless Facility that is integrated as an architectural feature of an Existing Structure or any new Wireless Support Structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the Facility or Wireless Support Structure is not readily apparent to a casual observer.

CONDITIONAL LETTER OF MAP REVISION (CLOMR). A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

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

DAY CARE FACILITY, ADULT. The provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled.

DAY NURSERY AND PRIVATE KINDERGARTEN. A use of land and buildings to provide group care for children.

DAY SUPPORT FACILITY. A day support facility is a facility licensed by the NC Division of Medical Assistance as primarily a group service that provides assistance to the beneficiary(ies) with acquisition, retention, or improvement in self-help, socialization, and adaptive skills. Day Supports are furnished in a non-residential setting, separate from the home or facility where the beneficiary resides. Day Supports focus on enabling the beneficiary to attain or maintain his or her maximum functional level and is

coordinated with any physical, occupational, or speech therapies listed in the Individual Support Plan. Day Supports may include prevocational activities.

DEDICATION. A gift, by the owner, of a right of use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

DEPARTMENT. The State Department of Environmental Quality.

DECISION-MAKING BOARD. A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this UDO.

DESIGN FLOOD. See "Regulatory Flood Protection Elevation."

DETERIORATED. A dwelling that is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of 55% of its value, as determined by finding of the Inspector.

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

DETERMINATION OF ADEQUACY. A determination by the Administrator, after consultation with the responsible agency or town department, that each public facility impacted by a proposed development has available capacity, which determination may be based on an approved mitigation plan.

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

DEVELOPMENT ACTIVITY. Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

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

DEVELOPMENT PLAN. A detailed drawing(s) containing specific information regarding proposed development within the Town.

DEVELOPMENT PROPOSAL. Any of the following applications that specify the amount of proposed floor area and/or number of units or lots, by land use type, and which has not received a determination of adequacy: (1) A special use permit; (2) Any overlay district for which a site specific development plan is required under the provisions of this chapter; (3) A conditional zoning district; (4) A subdivision sketch plan or a preliminary plan when required by the Subdivision Ordinance; (5) A final plat when no sketch plan or preliminary plan is required; or (6) Building permit.

DEVELOPMENT REGULATION. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulations, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to NCGS Chapter 160D, or a local act or charter that regulates land use or development.

DIFFUSING PANEL (LENS). A translucent material covering the lamps in a luminaire in order to reduce the brightness by distributing the light flux over an extended area.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

DILAPIDATED. A dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 55% of its value, as determined by finding of the Inspector.

DIRECT LIGHTING. Lighting involving luminaries that distribute 90 to 100% of the emitted light in the general direction of the surface to the illuminated. The term usually refers to light emitted in a downward direction.

DIRECTOR**.** The Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.

DISCHARGE POINT. The point at which storm water runoff leaves a tract of land.

DISCLOSURE STATEMENT. A separate and distinct document prepared by the applicant and approved by the Planning Board which fully and completely discloses the status of any street or road upon which the house, lot or parcel fronts. A copy of the ***DISCLOSURE STATEMENT*** shall be provided to the purchaser of the subject real estate.

DISCOTHEQUE and/or PUBLIC DANCE HALL. Any room or place open to, and available to, the general public where facilities are maintained, and in, upon and as a result of admission thereto, a person may engage in the amusement of dancing, of any nature or kind, version or variation thereof, and whether

accompanied by music manually produced by any combination of instruments constituting a band, orchestra or other musical assemblage, or music produced by a mechanical amusement device, or non-coin-operated amusement device, with or without, the payment of a fee, stipend, token, coin or other payment or charge, or not accompanied by music of any kind.

DISORDERLY CONDUCT. Those acts defined in G.S. § 14-288.4 or any successor in effect from time to time.

DISPOSAL. As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

DISTILLERY. A distillery as permitted by NCGS is an enterprise which engages in one or more of the following:

(1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor;

(2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or businesses of other states or nations;

(3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.

DISTRICT. A section of the town in which zoning regulations are uniform.

***DISTRICT*.** The Polk Soil and Water Conservation District created pursuant to G.S. Ch. 139.

DONATION BOX. A box, bin, dumpster, or other enclosed receptacle located outside of an enclosed building used for the collection of donated items. A donation box is considered "unattended" at times when no employee or representative of the sponsoring company or organization is present to accept donations.

DOUBLE FACED SIGN. A sign with two faces, which are usually, but not necessarily, parallel.

DWELLING. Any building, structure, manufactured home or manufactured home used and occupied or intended to be used for living, sleeping, cooking and eating by human occupants including any outhouses or accessory building usually enjoyed therewith; provided that temporary housing as hereinafter defined shall not be regarded as a ***DWELLING***.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

DWELLING, MULTI-FAMILY. A building or portion thereof used or deigned as a residence for no more than four families living independently.

DWELLING, SINGLE-FAMILY. A building arranged or designed to be occupied by one family.

DWELLING, TWO-FAMILY. A building arranged or designed to be occupied by two families living independently of each other.

EASEMENT (RIGHT-OF-WAY). A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation or persons.

ELECTRIC VEHICLE. Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for energy purpose. Electric vehicle includes: (1) a battery powered electric vehicle; and (2) a plug-in hybrid electric vehicle.

ELECTRIC VEHICLE CHARGING STATION. A public or private parking space located together with a battery charging station which permits the transfer of electric energy (by conductive or inductive means) to a battery or other storage device in an electric vehicle. An electric vehicle charging station is permitted as an accessory use to any principal use.

ELECTRIC VEHICLE PARKING SPACE. Any marked parking space that identifies the use to be exclusively for an electric vehicle.

ELECTRICAL SIGNS. A self-illuminated sign or sign structure in which the electrical wiring, connections or fixtures are used as part of the sign proper.

ELECTRICAL TRANSMISSION TOWER. An electrical transmission structure used to support high voltage overhead power lines. The term shall not include any Utility Pole.

ELEVATED BUILDING. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ELIGIBLE FACILITIES REQUEST. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

(1) collocation of new transmission equipment;

(2) removal of transmission equipment; or

(3) replacement of transmission equipment.

ELIGIBLE SUPPORT STRUCTURE. Any tower or base station as defined in this ordinance, provided that it is existing at the time the relevant application is filed with the State or local government under this ordinance.

ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

ENERGY DISSIPATOR. A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

ENERGY GENERATING FACILITY. A facility that uses a variety of sources and/or products for the production of power. Energy facilities may include, but are not limited to: petroleum; methane; ethanol; thermal; wind; solar; hydroelectric; and other energy generation facilities.

