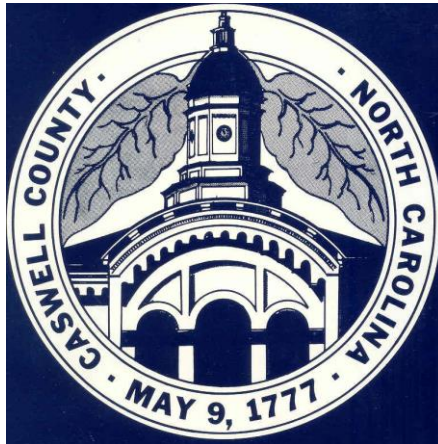


# Caswell County



## Unified Development Ordinance

### **Adopted:**

September 16, 2013

### **Amendments:**

December 16, 2013 (Articles 1, 8, 9, and Appendix A to add Shooting Range Facilities)

March 17, 2014 (Article 10, Part II, Watershed Protection Regulations)

April 20, 2015 (Hyco Lake Zoning District Map Amendment)

May 18, 2015 (Article 5, Hyco Lake Zoning Districts)

January 19, 2016 (Article 9, Part VI, Subdivision Regulations)

March 7, 2016 (Article 9, Part VI, Subdivision Regulations; Article 3, Administrative/Legislative Authority)

May 1, 2017 (Article 5, Hyco Lake Zoning Districts; Article 6, Supplemental Regulations; Article 8, Development Review Process; Article 9, Part III, Wireless Communications Facilities; Appendix A, Definitions)

September 18, 2017 (Article 6, Supplemental Regulations; Article 8, Development Review Process; Appendix A, Definitions)

May 7, 2018 (Article 9, Part VII, Shooting Range Regulations)

August 19, 2019 (Article 9, Part II, Manufactured Home Siting)

November 16, 2020 (Article 5, Section 5.4 Table of Permitted/Conditional Uses; Article 6, Section 6.22 Solid Waste Convenience Centers)

April 26, 2021 (Article 1, Section 1.13 fees, Section 1.14 Effective Date; Article 2, Section 2.13 Electrical Facilities; Article 3, Section 3.1 UDO Administrator, Section 3.2 Board of Commissioners, Section 3.5 Oaths of Office; Article 6, Section 6.13 Homes for the Aged, Clinics, Sanitariums.)

June 7, 2021 (Article 3, Section 3.4 Board of Adjustment; Article 4, Section 4.3 Permit Choice and Vested Rights; Article 5, Section 5.4 Table of Permitted/Special Uses; Article 9, Part II, Section 9.20.20 Maintenance – Responsibilities of Occupants, Section 9.21 Standards for Individual Manufactured Homes, Section 9.21.5 Manufactured Home Condition; Part III, Section 9.25.2.9. Fees, Section 9.26.2. Setback Standards, Section 9.26.11. Collocation Agreement; Part IV, Section 9.42 Individual Residential Uses; Part VI, Section 9.48 Subdivision Variance, Section 9.49 Appeals, Section 9.56.5 Historic Properties and Natural Assets; Article 10, Part II, Section 10.10. Administration, Enforcement, and Appeals; Appendix A, Board of Adjustment, Bona Fide Farm, Clerk, Watershed Review Board, Watershed Review Board)

July 18, 2022 (Article 9, Part V, Section 9.41.2.4; Appendix A, Recreational Vehicle (RV))

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Article 1 applies to the entire Caswell County planning jurisdiction.

# ARTICLE 1. LEGAL PROVISIONS

## **SECTION 1.1 TITLE.**

This Ordinance is officially titled as Unified Development Ordinance of Caswell County, North Carolina, and shall be known as the Unified Development Ordinance (UDO). The map designating the various zoning districts shall be titled, Hyco Lake Zoning Map of the Unified Development Ordinance, Caswell County, North Carolina, and shall be known as the Hyco Lake Zoning Map.

## **Section 1.2 Authority.**

This Ordinance is adopted pursuant to the authority vested in Caswell County, North Carolina, by the North Carolina General Statutes including the following: Chapter 153A, Article 6; Chapter 160D; Chapter 143, Article 21; and Chapter 113A, Article 4.

## **Section 1.3 Purpose.**

This Unified Development Ordinance and the Hyco Lake Zoning Map are made in accordance with a comprehensive plan and are designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, parks and other public requirements; to control development of flood prone areas and regulate stormwater runoff/discharge; to regulate signs; and 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.

## **Section 1.4 Applicability.**

### ***1.4.1. Jurisdiction.***

***1.4.1.1.*** The provisions of this Ordinance shall be applicable to the unincorporated areas of the county, excluding the municipalities or their extraterritorial planning jurisdictions, if applicable; however, one or more municipalities may request that they be included within these provisions. Articles 1 through 4 and 7 through 10 shall apply to the entire county, with the exception of specific references to the Hyco Lake Zoning District. Articles 5 and 6 shall apply only to the zoned areas of the county.

***1.4.1.2.*** 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.

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**1.4.1.3.** This Ordinance shall in no way regulate, restrict, prohibit, or otherwise deter any use of property for a bona fide farm, and its related uses, except that any use of such property for non-farm purposes shall be subject to the provisions of this Ordinance.

### **1.4.2. Exemptions.**

**1.4.2.1.** 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 NCGS 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.

**1.4.2.2.** In accordance with NC General Statutes 160D-913, the Caswell County UDO applies to state-owned lands only when a building is involved.

**1.4.2.3.** 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 Ordinance:

- The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as described herein.
- The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
- The public acquisition by purchase of strips of land for the widening or opening of roads.
- The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no road right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of Article 9, Part VI, Subdivisions.
- The division of property among heirs for the sole purpose of settling an estate. If the heirs decide to develop this property at a later date, this Ordinance shall apply.
- The division of a lot into a cemetery and grave sites.
- A parcel of land, which was platted or deeded prior to the adoption of this Ordinance, recorded in the Clerk's Office or Register of Deeds, provided no change is made to the existing parcel.

Survey plats of subdivisions not subject to the provisions of this Ordinance may be recorded provided that the plats meet the standards set forth in Article 9, Part VI, and the UDO Administrator shall sign a Certificate of Exemption. The owner shall present such certificate to the Register of Deeds as proof that one of the conditions of exception noted above is present.

# ARTICLE 1. LEGAL PROVISIONS

## **SECTION 1.5 RELATIONSHIP TO EXISTING ORDINANCES.**

**1.5.1.** To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace in the County's existing ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under previously adopted ordinances does not achieve lawful nonconforming status under this Ordinance merely by the repeal of the existing ordinance.

**1.5.2.** It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, vested rights, or building permits previously adopted or issued pursuant to law and currently effective.

## **SECTION 1.6 RELATIONSHIP TO PLANNING POLICIES.**

It is the intention of the Board of Commissioners that this Ordinance implement the planning policies adopted by the Board, as reflected in the County's currently adopted Comprehensive Plan and other planning documents.

## **SECTION 1.7 NORTH CAROLINA STATE BUILDING CODE.**

The Caswell County Building Code 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 Ordinance is not intended to conflict with or supersede the North Carolina State Building Code regulations.

## **SECTION 1.8 SEVERABILITY.**

If any section or specific provision or standard of this 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 1.9 INTERPRETATION AND CONFLICT.**

### ***1.9.1. 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 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

## **ARTICLE 1. LEGAL PROVISIONS**

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 county officials named in other sections or articles of the UDO.

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, restrictive covenants, or agreements, the provisions of this Ordinance shall govern. Where one or more provisions of this UDO are in conflict with one another, the most restrictive shall apply.

### ***1.9.2. Permitted Uses.***

If a use is not specifically listed in any of the zoning districts included in this Ordinance, then the UDO Administrator shall have the authority to interpret in which district the use, if any, should be permitted. If the UDO Administrator rejects a proposal for a use that is not clearly disallowed in a particular district, then the UDO Administrator shall:

***1.9.2.1.*** Ensure that the citizen is provided with a copy of the interpretation in writing.

***1.9.2.2.*** Inform the citizen of the right to appeal the decision to the Board of Adjustment.

***1.9.2.3.*** Assist with the development of a proposed zoning text change for consideration by the Planning Board and Board of Commissioners 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.

### ***1.9.3. Delegation of Authority.***

Unless otherwise specified in the UDO, the identification of certain officials, including the UDO Administrator, County Manager, County Attorney, or any other County Official to perform a task or carry out a specific responsibility, shall also include the designee of such official.

### ***1.9.4. Computation of Time.***

***1.9.4.1.*** 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.

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**1.9.4.2.** 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 1.10 IDENTIFICATION OF OFFICIAL HYCO LAKE ZONING MAP.**

**1.10.1.** The Hyco Lake Zoning Map shall be identified by the signature of the Chairman attested by the Clerk to the Board and bearing the seal of the county under the following words: "This is to certify that this is the Official Hyco Lake Zoning Map of the Unified Development Ordinance, Caswell County, North Carolina," together with the date of the adoption of this Ordinance and most recent revision date.

**1.10.2.** If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other items portrayed on the Hyco Lake Zoning Map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the Board of Commissioners, with an entry on the official zoning map denoting the date of amendment, description of amendment, and signed by the Clerk to the Board. No amendment to this 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.

**1.10.3.** 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 Ordinance and state law. Any unauthorized change of whatever kind by any person shall be considered a violation of this Ordinance and punishable as provided under Section 1.12.

**1.10.4.** 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 Clerk to the Board, shall be the final authority as to the zoning status of land and water areas, buildings, and other structures in the Hyco Lake area.

**1.10.5.** In the event the official zoning map becomes damaged, destroyed, lost, or difficult to interpret, the Board of Commissioners 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 Chairman attested by the Clerk to the Board, and bearing the seal of the county under the following words: "This is to certify that this Official Hyco Lake Zoning Map supersedes and replaces the Official Hyco Lake Zoning Map adopted (date of adoption of map being replaced), as part of the Unified Development Ordinance, Caswell County, North Carolina."

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**1.10.6.** 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.

## **SECTION 1.11 ZONING MAP INTERPRETATION.**

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

### ***1.11.1. 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, water courses, and similar areas with width are indicated as the district boundary, the actual district boundary line shall be the centerline of such area.

### ***1.11.2. 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.

### ***1.11.3. 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.

### ***1.11.4. 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 1.12 ENFORCEMENT AND PENALTIES.**

### ***1.12.1. UDO Administrator.***

A UDO Administrator, designated by the Caswell County Manager, shall administer and enforce this Ordinance (refer to Article 3). If the UDO Administrator finds that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with, or to prevent violation of its provisions. If a ruling of the Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.



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## **1.12.2. Complaints Regarding Violations.**

Whenever the UDO Administrator receives a written, signed complaint alleging a violation of the Ordinance, he/she shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions will be taken.

**1.12.2.1** The Caswell County Sheriff's Department shall be specifically responsible for receiving all complaints alleging a violation at all Shooting Ranges. They shall investigate the complaint, take whatever action is warranted and then inform the UDO Administrator so that he/she may enforce the provisions of this ordinance.

## **1.12.3. Persons Liable for Violations.**

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may jointly and/or independently be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

## **1.12.4. Procedures Upon Discovery of Violations.**

**1.12.4.1.** If the UDO Administrator finds that any provision of this Ordinance is being violated, he/she shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the UDO Administrator's discretion.

**1.12.4.2.** The final written notice (and the initial written notice may be the final notice) shall state what action the UDO Administrator intends to take if the violation is not corrected and shall advise that the UDO Administrator's decision or order may be appealed to the Board of Adjustment in accordance with Section 4.2.1.

**1.12.4.3.** Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of the Ordinance or pose a danger to the public health, safety, or welfare, the UDO Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 1.12.5.

**1.12.4.4.** Refer to Section 10.17 for Compliance and Enforcement requirements within riparian buffer areas of the Jordan Watershed.

## **1.12.5. Remedies.**

Any or all of the following procedures may be used to enforce the provisions of this Ordinance.

**1.12.5.1 Injunction.** Any violation of this Ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceedings pursuant to state law.

## **ARTICLE 1. LEGAL PROVISIONS**

**1.12.5.2 Civil Penalties.** Any person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 1.12.6.

**1.12.5.3 Denial of Permit, Application, or Certificate.** The UDO Administrator shall withhold or deny any permit, application, certificate, or other authorization on any land, building, structure, or use in which there is an uncorrected violation of a provision of this Ordinance, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

**1.12.5.4 Special Use Permit or Temporary Certificate.** The UDO Administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security bond approved by the Administrator.

**1.12.5.5 Stop Work Orders.** Whenever any land disturbing activity is commenced and/or a building, structure, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the UDO Administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant, or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Such action shall be in accordance with the applicable North Carolina State Building Code.

**1.12.5.6 Revocation of Permits or Certificates.** The Administrator may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any of the following: substantial departure from the approved application, plans, or specifications; refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of an applicable state or local law may also be revoked.

**1.12.5.7 Criminal Penalties.** Violations of this Ordinance shall not constitute a Class 1 misdemeanor as provided by NCGS 14-4 but shall be civil in nature only.

### **1.12.6 Civil Penalties, Assessments and Procedures.**

**1.12.6.1 Notice.** No civil penalty shall be assessed until the person alleged to be in violation has been notified in accordance with Section 1.12.4. If after receiving a notice of violation under Section 1.12.4, the owner or other violator fails to take corrective action,

## ARTICLE 1. LEGAL PROVISIONS

a civil penalty may be imposed under this section in the form of a citation. The citation shall be served in the same manner as a notice of violation. The citation shall state the nature of the violation, shall state the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within thirty (30) days of the date of the citation.

**1.12.6.2 Continuing Violation.** For each day the violation continues, the violator will be guilty of an additional and separate violation and subject to additional civil penalties.

**1.12.7 Other Powers and Actions.** In addition to other enforcement provisions contained in this Article, the County may exercise any and all enforcement powers granted to it by state law or common law.

### **1.12.8 Remedies, Cumulative and Continuous.**

**1.12.8.1 Cumulative Violations.** All remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

**1.12.8.2 Repeat Violations.** If an owner or occupant repeats the same violation within a five-year period from the date of the initial violation, it shall be considered to be a repeat violation and shall be subject to additional remedies and the penalties set forth in Section 1.12.8.3, below. Provided, however, this section and the increased penalties set forth in Section 1.12.8.3 shall not apply to a continuing violation as prescribed in Section 1.12.6.2.

**1.12.8.3 Penalties.** Any person who violates any provision of this Ordinance shall be subject to assessment of a civil penalty in the amount of:

- (A) \$50.00 for the first violation;
- (B) \$100.00 for the second violation;
- (C) \$200.00 for the third violation;
- (D) \$300.00 for the fourth and each succeeding violation.

**1.12.8.4 Demand for Payment.** The UDO Administrator shall make written demand for payment upon the owner or the person in violation and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

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**1.12.8.5 Nonpayment.** If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter may be referred to legal counsel to institute a civil action for recovery of the civil penalty.

**1.12.9 Judicial Review.** Refer to Section 4.2.12.

## **SECTION 1.13 FEES.**

**1.13.1.** 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 Ordinance, subdivision plat approval, site plan approval, zoning amendments, variances, changes to Ordinance text and map, and other administrative relief. The amount of the fees charged shall be as set forth in the county's budget or as established by resolution of the Board of Commissioners filed in the office of the Clerk to the Board.

**1.13.2.** The County shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to subdivision regulations at least seven (7) days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The County shall employ at least two of the following means of communication in order to provide the notice required by NCGS 160D-805:

- 1) Notice of the meeting in a prominent location on a web site managed or maintained by the County.
- 2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the planning and development jurisdiction of the County.
- 3) Notice of the meeting by electronic mail or other reasonable means to a list of interested parties that is created by the County for the purpose of notification of public meetings.

During the consideration of the imposition of or increase in fees or charges as outlined above, the County shall permit a period of public comment. This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of NCGS 159-12.

**1.13.3.** Fees established in accordance with subsection 1.13.1 shall be paid upon submission of a signed application or notice of appeal.

# ARTICLE 1. LEGAL PROVISIONS

## **SECTION 1.14 EFFECTIVE DATE.**

These regulations shall become effective on September 16, 2013. Upon such date, these regulations shall supersede, repeal, and replace: Subdivision Regulations, Outdoor Storage Ordinance, Manufactured Home Siting Ordinance, Watershed Protection Ordinance, Flood Damage Prevention Ordinance, Wireless Communications Facility Ordinance, Zoning Ordinance for the Hyco Lake Area, Sexually Oriented Businesses Ordinance, Riparian Buffer Protection Ordinance for Lands within the Jordan Watershed, and Recreational Vehicle Ordinance. Revisions to this ordinance made for the purpose of compliance with North Carolina General Statutes found in Chapter 160D shall not nullify the effective date of September 16, 2013.