EQUIPMENT COMPOUND. An area surrounding or near the base of a Wireless Support Structure within which a wireless facility is located.

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

ESSENTIAL PUBLIC SERVICES. Facilities operated by governmental or quasi-governmental agencies that provide services on behalf of the public, which are critical to the health, safety and welfare of the public. ***ESSENTIAL PUBLIC SERVICES*** may include but are not limited to governmental offices, parks and recreation facilities; public transit facilities; schools; gas, electric or steam distribution systems; water and sewer services; solid waste systems; communications systems; emergency services; publicly owned housing; fire protection services; and law enforcement services.

EVIDENTIARY HEARING. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under NCGS Chapter 160D.

EXCAVATION. A land-disturbing activity involving the mechanical removal of earth material.

EXEMPT SIGN. Any sign that is specifically listed as exempt from this chapter. The listed exempt signs are not regulated by the terms of this chapter.

EXISTING BUILDING AND EXISTING STRUCTURE. Any building and/or structure for which the "start of construction" commenced before the effective date of the floodplain management regulations adopted by a community.

EXISTING LOT (EXISTING LOT OF RECORD). A portion of land, which is a part of a subdivision or a larger tract of land, a plat of which has been recorded in the office of the Register of Deeds of Polk County prior to the adoption of this chapter or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this chapter.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the

construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXISTING SIGN. Any sign that was erected or displayed prior to February 17, 2004, when the sign amendment was adopted.

EXISTING STRUCTURE (TOWERS). A constructed tower or base station is existing for purposes of this ordinance if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

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

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Housing Administrator.

FACADE. The entire building wall, including wall face, parapet fascia, windows, doors, canopy and roof on any complete elevation.

FALL ZONE. The area in which a Wireless Support Structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

FAMILY. One or more persons living together and having common living, sleeping, cooking and eating facilities.

FAMILY CARE HOME. A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities. ***PERSON WITH DISABILITIES*** means a person with a temporary or permanent physical, emotional or mental disability, including but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11). The structure of a family care home may be no more than two stories high, and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct exterior ground-level accesses to the upper story.

FAMILY FOSTER HOME. The private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship, or adoption.

FARM, CRAFT, PRODUCE MARKET. An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site.

FARM STAND. A temporary open-air stand or place for the seasonal selling of agricultural produce. A produce stand is portable and capable of being dismantled or removed from the sales site.

FILL MATERIAL. A deposit of earth or other natural or man-made material placed by artificial means.

FILLING. A land-disturbing activity involving the placement of fill material, including the temporary stockpiling of fill material.

FINAL PLAT. A plat which conforms with the provisions of this chapter, the mapping requirements set forth in G.S. § 47-30 and *The Manual of Practice for Land Surveying in North Carolina*. The ***FINAL PLAT*** shall be prepared in accord with this chapter and in such a fashion as to be suitable for recording by the Polk County Register of Deeds.

FINANCE DIRECTOR. The Director of Finance for the town or his or her designee.

FIXTURE. An assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing and the attachment parts.

FLAG. Any fabric, banner or bunting containing distinctive colors, patterns, or symbols, used as symbols of a government, political subdivision or other entity.

FLAT SIGN. A sign erected parallel to and extending out not more than 12 inches from the facade of any building to which it is attached and supported throughout its entire length by the facade and not extending above the building.

FLEA MARKET. An outdoor or indoor market held on preestablished dates where individual sellers offer goods for sale to the public. The sellers may set up temporary stalls or tables for the sale of their products. The sales may involve new and/or used items and may include the sale of fruits, vegetables, and other edible items. The individual sellers at the flea market need not be the same each time the market is in operation. A flea market is different from a farmers' market in that the majority of goods sold at a flea market are nonedible.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated (see also DFIRM).

FLOOD INSURANCE STUDY (FIS). An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

FLOOD LAMP. A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. These ***LAMPS*** are so designated by the manufacturers and are typically used in residential outdoor area lighting.

FLOOD LIGHT. A form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from: (a) The overflow of inland or tidal waters; and/or (b) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD PRONE AREA. See "Floodplain."

FLOOD ZONE. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

FLOODPLAIN ADMINISTRATOR. The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT. Any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

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

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

FLOODPLAIN. Any land area susceptible to being inundated by water from any source.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

FLOOD-RESISTANT MATERIAL. Any building product [material, component, or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

FLOODWAY ENCROACHMENT ANALYSIS. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

FLOODWAY. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

FLOOR SPACE. The total square feet of space of all habitable rooms.

FOOTCANDLE (FC). A quantitative unit measuring the amount of light (illumination) falling onto a given point. One footcandle equals one lumen per square foot.

FREEBOARD. The height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

FREESTANDING SIGN. A sign supported by a sign structure secured in the ground and which is wholly independent of any building, fence, vehicle, or object other than the sign structure for support.

FRONTAGE WALL FACE. The building facade, excluding parapet, fascia, soffit, mansard, and roof, which face a frontage of the premises.

FRONTAGE. The length of the property on any one premise serving as a public right-of-way line.

FTE; FULL TIME EMPLOYEE. Refers to the number of full-time personnel in a department.

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

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GLARE. The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, to cause annoyance, discomfort or loss of visual performance and ability.

GOVERNING BODY. The Town or County Board of Commissioners. The term is interchangeable with the terms "board of aldermen" and "town/city council" and shall mean any governing board without regard to the terminology employed in charters, local acts, other portions of the NC General Statutes, or local customary usage.

GOVERNMENTAL SIGN. Any sign erected by or on the order of an authorized public official in the performance of his or her office or duty including, but not limited to, traffic control signs, street name signs, warning and directional signs, public notice or signs of a similar nature.

GRADING. Any scraping, excavating or filling of the Earth's surface or combination thereof.

GROSS FLOOR AREA. The total floor area of all buildings in a project including basements, mezzanines, and upper floors, exclusive of stairways and elevator shafts. It excludes separate services facilities outside the main building such as boiler rooms and maintenance shops.

GROSS RESIDENTIAL DENSITY. The number of dwelling units proposed to be built divided by the area of the tract being developed.

GROUND COVER. Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

GROUND MOUNTED PHOTOVOLTAIC ARRAY (SOLAR ARRAY). Consists of multiple ground-mounted photovoltaic modules (solar panels) that convert solar radiation into usable direct current (dc) electricity.