# **ARTICLE 2.**

## **GENERAL REGULATIONS**

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NOTE: Article 2 applies to the entire Caswell County planning jurisdiction.

## **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 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 Ordinance shall meet at least the minimum requirements established by this Ordinance.

### **SECTION 2.3 REQUIRED OPEN SPACE AND LAND USE.**

No part of a lot, yard, off-street parking area or other required open space shall be reduced below the minimum required by this Ordinance. No part of a lot, yard, off-street parking area, or other open space required about a building or use shall be used to satisfy the requirements of another building or use. These prohibitions shall not be interpreted to prevent the grant of a variance by the Board of Adjustment as provided in Article 4.

### **SECTION 2.4 ACCESS TO BUILDINGS AND PROPERTY.**

**2.4.1.** No building shall hereafter be erected on a lot unless there is legal access to such lot adequate to serve the purposes of the building and to provide for emergency services including, fire, rescue, and medical services.

**2.4.2.** All lots shall abut on a dedicated public or private street. In the case of Class I Minor Subdivisions, see Appendix A (page A-34).

**2.4.3.** Lots which are grandfathered are allowed to be developed so long as they have a dedicated easement to a public or private road.

### **SECTION 2.5 NO USE OR SALE OF LAND/BUILDINGS EXCEPT IN CONFORMITY WITH THIS ORDINANCE.**

**2.5.1.** Subject to Article 7 of this 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 control except in accordance with all of the applicable provisions of this Ordinance.

**2.5.2.** 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.

## **ARTICLE 2. GENERAL REGULATIONS**

### **SECTION 2.6 RELATIONSHIP OF BUILDING TO LOT.**

In zoned areas, every building hereafter erected, moved, or structurally altered, shall be located on a 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 complex of professional, residential, or commercial buildings in an appropriate zoning district, i.e., school campus, apartments, condominiums, shopping center, and industrial park. Detached garages and carports must meet the same setback requirements as the principal building, just as if they were attached.

### **SECTION 2.7 BUILDING SETBACK EXCEPTIONS.**

**2.7.1.** Setback distances shall be measured from the property line or street right-of-way line for public or private streets, whichever is more stringent, to the nearest portion of any building or structure foundation/footprint, excluding:

**2.7.1.1.** The outermost four feet of any uncovered porch, step, eave, gutter, canopy, or similar fixture.

**2.7.1.2.** A deck or patio if no portion of the same extends more than 12 inches off the ground.

**2.7.1.3.** Any structure that is a mere appendage to a building, such as a flagpole or fountain.

**2.7.2.** Essential services, as defined in Appendix A, are not subject to the minimum setbacks set forth in the zoning districts.

**2.7.3.** Canopies, awnings, bicycle parking and outdoor seating areas may encroach into the front setback up to eight (8) feet.

### **SECTION 2.8 LOT REQUIREMENTS/DIMENSIONS.**

**2.8.1.** 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.

**2.8.2.** 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 Ordinance.



## **ARTICLE 2. GENERAL REGULATIONS**

**2.8.3.** 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 Ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.

### **SECTION 2.9 LOT SIZE WITHOUT ALL PUBLIC OR COMMUNITY UTILITIES.**

All lots not served by public or community sewer and/or water shall meet the minimum lot size requirements established by the Caswell County Health Department.

### **SECTION 2.10 PLAT APPROVAL NOT TO CONSTITUTE ACCEPTANCE OF ROAD OR PUBLIC UTILITY.**

The approval of a plat pursuant to this Ordinance shall not be deemed to constitute or affect the acceptance by the county or the public of the dedication of any road or other ground, public utility line or other public facility shown on the plat.

### **SECTION 2.11 TEMPORARY BUILDINGS.**

No temporary building will be constructed in the county zoning jurisdiction for commercial or residential use. However, temporary buildings may be authorized upon issuance of a temporary certificate of occupancy by the Building Inspector under the following circumstances:

**2.11.1.** As a facility for use as a sales office during development of a subdivision. Such, however, must be located on the property of the subdivision.

**2.11.2.** As a construction site office, storage area, provided, however, such is located on the construction site and is not used for residential purposes.

**2.11.3.** As a site for temporary residence under circumstances where a residence has been destroyed by fire or an act of God provided, however, that there is clear intent to rebuild the destroyed property in compliance with Article 7, Nonconforming Situations.

**2.11.4.** As a temporary residence during the initial development of a principal residential structure.

**2.11.5.** As a temporary facility in connection with county activities or other civic uses which shall be authorized by the UDO Administrator.

## **ARTICLE 2. GENERAL REGULATIONS**

### **SECTION 2.12 CLEAR-CUTTING.**

**2.12.1. Prior to Development.** Properties shall not be clear-cut prior to undertaking development activities. Along public rights-of-way, a buffer consisting of all existing vegetation located in a required yard fronting a street shall be maintained, exclusive of areas required for access to the site. Applications proposing development of properties that failed to maintain such a buffer prior to development may be denied for a period of up to five years from the date of clearing in conformance with NCGS Section 160D-921.

**2.12.2. During Development.** Properties shall not be clear cut while undertaking development activities. The preservation of the maximum amount of existing vegetation and selective removal of existing trees throughout the site is strongly encouraged during project design and construction. In order to encourage such preservation, the UDO Administrator may count established vegetation preserved during development towards the landscaping requirement.

**2.12.3. Exemptions.** These regulations shall not apply to:

**2.12.3.1.** Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statutes.

**2.12.3.2.** Forestry activity that is conducted in accordance with a forest management plan.

### **SECTION 2.13 ELECTRIC FACILITIES.**

Developers of both customary and renewable energy generating facilities shall consult Article III, Chapter 14, of the Caswell County Code of Ordinances prior to development.

**ARTICLE 3.**  
**ADMINISTRATIVE/LEGISLATIVE AUTHORITY**

Section 3.1 UDO Administrator..... 3-2  
Section 3.2 Board of Commissioners..... 3-3  
Section 3.3 Planning Board ..... 3-3  
Section 3.4 Board of Adjustment..... 3-5

NOTE: Article 3 applies to the entire Caswell County planning jurisdiction.

## **ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY**

### **SECTION 3.1 UDO ADMINISTRATOR.**

**3.1.1.** The UDO Administrator is hereby authorized to enforce the provisions of this Ordinance. This official shall have the right upon presentation of proper credentials, or inspection warrant, if necessary, to enter on any premises within the planning jurisdiction of the County at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement actions under this Ordinance and state law. It is the intention of this Ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the UDO Administrator. Appeal from his/her decision may be made to the Board of Adjustment.

**3.1.2.** In administering the provisions of this Ordinance, the UDO Administrator shall:

**3.1.2.1.** Make and maintain records of all applications for permits, special uses, and requests listed herein, and records of all permits issued or denied, with notations of all special conditions or modifications involved.

**3.1.2.2.** File and safely keep copies of all plans submitted, and the same shall form a part of the records of his/her office and shall be available for inspection at reasonable times by any interested party. All such records shall be kept by the County in accordance with the NC Department of Cultural Resources requirements (NCGS 132-8).

**3.1.2.3.** Transmit to the Planning Board, Board of Commissioners, and/or the Board of Adjustment all applications and plans for which their review and approval is required.

**3.1.2.4.** Conduct inspections of premises and, upon finding that any of the provisions of this Ordinance are being violated, notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it in accordance with Section 1.12.

**3.1.2.5.** Make no administrative decision required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the UDO Administrator. The same standard shall apply if an applicant or the person subject to that decision is a person with whom the UDO Administrator has a close familial, business, or other associational relationship. If the UDO Administrator has a conflict of interest under this section, he/she may designate other Planning Department staff for the administrative decision, but all conflict of interest requirements shall apply to that designee as well. If a conflict cannot be resolved by the UDO Administrator or their designee, the decision shall be assigned to the County Manager. All other provisions of NCGS 160D-109 shall apply to this section.

**3.1.3.** In addition, the Administrator shall have the following duties:

## **ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY**

**3.1.3.1.** Provide administrative interpretations of the UDO.

**3.1.3.2.** Provide nonconformity determinations, including expansions of nonconforming uses and structures.

**3.1.3.3.** Review and approve zoning compliance certifications.

**3.1.3.4.** Review and approve applications for temporary uses, including special events.

**3.1.3.5.** Review and approve certificates of occupancy.

**3.1.3.6.** Conduct concept meetings with applicants for development approval as necessary or appropriate.

**3.1.3.7.** Maintain the zoning map and the public records of the Planning Department, Planning Board, and Board of Adjustment.

**3.1.3.8.** Review and consider applications eligible for administrative approval.

**3.1.3.9.** Perform site inspections.

**3.1.3.10.** Review and approve restoration or enhancement plans.

**3.1.3.11.** Such other duties as may be necessary to administer this Ordinance.

### **SECTION 3.2 BOARD OF COMMISSIONERS.**

The Caswell County Board of Commissioners has those powers and duties as provided herein and by Article 4 of Chapter 153A of the North Carolina General Statutes. A Board of Commissioners member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Ordinance 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 governing 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.

### **SECTION 3.3 PLANNING BOARD.**

#### ***3.3.1 Creation.***

The Caswell County Board of Commissioners has established, authorized, and reaffirmed the Planning Board under the authority granted by NCGS 160D-301. The Caswell County Planning Board shall constitute, function, and may be referred to as the Planning Board.

## **ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY**

### ***3.3.2 Membership and Vacancies.***

The Planning Board shall consist of nine members. Terms shall be five years; however, the Board of Commissioners may appoint members for a lesser term in order to achieve a balanced system of overlapping terms. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. Faithful attendance at the meetings of the Planning Board is considered a prerequisite for the maintenance of membership on the Board.

### ***3.3.3 Organization, Rules, Meetings, and Records.***

***3.3.3.1.*** The Planning Board shall meet and elect a Chairman, Vice-Chairman, and Secretary from among its regular members in January, all of whom shall serve for the term of one year or until reelected or until their successors are elected.

***3.3.3.2.*** The Planning Board shall adopt by-laws for the transaction of its business which are consistent with this Ordinance as well as the General Statutes of the State of North Carolina, and shall keep a record of its members' attendance, and of its resolutions, discussions, findings, and recommendations, which shall be a public record. The Planning Board shall hold at least one meeting monthly, and all of its meetings shall be open to the public. There shall be a quorum of five (5) members for the purpose of taking any official action required by this Ordinance.

### ***3.3.4 Powers and Duties.***

It shall be the duty of the Planning Board, in general:

***3.3.4.1.*** To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions.

***3.3.4.2.*** To prepare and from time to time amend and review a comprehensive and coordinated plan for the physical development of the area.

***3.3.4.3.*** To establish principles and policies for guiding action in the development of the area.

***3.3.4.4.*** To prepare and recommend to the Board of Commissioners ordinances promoting orderly development along the lines indicated in the Comprehensive Plan.

***3.3.4.5.*** To determine whether specific proposed development conform to the principles and requirements of the Comprehensive Plan for the growth and improvement of the area.

## **ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY**

**3.3.4.6.** To keep the Board of Commissioners and the general public informed and advised as to these matters.

**3.3.4.7.** To perform any other duties which may lawfully be assigned to it.

### **SECTION 3.4 BOARD OF ADJUSTMENT.**

#### ***3.4.1 Establishment of Board of Adjustment.***

The Caswell County Board of Commissioners has established, authorized, and reaffirmed the Board of Adjustment under the authority granted by NCGS 160D-302.

**3.4.1.1.** The Board of Adjustment shall consist of at least five (5) regular members appointed by the Board of Commissioners. The Board of Commissioners may appoint their members or the Planning Board members to serve as the Board of Adjustment, or they may appoint a separate individual board. This decision must be made as part of the adoption of this Ordinance. Terms shall be three years; however, in appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the Board of Commissioners may appoint certain members for less than three (3) years so that the terms of all members shall not expire at the same time. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. If the Board of Commissioners does not zone the entire territorial jurisdiction of the County, each designated zoning area shall, if practicable, have at least one resident as a member of the Board of Adjustment; otherwise, the provisions of GS 153A-25 regarding qualifications for appointive office shall apply to Board of Adjustment appointments.

**3.4.1.2.** The Board of Commissioners may appoint alternate members to serve on the Board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.

#### ***3.4.2 Powers of the Board of Adjustment.***

The Board of Adjustment shall have the following powers:

**3.4.2.1.** To hear and decide special use permits, requests for variances, and appeals of decisions of administrative officials charged with the enforcement of the 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 special

## **ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY**

use permits. The Board shall hear and decide all matters upon which it is required to pass under the statute or ordinance that regulates land use or development.

**3.4.2.2.** To make interpretations of the Hyco Lake 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.

**3.4.2.3.** To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties.

**3.4.2.4.** To request the Board of Commissioners to consider matters within the purview of the Board.

**3.4.2.5.** To hear and decide any other matter as required by the provisions of the Unified Development Ordinance.

**3.4.2.6.** To adopt rules consistent with the Unified Development Ordinance or the North Carolina General Statutes governing the organization of the Board and proceedings before the Board.

**3.4.3 Officers.** The Board shall elect one member to serve as Chair and preside over its meetings and shall elect one member to serve as Vice-Chair to fulfill the responsibilities of the Chair when the Chair cannot. The Board shall appoint a Secretary, who may be a County officer or employee, a member of the Board, or such other person who is qualified to fulfill the requirements of the position. The Board may create and fill such offices and committees as it may deem necessary. The term of the Chair and other offices shall be one year with eligibility for re-election. The Chair, or any member temporarily acting as Chair, is authorized to administer oaths to any witnesses in any matter coming before the Board.

### **3.4.4 Meetings.**

**3.4.4.1.** The Board shall establish a regular monthly meeting schedule. All meetings of the Board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public in accordance with the North Carolina General Statutes. The Board shall keep a record of its meetings, including attendance of its members, the vote of each member on every question, a complete summary of the evidence submitted to it, documents submitted to it, and all official actions.

**3.4.4.2.** Any member of the Board who misses more than three consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Board and shall be replaced or reappointed by the Board of Commissioners, as appropriate. Absence due to sickness, death, or other emergencies of



## **ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY**

like nature shall be recognized as excused absences, and shall not affect the member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

**3.4.5. Conflicts on Quasi-Judicial Matters.** A member of the Board of Adjustment or any other body exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected person's constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed *ex parte* communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

**3.4.6 Quorum and Voting.** A quorum of the Board, necessary to take official action, shall consist of four members. 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 3.5 Oaths of Office**

All members appointed to boards under this Article shall, before entering their duties, qualify by taking an oath of office as required by G.S. 160D-309.

**ARTICLE 4.**  
**LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

Section 4.1 Amendment/Rezoning Procedures ..... 4-2  
Section 4.2 Appeals, Variances, and Interpretations ..... 4-5  
Section 4.3 Permit Choice and Vested Rights ..... 4-12  
Section 4.4 Moratorium ..... 4-14  
Section 4.5 Special Use Permits ..... 4-14  
Section 4.6 Rehearings ..... 4-19

NOTE: Except for specific references to the Hyco Lake Zoning District,  
Sections 4.1, 4.2, 4.6, and 4.7 apply to the  
entire Caswell County planning jurisdiction.

Sections 4.3, 4.4, and 4.5 apply only to the zoned Hyco Lake area  
of Caswell County, as depicted on the Hyco Lake Zoning Map.

# **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

## **SECTION 4.1 AMENDMENT/REZONING PROCEDURES.**

### ***4.1.1. Procedure.***

The Board of Commissioners may amend, supplement, or change the text of this Ordinance and the Hyco Lake Zoning Map following review and recommendation of the Planning Board according to the procedures established in this Article.

### ***4.1.2 Amendment Initiation.***

An amendment to this Ordinance may be initiated as follows:

***4.1.2.1.*** Any Hyco Lake zoning map amendment may be initiated by the Board of Commissioners or Planning Board on its own motion, or by any owner of a legal interest in the property, anyone else authorized in writing to act on the owner's behalf, or by any non-owner in accordance with the procedures set forth below.

***4.1.2.2.*** A text amendment to the regulations contained in this Ordinance may be initiated by the Planning Board, Board of Commissioners, or any person.

### ***4.1.3 Procedure for Submission and Consideration of Applications for Amendment.***

***4.1.3.1.*** All applications for amendments to this Ordinance shall be in writing and signed and filed with the UDO Administrator.

***4.1.3.2.*** The UDO Administrator shall ensure that the application contains all the required information as specified in this Ordinance and on the application. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall be returned to the applicant with a notation of the deficiencies in the application.

***4.1.3.3.*** Completed applications shall be received at least 30 days prior to the Planning Board meeting at which the Planning Board first considers the proposed amendment.