GROUP CARE FACILITY. A business qualified for a license by the state, which provides resident services to individuals of whom one or more are unrelated. The individuals are handicapped, aged or disabled, are undergoing rehabilitation or extended care, and are provided services to meet their needs. This category includes group homes for all ages, halfway houses and foster and boarding houses, but does not include family care homes.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

HALFWAY HOUSE. A home for not more than nine (9) persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in NCGS 35 17(30)), or antisocial or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

HAZARDOUS WASTE. Any waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environment Protection Agency.

HAZARDOUS WASTE MANAGEMENT FACILITY. As defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

HID. High intensity discharge lighting is a bulb type including mercury vapor, metal halide, high pressure or low-pressure sodium, which glow when an electric current is passed through a gas mixture inside the bulb.

HIGH QUALITY WATER (HQW) ZONES. Areas within one mile and draining to HQWs.

HIGH QUALITY WATERS. Those classified as such in 15A NCAC 2B.0101(e)(5) General Procedures, which is incorporated herein by reference to include further amendments pursuant to G.S. § 150B-14(c).

HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

HISTORIC STRUCTURE. Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or (d) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program." Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

HOLIDAY/FESTIVE LIGHTING. Lighting that is installed with the intent to operate during a designated temporary period of time where a specific theme or event is a focus of attention.

HOME OCCUPATION. An occupation conducted entirely within a dwelling and carried on by the occupants thereof provided that: the use of the dwelling unit for the home occupation shall me clearly incidental and secondary to the use of the dwelling for residential purposes, and the occupation shall be carried on solely within the main dwelling and shall not occupy more than 25% of the floor space of the dwelling; there shall be no display, no outside storage, no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than signs

normally placed in the district; no more than two persons in one residence on the premises, shall be employed in connection with the home occupation; no traffic shall be generated by the home occupation in greater volumes than would normally be excepted in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met off the street and other than in a required front yard; no equipment or process shall be used in the home occupation which creates noise, vibration, glare, odors or electrical interference detectable to the normal senses off the lot; in the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

HOUSING ADMINISTRATOR AND DESIGNATED PERSONS. A Housing Administrator for the town with the responsibility of enforcing Article 10, Part VIII within the corporate limits of the town.

IESNA. The Illuminating Engineering Society of North America, a nonprofit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

ILLUMINANCE. The amount of light falling on a surface-measured in lux or footcandles.

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

INDIVIDUAL SEWER SYSTEM. Any septic tank, ground absorption system, privy or other facility serving a single source or connection and approved by the County Sanitarian.

INDIVIDUAL WATER SYSTEM. Any well, spring, stream or other source used to supply a dingle connection.

INFESTATION. The presence, within or around a dwelling of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

INTERNAL REFRACTIVE LENS. A glass or plastic lens installed between the lamp and the sections of the outer fixture globe or enclosure. ***REFRACTIVE*** refers to the redirection (bending) of the light as it goes through the lens, softening and spreading the light being distributed from the light source thereby reducing direct glare.

JUNK. Old or scrapped copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other scrap ferrous or non-ferrous material.

JUNKYARD. A business which is maintained, operated, or used for storing, keeping, buying or selling junk regardless of the length of time that junk is stored or kept, or for maintenance or operation of an automobile graveyard, but shall not include garbage dumps on county operated sanitary landfills.

KENNELS. A business either offering lodging and boarding facilities for dogs, cats and other domestic pets for a fee or breeding five or more animals. The storage of any number of animals by a governmental control agency shall be considered a ***KENNEL***.

LAKE OR NATURAL WATERCOURSE. Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake, or pond, natural or impounded in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

LAND DEVELOPMENT PROPOSAL. Any plan indicating an owner or applicant's intentions toward the development of a tract of land, i.e., master plan, preliminary plan, research concept.

LAND-DISTURBING ACTIVITY.

(1) Any use of the land by any person in residential, industrial, education, institutional or commercial development, highway and road construction and maintenance, that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

(2) Any grading of land, any clearing of vegetation, and any construction or rebuilding of a building or structure. This term shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, the upkeep of yard and grounds, repairs and the cutting of firewood for personal use.

LANDFILL. A site within which is deposited solid waste material, including trash, construction debris, garbage or industrial waste.

LANDLORD. An owner (as defined in this section) that receives some financial benefit as a result of his or her allowing another individual(s) to use or occupy real property or a portion of that real property, for residential use.

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.

LARGE SCALE ZONING AMENDMENT. The rezoning of more than fifty (50) parcels.

LED. A light-emitting diode (a semiconductor diode which glows when a voltage is applied.

LEGISLATIVE DECISION. The adoption, amendment, or repeal of a regulation under NCGS Chapter 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of NCGS Chapter 160D, Article 10.

LEGISLATIVE HEARING. A hearing to solicit public comment on a proposed legislative decision.

LETTER OF MAP AMENDMENT (LOMA). An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

LETTER OF MAP CHANGE (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study.

LETTER OF MAP REVISION (LOMR). A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

LETTER OF MAP REVISION BASED ON FILL (LOMR-F). A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

LEVEL OF SERVICE (LOS). An indicator of the extent or degree of service provided by a public facility, based upon and related to the operational characteristics of the facility, in comparison to the capacity of the public facility.

LIGHT DUTY TRUCK. Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is: (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or (c) Available with special features enabling off-street or off-highway operation and use.

LIGHT SOURCE. The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

LIGHT TRESPASS. Light emitted by a lighting installation that falls outside the boundaries of the property on which the installation is sited. This has adverse effects on residents, vehicle operators and pedestrians, the natural environment.

LOCAL GOVERNMENT. Any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.

LOCAL STREET. A road which serves primarily to provide access to adjacent land, over relatively short distances.

LOT. A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, or for development, or both. The word ***LOT*** includes the words ***PLOT*** or ***PARCEL***.

LOT OF RECORD. A lot included within a plat which has been recorded in the office of the register of deeds of Polk County or a lot described by metes and bounds, the description of which has been so recorded.

LOT, WIDTH. The distance between side lot lines measured at the front building line.

LOT, CORNER. A lot located at the intersection of two or more streets.

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

LOT, INTERIOR. A lot other than a corner lot with only one frontage on a street.

LOT, PANHANDLE. A lot other than one having access on a cul-de-sac, which contains a narrow strip providing street access. Also known as a ***FLAG LOT***.

LOT, SINGLE-TIER. A lot which backs upon a limited access highway, a railroad, a physical barrier or another type of land use and to which access from the rear is usually prohibited.

LOT, THROUGH or a ***DOUBLE FRONTAGE LOT.*** A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as ***DOUBLE FRONTAGE LOTS***.

LOT, WIDTH. The distance between side lot lines measured at the front building line.

LOWEST ADJACENT GRADE (LAG). The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

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

LUMEN. A quantitative unit used to identify the amount of light emitted by a light source. A lamp is generally rated in lumens.

LUX. A lux is a SI measurement, where one lux is equal to one lumen per square meter.

MAINTAINED FOOTCANDLES. Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high-pressure sodium and 0.64 for metal halide and mercury vapor.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation

when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME, CLASS A. A manufactured structure designed for year-round residential or commercial use, with major components or modules preassembled and transported to a site for final assembly and utility connection. Such structures must meet all requirements of the North Carolina State Building Code and must have attached a North Carolina Validating Stamp. A Class A manufactured home meets the size standards of a typical **doublewide** manufactured home placed on a permanent foundation.

MANUFACTURED HOME, CLASS B. A manufactured home that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home. A Class B manufactured home meets the size standards of a typical **singlewide** manufactured home.

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

MARGINAL ACCESS STREET. A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back side of properties otherwise abutting a street, an alley.

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

MASSAGE THERAPIST. Any person who is engaged in the business or profession of massage therapy, and who receives compensation for his or her services.

MASSAGE THERAPY. The manipulation of soft tissue for therapeutic purposes, which term may include, but shall not be limited to, effleurage, petrissage, tapotement, compression, vibration, friction, nerve strokes and other Swedish movements, either by hand or with mechanical or electrical apparatus for the purpose of body massage. The term may also include the use of oil, salt glows, hot and cold packs, and other recognized forms of massage therapy.

MASSAGE THERAPY BUSINESS. Any business wherein massage is practiced, including businesses commonly known as health clubs, physical culture studios, massage studios, massage parlors or similar businesses by whatever name designated. A massage school is a massage therapy business only if some portion of the premises is used for the business or profession of massage.

MASSAGE THERAPY SCHOOL. Any educational facility for massage which meets minimum standards for training and curriculum as determined by the state division of proprietary school services, and is licensed, or exempted from licensure, by the State Board of Community Colleges.

MAY. Permissible.

MECHANICAL AMUSEMENT DEVICES. Any machine which, upon the insertion of a coin, trade-token or slug, operates or may be operated as a game or contest of skill or amusement of any kind or description, and which contains no automatic payoff device for the return of money or trade-token or slug, or which makes no provision whatever for the return of money to the player. A MECHANICAL AMUSEMENT DEVICE is further defined as any machine, apparatus or contrivance which is used or which may be used as a game of skill and amusement wherein or whereby the player initiates, employs or directs any force generated by the machine. The term MECHANICAL AMUSEMENT DEVICE is also hereby defined to be, and shall include, each machine vending recorded music or a period of radio or television entertainment in return for the insertion or deposit therein of a coin or trade-tokens or slugs.

MEDIUM BASE. The size of lamp socket designed to accept a medium or Edison base lamp.

MERCHANDISE. Fresh cut flowers, balloons and any other wares, and shall include entertainment.

MICROBREWERY. A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise.

MICRO WIRELESS FACILITY. A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

MODULAR HOME. A dwelling unit which is constructed off-site and when assembled at a permanent site complies fully with the North Carolina State Building Code.

MONOPOLE. A single, freestanding pole-type structure supporting one or more Antennas. For the purposes of this Ordinance, a Monopole is not a Tower or a Utility Pole.

MONUMENT SIGN. A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles. The base of the sign will be flush with the ground.

MITIGATION PLAN. A voluntary plan, effectuated through a binding agreement, to ensure the provision of available capacity through advanced facilities, where capacity would not otherwise be adequate to support the demand resulting from a proposed development.

MULTI-FAMILY DWELLING. A structure that contains multiple dwelling units.

MULTI-UNIT ASSISTED HOUSING WITH SERVICES. An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or other compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care.

MULTIPLE DWELLING. Any dwelling containing more than one dwelling unit.

NATURAL EROSION. The wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by humans.

NATURAL GROUND SURFACE. The ground surface in its original state before any land-disturbing activity.

NATURAL RECREATION AREA. An area that is intrinsically dark at night where electric lighting should be held to a minimum as designated by the town.

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

NON-COIN-OPERATED AMUSEMENT DEVICE. Any device operated in a manner of a slot machine, but without a slot for the insertion of coins to operate the machine and without a receptacle in the machine for making payment by reason of certain arrangements on the wheels on the machine.

NONCONFORMING SIGN. Any sign that does not conform to the requirements of this chapter.

NONCONFORMING USE. Any parcel of land, use of land, building or structure existing at the time of adoption of this chapter, or any amendment thereto, that does not conform to the use or dimensional requirements of the district in which it is located.

NON-CONVERSION AGREEMENT. A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

NON-ENCROACHMENT AREA (NEA). The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

NURSING HOME. A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more 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 medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.

OCCUPANCY. The purpose for which a building, or part thereof, is used or intended to be used.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

OFF-PREMISES ADVERTISING SIGN. Any sign advertising a product, service, business, or activity sold, located, or conducted elsewhere than on the premises on which the sign is located, or which said product, service, business, or activity is sold, located, or conducted on such premises only incidentally, if at all. Off-premises advertising signs are allowed in the Highway Commercial and Industrial districts.

OFF-PREMISES DIRECTIONAL SIGN. Any off-premises sign indicating the location of or directions to a business, office, or other activity. The sign shall not include any information or message except the name of the business or activity, and directions or symbols indicating directions. If a sign exceeds the maximum area, it shall be construed as an off-premises advertising sign.

ON-SITE/CHAIR MASSAGE. Massage offered at a client's business or workplace where the client is fully clothed.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are rented, leased, subleased or otherwise contracted.

ORDINARY MAINTENANCE. Ensuring that Wireless Facilities and Wireless Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing, and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a Wireless Support Structure's foundation or of the Wireless Support Structure itself. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape, and color and Accessory Equipment within an existing Equipment Compound and relocating the Antennas to different height levels on an existing Monopole or Tower upon which they are currently located. Ordinary Maintenance does not include Substantial Modifications.