***4.1.3.4.*** All applications for amendments to this Ordinance, without limiting the right to file additional material, shall contain at least the following:

- (A) If the proposed amendment would require a change in the Hyco Lake zoning map, a map at a scale of not less than 400 feet to the inch nor more than 20 feet to the inch showing the land which would be covered by the proposed amendment;
- (B) A legal description of the land or tax parcel map; and

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

- (C) The names and addresses of any abutting property owners, including those directly across any street.

**4.1.3.5.** It is the intent of this section that the applicant for rezoning of the Hyco Lake area to any district shall refrain from offering any testimony or evidence concerning the specific manner in which he or she intends to use or develop the property.

### **4.1.4 Planning Board Review and Recommendations.**

**4.1.4.1.** The Planning Board shall have a maximum of 45 days from the date of the Planning Board meeting to make a recommendation on the application. If a recommendation is not made during this time period, the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board.

**4.1.4.2.** If a recommendation is made to the Board of Commissioners by the Planning Board concerning an application for a Hyco Lake zoning map amendment, the recommendation shall be as follows:

- (A) Grant the rezoning as requested;
- (B) Grant the rezoning with a reduction of the area requested;
- (C) Grant the rezoning to a more or less restrictive general zoning district or districts;
- (D) Grant the rezoning with a combination of subdivisions (A), (B), or (C), above;
- (E) Recommend that the petition be denied; or
- (F) Grant the creation of a new zoning district.

**4.1.4.3.** If a recommendation is made to the Board of Commissioners by the Planning Board concerning an amendment to change the text of this Ordinance, the recommendation shall be as follows:

- (A) Adoption of the amendment as written;
- (B) Adoption of the amendment as revised by the Planning Board; or
- (C) Denial of the amendment.

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

**4.1.4.4.** Once a recommendation for a Hyco Lake zoning map amendment has been made by the Planning Board, this recommendation shall be summarized in a formal statement to the Board of Commissioners outlining why the request is or is not consistent with the County's currently adopted Land Use Plan and any other adopted plans.

### **4.1.5 Board of Commissioners Action.**

**4.1.5.1.** The Board of Commissioners shall not consider the adoption of any proposed application for amendment until after the Planning Board makes a recommendation, or fails to make a recommendation within the time allowed. The Board of Commissioners shall receive public comment on applications for amendments to this Ordinance in a public hearing at a time and place to be announced by public notice advertised in accordance with NCGS 160D-601. A quorum of the Board is required for the hearing.

**4.1.5.2.** Petitions for amendments that receive recommendation of the Planning Board, or petitions on which the Planning Board fails to make its recommendation within 45 days after the Planning Board's review, shall be scheduled for public hearing before the Board of Commissioners. Such public hearing shall be duly advertised in accordance with North Carolina General Statutes.

**4.1.5.3.** The Board of Commissioners shall render a decision on the application in the form of any of the various options listed in Section 4.1.4. Alternatively, the Board of Commissioners may send the application back to the Planning Board for further study and consideration.

**4.1.5.4.** The Board of Commissioners shall have the authority to call for additional public hearings on any amended application brought before them. The 45-day Planning Board review period on an amended application shall be in effect after the close of the first, or any subsequent, public hearings called for by the Board of Commissioners on a particular application.

**4.1.5.5.** Before taking action, the Board of Commissioners shall consider the Planning Board's recommendation on each proposed amendment. Prior to adopting or rejecting any amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with the adopted Land Use Plan and explain why the Board considers the action taken to be reasonable and in the public interest.

### **4.1.6. Withdrawal of Application.**

An applicant may withdraw his or her application at any time by written notice to the UDO Administrator and may resubmit at a subsequent date in compliance with the submittal schedule contained herein.

# **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

## **SECTION 4.2 APPEALS, VARIANCES, AND INTERPRETATIONS.**

### ***4.2.1. Appeals.***

**4.2.1.1.** Any person who has standing under GS 160D-1402 or the County may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the County Clerk. The notice of appeal shall state the grounds for the appeal. A notice of appeal shall be considered filed with the County Clerk when delivered to the County Administration Building, and the date and time of filing shall be entered on the notice by the County staff.

**4.2.1.2.** 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.

**4.2.1.3.** The owner or other party shall have thirty (30) days from receipt of the written notice 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 decision within which to file an appeal.

**4.2.1.4.** It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least ten (10) days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

**4.2.1.5.** The official who made the decision shall forthwith transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action 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.

**4.2.1.6.** An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of 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 restraining order

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

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 a permit or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an applicant for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issued being appealed.

**4.2.1.7.** Subject to the provisions of subsection 4.2.1.6, the Board of Adjustment shall hear and decide the appeal within a reasonable time.

**4.2.1.8.** The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the County would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. The Board of Adjustment 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 of Adjustment shall have all the powers of the official who made the decision.

**4.2.1.9.** When hearing an appeal pursuant to GS 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in GS 160D-1402(j).

**4.2.1.10.** The parties to 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.

### **4.2.2. Variances.**

**4.2.2.1.** 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 permits.

**4.2.2.2.** 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:

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

**4.2.2.2.1.** Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

**4.2.2.2.2.** 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.

**4.2.2.2.3.** 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.

**4.2.2.2.4.** The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.

**4.2.2.3.** 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 ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

**4.2.2.4.** 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.

**4.2.2.5.** For variances related to flood damage prevention regulations, refer to Section 10.3.5.

**4.2.2.6.** For variances related to watershed protection regulations, refer to Section 10.10.6.2 and 10.10.6.3.

**4.2.2.7.** For variances related to riparian buffer protection regulations for lands within the Jordan Watershed, refer to Section 10.16.2.



## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

### ***4.2.3. Interpretations.***

**4.2.3.1.** The Board of Adjustment is authorized to interpret the Hyco Lake 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 4.2.1.

**4.2.3.2.** An application for a Hyco Lake zoning map interpretation shall be submitted to the Board of Adjustment by filing a standard Caswell County appeal form with the UDO Administrator. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

**4.2.3.3.** Where uncertainty exists as to the boundaries of districts as shown on the Official Hyco Lake Zoning Map, the rules of interpretation as specified in Section 1.11 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 4.2.1.

**4.2.3.4.** Interpretations of the location of county-wide floodway and floodplain boundary lines may be made by the UDO Administrator as provided in Article 10, Part I.

### ***4.2.4. Requests to be Heard Expeditiously.***

As provided in Article 3, the Board of Adjustment 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 4.2.6, and obtain the necessary information to make sound decisions.

### ***4.2.5. Hearing Required on Appeals, Variances, and Interpretations.***

**4.2.5.1.** Before making a decision on an appeal or an application for a variance or interpretation, the Board of Adjustment shall hold a hearing on the appeal or application within thirty (30) days of the submittal of a completed appeal or application.

**4.2.5.2.** Subject to subsection 4.2.5.3, 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 (see Section 4.2.9.2).

**4.2.5.3.** The Board of Adjustment 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.

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

**4.2.5.4.** The Board of Adjustment may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

**4.2.5.5.** 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.

### **4.2.6. Notice of Hearing.**

The UDO Administrator shall give notice of any hearing required by Section 4.2.5 as follows:

**4.2.6.1.** Notice of hearings conducted pursuant to this section 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 County may rely on the 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 County 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.

**4.2.6.2.** 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.

**4.2.6.3.** 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.

### **4.2.7. Burden of Proof in Appeals and Variances.**

**4.2.7.1.** When an appeal is taken to the Board of Adjustment in accordance with Section 4.2.1, 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.

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

**4.2.7.2.** The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 4.2.2.2, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

### **4.2.8. Board of Adjustment Action**

The concurring vote of four-fifths 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 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.

### **4.2.9. Evidence/Presentation of Evidence.**

**4.2.9.1.** The provisions of this section apply to all hearings for which a notice is required by Section 4.2.6.

**4.2.9.2.** All persons who intend to present evidence to the Board of Adjustment shall be sworn in by the Chairperson. 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 of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

**4.2.9.3.** All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (necessary findings) shall be based upon competent, material, and substantial evidence.

**4.2.9.4.** The entirety of a quasi-judicial hearing and deliberation shall be conducted in open session.

**4.2.9.5.** Parties to a quasi-judicial hearing have a right to cross-examine witnesses.

**4.2.9.6.** Factual findings must not be based on hearsay evidence which would be inadmissible in a court of law.

**4.2.9.7.** If a Board of Adjustment member has prior or specialized knowledge about a case, that knowledge should be disclosed to the rest of the Board of Adjustment and parties at the beginning of the hearing.