OUTDOOR PERFORMANCE AREA. An area permanently dedicated to the public presentation of music, dance, theater, media arts, storytelling, oratory, or other performing arts, whether publicly or privately owned, including but not limited to amphitheaters and similar open or semi-enclosed structures.

OUTDOOR SPORTS FIELD. An area designed for recreation (public or privately owned). These areas include, but are not limited to baseball/softball diamonds, soccer fields, football fields, golf courses, golf driving ranges, tennis courts, racetracks, firearm shooting ranges and swimming pools.

OWNER. Any person who alone or jointly, or severally with others: (1) Shall have fee simple title to any dwelling or dwelling unit, and every mortgagee, and owner and holder of a deed of trust and the trustee therein, of record; with or without accompanying actual possession of the dwelling or dwelling unit; or (2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

PAINTED WALL SIGN. A sign painted directly on any exterior building wall or door surface, exclusive of windows or door glass areas.

PARAPET. A vertical false front on wall extension above a roof line.

PARENT. An affiliate that directly, or indirectly through one or more intermediaries, controls another person.

PARKING SPACES. An area for parking a vehicle plus the necessary access space. Parking space(s) shall always be located outside the dedicated street right-of-way and shall be provided with vehicular access to a street or alley.

PARKS. The term park shall include those areas developed either for passive or active recreational activities. The development may include, but shall not be limited to walkways, benches, open fields, multi-use courts, swimming and wading pools, amphitheaters, and the like. The term park shall not include zoos, travel-trailer parks, amusement parks or vehicle, equestrian or dog racing facilities.

PARTIES IN INTEREST. All individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

PERFORMANCE GUARANTEE. An unconditional written understanding, approved by the Planning Board whereby a guarantor agrees that the developer, subdivider, or applicant will pay the costs of stated construction improvements if performance is not made as stated.

PERIMETER. The contour of the face of the sign.

PERMITTED SIGN. A sign for which a valid permit has been issued.

PERSON CONDUCTING LAND-DISTURBING ACTIVITY. Any person who may be held responsible for violation unless expressly provided otherwise by this chapter, the Act, or any order adopted pursuant to this chapter or the Act.

PERSON RESPONSIBLE FOR THE VIOLATION. The developer or other person who has or holds himself or herself out as having financial or operation control over the land-disturbing activity; or the landowner or person in possession or control of the land that has directly or indirectly allowed the land-disturbing activity, or benefitted from it or failed to comply with a duty imposed by any provision of this chapter, the Act, or any order adopted pursuant to this chapter or the Act.

PERSON. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

PHASE OF GRADING. One of two types of grading: rough or fine.

PHASED DEVELOPMENT PROPOSAL. A development proposal wherein the proposed development will be constructed incrementally in a logical time and geographical sequence according to an approved phasing schedule.

PHASING SCHEDULE. A schedule that sets forth the timing of the development of a development proposal, including, but not limited to, provision of necessary public facilities, the number of units, as applicable, and their location on the site.

PHOTOVOLTAIC POWER. An active solar energy system that converts solar energy directly into electricity.

PLAN. A graphic representation or map of the tract of land to be developed indicating all proposed divisions of land, their uses, improvements, and other information as may be required to fully disclose the applicant's intentions. The purpose of a ***PLAN*** is to provide general and specific information and is not intended to be a recordable document.

PLANNED UNIT DEVELOPMENT. In this chapter, a planned unit development means a group residential development or a group commercial development where more than one principal building or use is proposed to be constructed on a single tract; or any building with a gross floor area of 25,000 square feet or more; or a residential complex of five or more units with more than one principal building, shall be deemed a ***PLANNED UNIT DEVELOPMENT (PUD)***. Residential units within a planned unit development may include single family detached or attached units, town house developments, garden apartments, patio homes, condominiums and other type residential units excluding manufactured home and manufactured home parks.

PLANNING BOARD. The Town of Columbus Planning Board.

PLAT. A map or plan of a parcel of land which is to be, or has been subdivided and is intended to be, a recordable document.

PLUMBING. The practice, materials and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage, storm water drainage facilities, the venting system, and public or private water supply systems to their connection with any point of public disposal.

POLITICAL SIGN. A sign erected by a political candidate, group, or agent thereof for the purpose of advertising a candidate or stating a position regarding an issue upon which the voters of the town shall vote.

PORTABLE SIGN. A sign generally constructed to be easily movable without a permanent attachment to the ground and which may or may not be equipped with wheels. The signs may be designed for changeable messages.

POST-FIRM. Construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

PRE-FIRM. Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

PREMISES. A lot, plot or parcel of land including, dwellings and structures within the definitions as defined herein.

PRINCIPALLY ABOVE GROUND. At least 51% of the actual cash value of the structure is above ground.

PRIVATE PARTS. The penis, scrotum, mons veneris, vulva, or vaginal area.

PROFESSIONAL CAMPUS. Any group of two or more buildings all contained on one lot wherein the use of every building in the lot pertains to the provision of health and medical sciences, education, or governmental administrative services and the corresponding support thereof. One such campus shall only contain buildings shoes uses pertain to only one of the specified allowable uses. (As an example, a campus may contain two buildings wherein one is used for pediatric care and the other is used for asthma treatment; however, a campus that contains two buildings wherein one is used for classrooms as a satellite campus for a university or college and the other is used for a governmental department headquarters shall not be allowed).

PROPERTY. All real property subject to land use regulation by the city. The term includes any improvements or structures customarily regarded as part of real property.

PROPOSED DEVELOPMENT. Development proposed pursuant to a development proposal and an APF application.

PROTECTED MOUNTAIN RIDGES. All mountain ridges whose elevation is at least 1,500 feet and whose elevation is 400 feet or more above the elevation of an adjacent valley floor.

PUBLIC AUTHORITY. The governing body of the town or any officer who is in charge of any department or branch of the government of the town or the state relating to health, fire, building regulations or other activities concerning dwellings in the town.

PUBLIC FACILITIES. Parks and recreation, law enforcement, fire protection facilities, government administrative facilities, water system, sewer system and street system

PUBLIC RIGHT-OF-WAY LINE. The line where the property meets the public right-of-way at a public street or public waterway, provided that this definition shall not include alleys, easements or other similar dedicated uses.

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

PUBLIC SEWER SYSTEM. Any sewer system owned and operated by a local government in the county, or other sewage treatment facility serving two or more connections, or any wastewater treatment system having a discharge to surface waters when approved by the Division of Environmental Management of the Department of Natural Resources and Community Development, or ground absorption system serving two or more connections when approved by the County Sanitarian.

PUBLIC WATER SYSTEM. Water systems serving 15 or more residential connections or serving more than 25 year-round residents are classified as public water supplied by State law, and plans and specifications must be approved by the Department of Human Resources, Division of Health Services. Water supply systems serving from two to 14 connections may be regulated by the County Board of Health.

PYLON (POLE) SIGN. A ground mounted sign attached to one or more posts, whose base is greater than 20 inches in diameter and is designed to exceed 30 feet in height.

QUADRANGLE MAP. The most recently published U.S. Geological Survey 7.5-minute topographic map prepared at a scale of one:24,000.

QUASI-JUDICIAL DECISIONS. 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. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

REAL ESTATE SIGN. A sign erected by the owner, or his or her agent, advertising real property upon which the sign is located for rent, for lease or for sale.

RECOMBINATION. The combining of portions of previously subdivided and recorded lots if the total number of lots is not increased as established by this chapter.

RECREATION USE, NON-PROFIT. An indoor or outdoor recreation facility operated on a non-profit basis, according to the laws of the state.

RECREATION USE, PROFIT. An indoor or outdoor recreation facility operated on a profit basis.

RECREATIONAL VEHICLE (RV). A vehicle, which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and (e) Is fully licensed and ready for highway use. For the purposes of this ordinance, "Tiny Homes/Houses" and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

REFERENCE LEVEL. The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

REFORESTATION PLAN. A plan, prepared by a registered forester, for replacing harvested timber by replanting or by natural regenerative processes (such as coppicing, seed trees and the like), consistent with recommended best management practices for forestry in the state.

REGULATORY FLOOD PROTECTION ELEVATION. The "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

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

REMOVAL. The demolition and approved disposal of the entire building. The premises shall be free and clear of any debris; and in a manner as not to leave any holes or pockets, which may retain water.

RENTAL UNIT. Any dwelling, dwelling unit, rooming house, rooming unit, building or structure wherein the occupant(s) is the tenant and the owner(s) is the landlord of the real property, or is anticipated as such.

REPLACEMENT POLE. Pole of equal proportions and of equal height or such other height that would not constitute a Substantial Modification to an Existing Structure in order to support Wireless Facilities or to accommodate Collocation. Requires removal of the Wireless Support Structure it replaces.

RESIDENTIAL CHILD-CARE FACILITY. A staffed premise with paid or volunteer staff where children receive continuing full-time foster care.

RETAIL BUSINESS. Businesses selling commodities and/or providing services directly to the consumer.

RIGHT-OF-WAY. An interest in land to the county which provides for the perpetual right and privilege of the town, its agents, franchise holders, successors and assigns to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain and use a public street, including related and customary uses of street rights-of-way such as sidewalks, bike paths, landscaping, mass transit facilities, traffic control, traffic control devices and signage, sanitary sewer, storm water drainage, water supply, cable television, electric power, gas and telephone transmission and related purposes in, upon, over, below and across the rights-of-way.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

ROAD OR STREET, PRIVATE. A dedicated private right-of-way which affords access to abutting properties and conforms to the requirements of Section 10.81(H)

ROAD OR STREET, PUBLIC. A dedicated public right-of-way for vehicular traffic which affords access to abutting properties and conforms with the requirements of Section 10.81(G). A ***PUBLIC STREET*** is intended to be taken over by the State Department of Transportation upon completion.

ROAD, SUBDIVISION COLLECTOR. A local road within a major subdivision which serves as a connector street between local residential streets and the thoroughfare system and includes cul-de-sac or dead-end roads more than 2,500 feet in length, connecting roads between the local residential subdivision roads and the thoroughfare system, loop roads more than 5,280 feet (one mile) in length, and other roads having a "collector" type function in the thoroughfare system.

ROAD, SUBDIVISION LOCAL. A local road within a major subdivision which serves to access individual parcels of land and includes cul-de-sac or dead-end roads less than 2,500 feet in length, short roads that connect blocks, other roads that do not connect to thoroughfares or serve major traffic generators.

ROOF. The exterior upper covering of the top of a building.

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage, and the term shall include but not be limited to ashes, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

SALVAGE YARD. Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances, and related machinery.

SANDWICH BOARD SIGN (also known as A-FRAME SIGN or SIDEWALK SIGN). A freestanding sign ordinarily in the shape of an "A" or some variation thereof, which is readily moveable and not permanently attached to the ground or any structure.

SEARCH RING. The area within which a Wireless Support Facility or Wireless Facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

SEASONAL/HOLIDAY SIGN. A sign used for the celebration of a historic American holiday, which is erected for a limited period of time.

SECTION. A grouping of lots, right-of-way, common space, and associated improvements therein, designating a preliminary plan, final plan and final plat, numbered consecutively and relating to phases of a master plan, if applicable.

SEDIMENT. Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

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

SENSITIVE NATURAL AREA. Any area, which is sensitive or vulnerable to physical or biological alteration, as identified now or hereafter by the State Natural Heritage Program and which contains one or more of the following: (1) Habitat, including nesting sites, occupied by rare or endangered species; (2) Rare or exemplary natural communities; (3) Significant landforms, hydroforms or other geologic features; or (4) Other areas so designated by the State Natural Heritage Program, which are sensitive or vulnerable to physical or biological alteration.

SETBACK. The distance from an established property boundary or other line defined in this chapter that established the buildable area on the lot.

SEWER SYSTEM, COMMUNITY. Any privately-owned sewer system serving more than one residence.

SEWER SYSTEM, INDIVIDUAL. Any septic tank or ground absorption system serving a single source or connection and approved by the District Health Department.

SEWER SYSTEM, PUBLIC. Any sewer system owned and operated by a local government or water authority.

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

SHALL. Synonymous with ***REQUIRED*** and means mandatory.

SHOPPING CENTER. A group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking, landscaping areas and pedestrian malls or plazas provided on the property as an integral part of the unit.

SIGN PANEL. The primary surface of a sign that carries the identifying/advertising message.

SIGN. Any form of publicity or advertising which is designed to be visible from any public way, directing attention to an individual business, commodity, service, activity, or product by means of words, lettering, numerals, trade names or trademarks, or other pictorial matter designed to convey that information.

SILTATION. Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

SINGLE-FAMILY DWELLING. A dwelling structure that is designed for the use of one family. For purposes of this chapter only, the term includes manufactured homes.