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

**4.2.9.8.** The Board of Adjustment 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, persons with standing under GS 160D-1402(c) 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 appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment 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.

### **4.2.10. Modification of Application at Hearing.**

**4.2.10.1.** In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.

**4.2.10.2.** Unless such modifications are so substantial or extensive that the Board of Adjustment cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board of Adjustment 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.

### **4.2.11. Record.**

**4.2.11.1.** Accurate written minutes shall be kept of all such proceedings.

**4.2.11.2.** 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 County in accordance with the NC Department of Cultural Resources requirements (NCGS 132-8).

### **4.2.12. Quasi-Judicial Decisions and Judicial Review.**

**4.2.12.1.** The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent material and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

written decision shall be 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, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

**4.2.12.2.** Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to GS 160D-1402. A petition for review shall be filed with the clerk of superior court by the later of thirty (30) days after the decision is effective or after a written copy thereof is given in accordance with Section 4.2.12.1. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

### **SECTION 4.3 PERMIT CHOICE AND VESTED RIGHTS.**

#### ***4.3.1. Permit Choice Applicability***

If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

#### ***4.3.2. Establishment of Vested Rights***

Pursuant to NCGS 160D-108, a person claiming a statutory or common law vested right may submit information to substantiate that claim to the UDO Administrator, or their designee, who shall make an initial determination as to the existence of a vested right. That determination may be appealed to the Board of Adjustment pursuant to NCGS 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 by NCGS 160D-1403.1

#### ***4.3.3. Duration of Vested Rights***

**4.3.3.1.** Upon issuance of a development permit, the statutory vesting granted for a development project is effective upon filing of the application in accordance with NCGS 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced.

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

For the purposes of this section, a permit is issued by the UDO Administrator or their designee, or by the applicable governmental agency as a court directive. Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a state or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

**4.3.3.2.** Where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

**4.3.3.3.** A site-specific vesting plan consists of a plan submitted to the Planning Department in which the applicant requests vesting pursuant to NCGS 160D-108.1, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. Such a plan, if approved, shall confer a vested right for a period of two (2) years. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by Caswell County. A vested right for a site-specific shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by a vote of the Planning Board. However, such a vote may not extend the vesting period to a time exceeding five (5) years.

**4.3.3.4.** A vested right obtained under this section is not a personal right, but attaches to and runs with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

**4.3.3.5.** An approved multi-phase development plan, which is a development containing 25 acres or more that is both of the following: (A) Submitted for development permit approval to occur in more than one phase, and (B) Subject to a master development plan with committed elements showing the type and intensity of use of each phase, shall receive a vested right of up to seven years.

**4.3.3.6.** An applicant may establish a vested right for any agreed-upon period of time if a development agreement is made between them and the Board of Commissioners pursuant to NCGS 160D Article 10.

### **4.3.4. Statutory Reference**

Any provision of Vested Rights not covered in this Section shall be incorporated by statutory reference to NCGS 160D-108 and 160D-108.1.

### **SECTION 4.4 MORATORIUM.**

Temporary moratoria may be granted by the Board of Commissioners in accordance with N.C.G.S. 160D-107.

### **SECTION 4.5 SPECIAL USE PERMITS.**

#### ***4.5.1. 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 also provides that the Board of Adjustment may issue special use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility right-of-ways be dedicated to the public and that recreational space be provided. When deciding special use permits, the Board shall follow quasi-judicial procedures. Notice of hearings on special use permits shall be as provided in 4.2.6. No vote greater than a majority vote shall be required for the Board to issue such permits. For the purposes of this section, 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. Every such decision of the Board shall be subject to review of the superior court in the nature of certiorari consistent with GS 153-345.1. All special use permits require a site plan which shows the following:

**4.5.1.1. Parcel Data.** Map (at a scale of 1" = 100') of all property(ies) included in the special use permit application.

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

**4.5.1.2. Structures.** Location of buildings and sign, and size of the sign. All outside storage locations, including trash receptacles, must be shown including any required screening.

**4.5.1.3. Circulation.** Proposed points of access and egress, pattern of internal circulation, and location of all off-street parking.

**4.1.5.4. Parking.** Layout of parking spaces.

**4.1.5.5. Lighting.** Lighting plan, inclusive of wattage and illumination.

**4.1.5.6. Drainage.** If required by the UDO Administrator, proposed provision for storm drainage (including retention pond facilities, when applicable).

**4.1.5.7. Other Requirements.** The Planning Board and Board of Adjustment may provide additional requirements as it deems necessary in order to make the proposed project more compatible with adjacent areas and existing or proposed traffic patterns.

### **4.5.2. Application Process/Completeness.**

**4.5.2.1.** The deadline for which a special use permit application shall be filed with the UDO Administrator is thirty (30) calendar days prior to the meeting at which the application will be heard. Permit application forms shall be provided by the UDO Administrator. In the course of evaluating the proposed special use, the Planning Board and 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 Planning Board or Board of Adjustment.

**4.5.2.2.** 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 4.5.1 and a fee, in accordance with a fee schedule approved by the Board of Commissioners for the submittal of special use permit applications.

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



## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

### ***4.5.3. Planning Board Review and Comment.***

**4.5.3.1.** The Planning Board may, in its review, suggest reasonable conditions to the location, nature, and extent of the proposed use and its relationship to surrounding properties, parking areas, driveways, pedestrian and vehicular circulation systems, screening and landscaping, timing of development, and any other conditions the Planning Board may find appropriate. The conditions may include dedication of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.

**4.5.3.2.** The Planning Board shall forward its recommendation to the Board of Adjustment within 45 days of reviewing the application. If a recommendation is not made within 45 days, the application shall be forwarded to the Board of Adjustment without a recommendation from the Planning Board.

**4.5.3.3.** All comments prepared by the Planning Board shall be submitted by a Planning Board representative to the Board of Adjustment as evidence at the public hearing required by this section. This representative of the Planning Board shall be subject to the same scrutiny as other witnesses. Review of the special use application by the Planning Board shall not be a quasi-judicial procedure. The Planning Board shall include in its comments a statement as to the consistency of the application with the County's currently adopted Land Use Plan. Comments of the Planning Board shall be considered with other evidence submitted at the public hearing.

### ***4.5.4. Board of Adjustment Action.***

**4.5.4.1.** Board of Adjustment consideration of special use permits are quasi-judicial decisions approved by a simple majority vote. Quasi-judicial decisions must be conducted in accordance with Sections 4.2.9 through 4.2.12. 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" for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

**4.5.4.2.** Once the comments of the Planning Board have been made, or the 45-day period elapses without a recommendation, the Board of Adjustment shall hold a public hearing to consider the application at its next regularly scheduled meeting which can be legally advertised. A quorum of the Board of Adjustment is required for this hearing. Notice of the public hearing shall be as specified in Section 4.2.6. In addition, notice shall be given to other potentially interested persons by publishing a notice one time in a

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

newspaper having general circulation in the area not less than ten nor more than twenty-five days prior to the hearing.

**4.5.4.3.** In approving an application for a special use permit in accordance with the principles, conditions, safeguards, and procedures specified herein, the Board of Adjustment may impose reasonable and appropriate conditions and safeguards upon the approval. The applicant will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Adjustment.

**4.5.4.4.** The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which subsection 4.5.4.5 below requires.

**4.5.4.5.** The Board of Adjustment shall issue a special use permit if it has evaluated an application through a quasi-judicial process and determined that:

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

**4.5.4.5.2.** 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.

**4.5.4.5.3.** 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.

**4.5.4.5.4.** 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.

**4.5.4.5.5.** Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.

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

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

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

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

**4.5.4.5.9.** The proposed use shall be consistent with recommendation and policy statements as described in the adopted land use plan.

**4.5.4.6. Conditions and Guarantees.** Prior to the granting of any special use, the Planning Board may recommend, and the Board of Adjustment 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 Board of Adjustment shall require evidence and guarantees as it may deem necessary as proof that the conditions required in connection therewith are being and will be complied with.

**4.5.4.7.** 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.

### **4.5.5. Effect of Approval.**

If an application for a special use permit is approved by the Board of Adjustment, 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.

### **4.5.6. Binding Effect.**

Any special use permit so authorized shall be binding to the property included in the permit unless subsequently changed or amended by the Board of Adjustment.

### **4.5.7. 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 Board of Adjustment. 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.