SLOPE. An inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance. In this chapter, slopes are generally expressed as a percentage, -percentage of slope refers to a given rise in elevation over a given run distance. A 50% slope, for example, refers to a 100-foot rise in elevation over a distance of 200 feet. A 50% slope is expressed in engineering terms as a 2:1 slope.

SLOPE DISTRICT. An area of land within a tract that is proposed to be developed that is no greater than 20 acres in size, for which an average slope shall be computed in order to certify compliance with the provisions of this chapter. These districts shall be contiguous with one another and the boundaries of such shall coincide with proposed lot and open space boundaries.

SMALL WIRELESS FACILITY. A wireless facility that meets both of the following qualifications:

(1) Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six (6) cubic feet.

(2) All other wireless equipment associated with the facility has a cumulative volume of no more than twenty-eight (28) cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based

enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

SOLAR COLLECTOR (ACCESSORY). Any solar device that absorbs and accumulates solar radiation for use as a source of energy. The device may be roof mounted or ground mounted as an accessory use.

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

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

SOLAR FARM. An area of land designated use for the sole purpose of deploying photovoltaic power and generating electric energy.

SOLID WASTE DISPOSAL FACILITY. Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

SOLID WASTE DISPOSAL SITE. 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 EVENT. All street fairs, festivals, carnivals, parades, marches, rallies, demonstrations, and other activities or public events that require the temporary closing or obstruction of, or that substantially hinder or prevent the normal flow of vehicular or pedestrian traffic on, all or a portion of any town- or county-owned property, street, or other public right-of-way within the town.

SPECIAL EVENT SIGN. A sign, which carries a message regarding a special event or function, which is of general interest to the community.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Part III, Section 12.6 of this ordinance.

SPECIAL USE. A use which is permitted in specified zoning districts only after review by the Board of Adjustment and found to meet specific conditions and procedures as set forth in this chapter so as to maintain the safety and general welfare of the community.

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. The term includes permits previously referred to as conditional use permits or special exceptions.

STANDING. The following persons shall have standing to file an appeal:

(1) Any person possessing any of the following criteria:

(a) An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restrictions, or covenant in the property that is the subject of the decision being appealed.

(b) An option or contract to purchase the property that is the subject of the decision being appealed.

(c) An applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A local government whose decision-making board has made a decision that the Town Council believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by that Board.

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

STORM DRAINAGE FACILITIES. The system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey storm water through and from a given drainage area.

STORM WATER RUNOFF. The surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.

STREET (ROAD). A town- or state-maintained right-of-way or approved private street for vehicular traffic, which affords the principal means of access to abutting properties.

STREET LINE. The edge of the roadway pavement or surface.

STREET VENDOR. A person who hawks, peddles, sells, or offers food or merchandise.

STRUCTURE.

(1) See ***BUILDING***.

(2) For purposes of the Flood Damage Prevention Ordinance, a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

SUBDIVIDER. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION ADMINISTRATOR. The Town Manager, Town Planner or any other designated person of the town responsible for assisting in the administration and enforcement of this chapter.

SUBDIVISION OR MANUFACTURED HOME PARK ENTRANCE SIGN. An entrance sign which designates the name of a subdivision, or residential district, or of a manufactured home park and is located at or near the main entrance.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets. However, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Ordinance:

(a) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;

(b) The division of land into parcels greater than ten acres if no street right-of-way dedication is involved;

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

(d) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the

resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.

(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 24 of the General Statutes.

SUBDIVISION, CLUSTER DEVELOPMENT. A type of major subdivision that is intended to allow smaller than minimum lot sizes with dwelling units clustered in smaller areas in order to preserve larger areas of open space and environmental resources.

SUBDIVISION, FAMILY. A subdivision of land by a property owner among his or her immediate family as a gift, as settlement of the property owner's estate, or for nominal consideration; the conveyance of a tract or tracts to a grantee who would have been an heir of the grantor if the grantor had died intestate immediately prior to the conveyance; or the conveyance of a tract or tracts for the purpose of dividing lands among the tenants in common, all of whom inherited, by intestacy or by will, the land from a common ancestor.

SUBDIVISION, MAJOR. A subdivision of land by a property owner into six or more lots or parcels for the purpose of sale or development (whether immediate or future).

SUBDIVISION, MINOR. A subdivision of land by a property owner into three, four or five lots or parcels for the purpose of sale or development (whether immediate or future).

SUBDIVISION, SPECIAL. A subdivision for purposes other than general, residential or commercial development including: (1) Building locations for condominiums or townhouses within an approved major subdivision; (2) Utility facilities such as sub-station sites, meter vaults, pump station sites and the like; and (3) Cemetery plots.

SUBDIVISION, TWO-LOT. A subdivision that involves not more than two lots and does not adversely affect the remainder of the parcel or the adjoining property.

SUBSIDIARY. An affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. "Substantial damage" also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement."

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the

improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Part IV, Section 12.17 of this ordinance.

SUBSTANTIAL CHANGE. A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(1) For towers other than towers in the public rights of way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

(2) For towers other than towers in the public rights of way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet.

(3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights of way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure.

(4) It entails any excavation or deployment outside the current site.

(5) It would defeat the concealment elements of the eligible support structure.

(6) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in paragraphs 1-4 above.

TATTOO PARLOR. A business whose principal business activity is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

TECHNICAL BULLETIN AND TECHNICAL FACT SHEET. A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

TEMPERATURE CONTROLLED. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

TEMPORARY HEALTH CARE STRUCTURE. The following definitions shall apply:

(1) *Activities of Daily Living.* Bathing, dressing, personal hygiene, ambulation, or locomotion, transferring, toileting, and eating.

(2) *Caregiver.* An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.

(3) *First or Second Degree Relative.* A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

(4) *Mentally or Physically Impaired Person.* A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.

(5) *Temporary Family Health Care Structure.* A transportable residential structure, providing an environmental facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and NCGS 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

TEMPORARY HOUSING. Any tent, travel trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 60 consecutive days.

TEMPORARY LIGHTING. Lighting used for a limited duration, but in no case longer than 30 days.

TEMPORARY SIGN. A sign advertising a special event and not intended to be displayed on a permanent basis.

TEMPORARY STRUCTURE. A moveable structure not designed for long-term human occupancy or for the protection of goods or chattel, and not forming on enclosure, and placed on a parcel of land for a period of time to equal one year or less, unless otherwise noted in this chapter.

TEMPORARY USE. A use that is established with the intent to discontinue the use, and that does not involve the construction or alteration of any permanent structure.

TENANT. Any natural person or entity who is a named party or signatory to a lease or rental agreement, and who occupies, resides in, or has a legal right to possess and use an individual rental unit.

TEN-YEAR STORM. The storm water runoff resulting from precipitation of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration, which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

THERAPEUTIC FOSTER HOME. A family foster home where, in addition to the provision of foster care, foster parents who receive appropriate training provide a child with behavioral health treatment services under the supervision of a county department of social services, an area mental health program, or a licensed private agency.

TINY HOUSE. A dwelling that is 400 square feet or less in floor area excluding lofts. A ***LOFT*** is a floor level located more than 30 inches above the main floor, open to the main floor on one or more sides with a ceiling height of less than 6 feet 8 inches and used as a living or sleeping space.

TOWER, MONOPOLE. Single pole design, approximately three feet in diameter at the base narrowing to approximately one and a half feet at the top, generally ranging from 25 to 150 feet in height.

TOWER. Any structure built for the sole or primary purpose of supporting any Commission licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

TOWN COUNCIL. The Town of Columbus Town Council.

TOWN. The Town of Columbus located in Polk County, North Carolina.

TOWN RIGHT-OF-WAY. A right of way owned, leased, or operated by the Town, including any public street or alley that is not a part of the State highway system.

TOWN UTILITY POLE. A pole owned by the Town in the Town right-of-way that provides lighting, traffic control, or a similar function.

TRACT. All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

TRANSMISSION EQUIPMENT. Equipment that facilitates transmission for any Commission licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

TRAVEL TRAILER. A vehicle less than 32 feet in length primary designated as a temporary dwelling for travel, recreation or vacation uses.

TRAVEL TRAILER PARK. A parcel of land designated and equipped to accommodate travel trailers and to serve as a campground.

TWENTY-FIVE YEAR STORM. The storm water runoff resulting from precipitation of an intensity expected to be equaled or exceeded on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

UNCOVERED. The removal of ground cover from, on or above the soil surface.

UNDERTAKEN. The initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

UNDISTURBED. The natural ground surface remains in its natural state; no land-disturbing activity occurs; no vegetation is removed, except as exempted by this chapter; and no impervious surface is constructed thereon.

UNFIT FOR HUMAN HABITATION. Means that conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the provisions established by this chapter.

UTILITY POLE. A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

VARIANCE.

(1) A use of land or structure, which is prohibited under the literal interpretation of the terms of the zoning ordinance. Only the Board of Adjustment can authorize a ***VARIANCE***, which may be granted in certain hardship situations as defined in the ordinance to enable a property owner to make use of his or her property.

(2) A grant of relief from the requirements of Article 12, Flood Damage Prevention Ordinance.

VEHICULAR CANOPY. A roofed, open, drive-through structure designed to provide temporary shelter for vehicles and their occupants while making use of a business' services.

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

VENDING STAND. A mobile cart, wagon, vehicle or stand used or intended to be used for displaying, transporting, or storing articles offered for sale by a vendor.

VENTILATION. The insufflations and the exsufflation of air by natural or mechanical means, to and from housing.

VENTILATION, MECHANICAL. Ventilation by power-driven devices.

VENTILATION, NATURAL. Ventilation by opening to outer air through windows, skylights, doors, louvers, or stacks, with or without wind-driven devices.

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 NCGS Chapter 160D-108 or under common law.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Article 12, Parts IV and V is presumed to be in violation until such time as that documentation is provided.

WALL PACK. A type of light fixture typically flush-mounted on a vertical wall surface.

WASTE. Surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.

WATER CLOSET. A toilet or commode.

WATER SURFACE ELEVATION (WSE). The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

WATER SYSTEM, COMMUNITY. Any privately-owned water system serving 15 or more residential connections or serving more than 25 year-round residents. Plans and specifications for any community water system require written approval from the State Department of Environment, Health and Natural Resources, Division of Health Services, Water Supply Branch.

WATER SYSTEM, INDIVIDUAL. A source of water serving a single connection.

WATER SYSTEM, PRIVATE. Any water system serving from two to 14 connections, inclusively or 25 or fewer year-round residents.

WATER SYSTEM, PUBLIC. Any water system owned and operated by a local government in the town.

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

WIDE-BODY REFRACTIVE GLOBE. A translucent lamp enclosure used with some outdoor fixtures to provide a decorative look (including but not limited to acorn- and carriage light-style fixtures). ***WIDE-BODY*** refers to a wider than average size globe (greater than 15.75 inches in diameter). ***REFRACTIVE*** refers to the redirection (bending) of the light as it goes through the lens, rendering the light fixture more effective. ***WIDE-BODY REFRACTIVE GLOBES*** are intended to soften and spread the light being distributed from the light source thereby reducing direct glare.

WIND FARM. An electricity generating facility whose main purpose is to supply electricity to the electrical grid, consisting of one or more wind turbines and other accessory structures and buildings including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities, which has a rated capacity of greater than 100 kW.

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

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

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

WIND TURBINE HEIGHT. The distance measured from grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

WIRELESS FACILITY OR WIRELESS FACILITIES. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological

configuration. The term includes small wireless facilities. The term shall not include any of the following:

(1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.

(2) Wireline backhaul facilities.

(3) Coaxial or fiber optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

WIRELESS INFRASTRUCTURE PROVIDER. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

WIRELESS PROVIDER. A wireless infrastructure provider or a wireless services provider.

WIRELESS SERVICES. Any services, using licensed or unlicensed wireless spectrum, including the use of WI FI, whether at a fixed location or mobile, provided to the public using wireless facilities.

WIRELESS SERVICES PROVIDER. A person who provides wireless services.

WIRELESS SUPPORT STRUCTURE. A new or existing structure, such as a Monopole, Lattice Tower, or Guyed Tower that is designed to support or capable of supporting Wireless Facilities. A Utility Pole or a City Utility Pole is not a wireless support structure.

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

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

YARD, FRONT. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street or property line and the front line of the building, projected to the side lot lines of the lot.

YARD, REAR. An open, unoccupied space on the same lot with a principal building and situated between the rear line of the lot and the rear line of the building projected to the sidelines of the lot.

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

ZONING. A police power measure enacted primarily by general purpose units of local government, in which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district. but they must be uniform within districts. The Zoning Code consists of two parts: a text and a map.

ZONING MAP AMENDMENT OR REZONING. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of the city that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by the city, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.