## **ARTICLE 4. LEGISLATIVE/QUASI-JUDICIAL PROCEDURES**

### ***4.5.8. 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 4.5.3 and 4.5.4, including payment of a fee in accordance with the fee schedule approved by the Board of Commissioners.

### ***4.5.9. Implementation of Special Use Permit.***

A special use permit, after approval by the Board of Adjustment upon recommendation of the Planning Board 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. 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.

## **SECTION 4.6 REHEARINGS.**

A final decision on a quasi-judicial procedure/petition cannot be brought back to the Board of Adjustment for a rehearing. An application cannot be resubmitted unless it is a substantially different application or conditions have changed on the site or in this Ordinance.

**ARTICLE 5.**  
**HYCO LAKE ZONING DISTRICTS**

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Section 5.2 Interpretation..... 5-2  
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NOTE: Article 5 applies only to the zoned Hyco Lake area  
of Caswell County, as depicted on the Hyco Lake Zoning Map.

# ARTICLE 5. HYCO LAKE ZONING DISTRICTS

## **SECTION 5.1 ESTABLISHMENT OF ZONING DISTRICTS.**

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

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 5.2 INTERPRETATION.**

Zoning districts have uses specified as permitted by right, special uses, and uses permitted with supplemental regulations. Detailed use tables are provided in Section 5.4 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 6.
- **Special Uses:** Board of Adjustment review and approval of Special Use Permit subject to district provisions, other applicable requirements, and conditions of approval as specified in Section 4.5. Some Special Uses may also be subject to supplemental regulations outlined in Article 6.

## **SECTION 5.3 PRIMARY ZONING DISTRICTS.**

For the purposes of this Ordinance, the Hyco Lake area of Caswell County, North Carolina is hereby divided into the following primary zoning districts: Resort Residential District (RR), Recreation Business District (RB), and Industrial Park District (IP).

# ARTICLE 5. HYCO LAKE ZONING DISTRICTS

## **SECTION 5.4 TABLE OF PERMITTED/SPECIAL USES.**

P - Permitted Use  
S – Special Use

PR - Permitted Use with Supplemental Regulations  
SR - Special Use with Supplemental Regulations

<i>Uses</i>	<i>Primary Zoning Districts</i>			<i>Supplemental Regulations</i>
	RR	RB	IP	
Accessory buildings and uses that are customary and incidental to the permitted uses	P	P	P	
Amusement parks, including outdoor rides, bowling alleys, miniature golf, swimming pools and bathhouses, dance halls		P		
Church	SR			Section 6.2
Church cemeteries	SR			Section 6.3
Commercial cemeteries	SR			Section 6.4
Commercial marinas for the launching, storage, rental, sale and repair of boats		P		
Community, county, or municipal sewage treatment plants or water treatment plants	SR			Section 6.5
Community, county, or municipal water or sewage pumping stations	SR			Section 6.6
Construction yards			P	
Country clubs	SR			Section 6.7
Customary home occupations	SR			Section 6.8
Day nurseries and kindergartens	SR			Section 6.9
Dwelling, manufactured home (on individual lot with permanent foundation)	S			
Dwelling, single-family (exclusive of tents and mobile campers)	P			
Dwelling, two-family and garage apartments	SR			Section 6.10
Electrical products, sales			P	
Family care home	PR			Section 6.19
Farm machinery, sales			P	
Fire stations	SR			Section 6.11
Fishing and hunting lodges		P		
Gasoline or fuel oil storage			S	
Golf courses, exclusive of miniature golf courses	SR			Section 6.7
Group camp area	SR			Section 6.12
Homes for the aged, clinics, sanitariums	SR			Section 6.13
Industrial research			P	
Industrial uses not otherwise listed			S	

# ARTICLE 5. HYCO LAKE ZONING DISTRICTS

P - Permitted Use  
S – Special Use

PR - Permitted Use with Supplemental Regulations  
SR - Special Use with Supplemental Regulations

<i>Uses</i>	<i>Primary Zoning Districts</i>			<i>Supplemental Regulations</i>
	RR	RB	IP	
Institutional facilities			P	
Laboratories for testing			P	
Lakeside camping area	SR			Section 6.14
Machine shops			P	
Motels		P		
Parks, picnic areas, public swimming areas, and locations for public access and boat launching, provided that no commercial facilities be established	S			
Printing establishments			P	
Public and private schools	SR			Section 6.7
Public utilities			P	
Radio, television, and microwave towers and relay stations, offices and studios in conjunction with said towers		SR		Section 6.15
Repair shops			P	
Restaurants		P		
Riding stables	SR			Section 6.16
Sale of souvenirs, fishing equipment, food and drinks, sporting goods, and gasoline and oil		P		
Service stations		P		
Shopping centers with retail sales stores, personal services, and offices		P		
Signs	SR			Section 6.17
Solid Waste Convenience Centers	PR			Section 6.22
Storage warehouses			P	
Swimming clubs	SR			Section 6.7
Temporary camporee (nonprofit youth organization)	SR			Section 6.18
Textile plants			P	
Tobacco warehouses			P	
Welding fabrication			P	
Wholesale establishments			P	
Woodworking shops			P	



# ARTICLE 5. HYCO LAKE ZONING DISTRICTS

## SECTION 5.5 TABLE OF AREA, YARD, AND HEIGHT REQUIREMENTS.<sup>1, 4, 5</sup>

District	Lot Area (minimum)	Lot Width (minimum)	Front Yard (minimum)	Side Yard (minimum)	Rear Yard (minimum)	Lot Depth (minimum)
RR Resort Residential	30,000 sq. ft. <sup>2</sup>	100 ft.	30 ft.	15 ft.	20 ft. <sup>3</sup>	150 ft.
RB Recreation Business	30,000 sq. ft. <sup>2</sup>	N/A	100 ft.	100 ft.	100 ft.	150 ft.
IP Industrial Park	5 acres	N/A	100 ft.	100 ft.	100 ft.	N/A

### NOTES:

<sup>1</sup> Church steeples, chimneys, belfries, water tanks or towers, fire towers, flag poles, spires, monuments, cupolas, domes, antennas (except satellite dish antennas), and similar structures and necessary mechanical appurtenances are not subject to the zoning height limit regulations contained in this Ordinance.

<sup>2</sup> Lots of 20,000 square feet may be approved by the Caswell County Environmental Health Department provided evidence of satisfactory soil evaluation is submitted with subdivision plats, or individual lot, prior to recording plat or sale of lot.

<sup>3</sup> Minimum rear yard zero (0) feet from 420 contour line for lots adjacent to Hyco Lake.

<sup>4</sup> Section 9.56.19.3.4.5, page 9-71, will apply in the Hyco Lake Zoning District.

<sup>5</sup> Cluster subdivisions as provided in Section 9.56.24, page 9-72, are allowed in the Hyco Lake Zoning District.

<p><b>ARTICLE 6.</b></p> <p><b>SUPPLEMENTAL REGULATIONS</b></p>
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NOTE: Article 6 applies only to the zoned Hyco Lake area  
of Caswell County, as depicted on the Hyco Lake Zoning Map.

## **ARTICLE 6. SUPPLEMENTAL REGULATIONS**

### **SECTION 6.1 INTRODUCTION.**

The following supplemental regulations shall pertain to the uses listed in the Table of Uses located in Article 5 which are identified with a "PR" for supplemental regulations.

For any use which requires the issuance of a 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 Board of Adjustment. The conditions may impose greater restrictions on a particular use than those which are listed herein.

### **SECTION 6.2 CHURCH.**

Churches may be allowed pursuant to the use tables provided in Section 5.4, provided that they have a minimum lot area of 80,000 square feet. All buildings shall be set back at least thirty (30) feet from all exterior property lines. Off-street parking area at least twice as large as the total floor area in the church shall be provided on the lot. Churches may erect one illuminated non-flashing sign not exceeding 12 square feet in area.

### **SECTION 6.3 CHURCH CEMETERIES.**

Church cemeteries may be allowed pursuant to the use tables provided in Section 5.4, provided that all crypts and graves be set back a minimum of thirty (30) feet from all exterior property lines, and provided that no burial lots are sold on a commercial basis.

### **SECTION 6.4 COMMERCIAL CEMETERIES.**

Commercial cemeteries may be allowed pursuant to the use tables provided in Section 5.4, provided that all graves and crypts be set back at least fifty (50) feet from all exterior property lines or public roads.

### **SECTION 6.5 COMMUNITY, COUNTY, OR MUNICIPAL SEWAGE TREATMENT PLANTS OR WATER TREATMENT PLANTS.**

Community, county, or municipal sewage treatment plants or water treatment plants may be allowed pursuant to the use tables provided in Section 5.4, provided that all buildings, structures, tanks, and pits be set back at least one hundred (100) feet from all exterior property lines and that a natural buffer at least one hundred (100) feet in width separate all such uses from all exterior properties lines, and that a non-climbable fence, at least six (6) feet in height, completely enclose such use.

## **ARTICLE 6. SUPPLEMENTAL REGULATIONS**

### **SECTION 6.6 COMMUNITY, COUNTY, OR MUNICIPAL WATER OR SEWER PUMPING STATIONS.**

Community, county, or municipal water or sewer pumping stations may be allowed pursuant to the use tables provided in Section 5.4, provided that such pumping stations be set back at least fifty (50) feet from all exterior property lines, that they be enclosed by a fence, and that they be housed in a building that is compatible with the character of the surrounding development.

### **SECTION 6.7 PUBLIC AND PRIVATE SCHOOLS, COUNTRY CLUBS, GOLF COURSES, SWIMMING CLUBS.**

Public and private schools, country clubs, golf courses, and swimming clubs may be allowed pursuant to the use tables provided in Section 5.4, provided that all buildings and swimming pools be set back a minimum of fifty (50) feet from all exterior property lines.

### **SECTION 6.8 CUSTOMARY HOME OCCUPATIONS.**

Customary home occupations such as dress-making, hair-dressing, and professional offices may be established in a dwelling provided that only residents of the dwelling are engaged in the occupation, that no more than 50% of the total floor area of the dwelling shall be used for the occupation, that no exterior storage or accessory building shall be used for the home occupation, that no display of products shall be visible, and that the home occupation shall remain incidental to the residential use of the dwelling. Customary home occupations may erect one non-illuminated sign not exceeding two square feet in area.

### **SECTION 6.9 DAY NURSERIES AND KINDERGARTENS.**

Day nurseries and kindergartens may be allowed pursuant to the use tables provided in Section 5.4, provided that all buildings and playground equipment be set back a minimum of fifty (50) feet from all exterior property lines, that a minimum of 2,000 square feet of lot area shall be provided per each child cared for, that all outside play area be enclosed with a fence and that the water supply and sewer provision made for the day nurseries and kindergartens are approved by the County Health Department.

### **SECTION 6.10 DWELLINGS, TWO-FAMILY AND GARAGE APARTMENTS.**

Two-family dwellings and garage apartments may be allowed pursuant to the use tables provided in Section 5.4, provided that the minimum lot area provided on lot used for these purposes shall be at least 125% as large as the minimum lot area required for single-family dwellings in that district, and that the water supply and sewerage provisions made for the two-family dwellings and garage apartments are approved by the County Health Department.

## **ARTICLE 6. SUPPLEMENTAL REGULATIONS**

### **SECTION 6.11 FIRE STATIONS.**

Fire stations may be allowed pursuant to the use tables provided in Section 5.4, provided that all buildings be set back a minimum of thirty (30) feet from all exterior property lines and that off-street parking areas, at least twice as large as the floor area in the fire station, be provided on the lot.

### **SECTION 6.12 GROUP CAMP AREA.**

Group camp facilities, operated on a profit or nonprofit basis, may be allowed pursuant to the use tables provided in Section 5.4, provided that such camps utilize only permanent buildings rather than tents or trailers and conform to the dimensional requirements outlined below. Nonprofit youth organizations, such as the Boy Scouts, Girl Scouts, 4-H Clubs, etc., may use land in a Group Camp Area for the establishment of a temporary camporee using tents. Such camporees shall not be for periods of time exceeding seven days. Such camporees do not have to conform to the dimensional requirements specified below.

**6.12.1.** Each group camp shall provide a minimum of one-fourth acre per camper.

**6.12.2.** No camp shall have a maximum design capacity or more than 150 campers.

**6.12.3.** All buildings and areas for organized recreation use shall be set back a minimum distance of two hundred (200) feet from any district boundary line, and this two hundred (200) feet shall be maintained as a natural buffer from adjacent lots and uses.

**6.12.4.** Cabins, in the camp, shall be a minimum distance of fifty (50) feet from one another and a minimum distance of seventy-five (75) feet from any toilet facilities. No cabin shall be more than one hundred fifty (150) feet from toilet facilities.

**6.12.5.** Each group camp may erect one illuminated, non-flashing sign not exceeding fifteen (15) square feet in area.

### **SECTION 6.13 HOMES FOR THE AGED, CLINICS, SANITARIUMS.**

Homes for the aged, clinics, and sanitariums may be allowed pursuant to the use tables provided in Section 5.4, provided that all buildings are set back fifty (50) feet from property lines. A "Temporary Health Care Structure" may be constructed in accordance with NCGS 160D-915.

## **ARTICLE 6. SUPPLEMENTAL REGULATIONS**

### **SECTION 6.14 LAKESIDE CAMPING AREA.**

Lakeside camping areas may be allowed pursuant to the use tables provided in Section 5.4, subject to the following provisions:

**6.14.1.** A minimum of 4,000 square feet of area shall be provided for each recreational vehicle space, and each recreational vehicle space shall be surrounded by a buffer of natural vegetation on three sides.

**6.14.2.** All buildings, tent spaces, and recreational vehicle spaces shall be set back a minimum distance of two hundred (200) feet from any district boundary line and this two hundred (200) feet shall be maintained as a natural buffer from all surrounding lots and uses. This provision shall not apply to district boundary lines abutting Hyco Lake.

**6.14.3.** A sanitary source of drinking water shall be not more than two hundred (200) feet, toilet facilities not more than four hundred (400) feet, and wash houses not more than fifteen hundred (1,500) feet from any tent or recreational vehicle space. This provision shall not apply where community water and sewer connections are provided to trailers having self-contained kitchen and bathroom facilities.

**6.14.4.** Each Lakeside Camping Area may erect one illuminated, non-flashing sign not exceeding fifteen (15) square feet in area.

### **SECTION 6.15 RADIO, TELEVISION, AND MICROWAVE TOWERS AND RELAY STATIONS.**

Radio, television, and microwaves towers and relay stations, offices and studios in conjunction with said towers may be allowed pursuant to the use tables provided in Section 5.4, provided that all buildings and towers be set back a minimum of thirty (30) feet from all exterior property lines and that towers shall be set back one additional foot from all exterior property lines for each two feet in height over fifty (50) feet.

### **SECTION 6.16 RIDING STABLES.**

Riding stables may be allowed pursuant to the use tables provided in Section 5.4, provided that all stables and exercise yards be set back at least fifty (50) feet from all exterior property lines.

### **SECTION 6.17 SIGNS.**

**6.17.1.** One sign advertising the rental or sale of a building or lot may be erected on each lot provided that the sign is non-illuminated and does not exceed two square feet in area.

## **ARTICLE 6. SUPPLEMENTAL REGULATIONS**

**6.17.2.** One announcement sign, which may be illuminated but non-flashing, no greater than ten (10) square feet in area may be erected with the Resort Residential district for the special uses listed in Table 5.4.

**6.17.3.** Non-illuminated or illuminated but non-flashing directional signs not exceeding twelve (12) square feet in area may be erected for the specific purpose of directing the traveling public rather than as advertising for specific commercial uses.

**6.17.4.** Each separate use in a Recreation Business District may erect one, illuminated, non-flashing sign not exceeding twelve (12) square feet in area.

### **SECTION 6.18 TEMPORARY CAMPOREE.**

Temporary camporees established by a nonprofit youth organization such as the Boy Scouts, Girl Scouts, 4-H Clubs, etc., may be allowed pursuant to the use tables provided in Section 5.4, provided that such temporary camporee shall not be for periods of time exceeding seven days and shall not involve the construction of permanent buildings at the site.

### **SECTION 6.19 FAMILY CARE HOME.**

Family care homes may be allowed pursuant to the use tables provided in Section 5.4, provided that said home is not located within a one-half (1/2) mile radius of an existing family care home.

### **SECTION 6.20 BED AND BREAKFAST HOMES.**

Bed and Breakfast Homes may be allowed pursuant to the use tables provided in Section 5.4, subject to the following provisions:

**6.20.1.** Evidence of compliance with the Caswell County Environmental Health Department must be submitted to the UDO Administrator.

**6.20.2.** A minimum of two (2) off-street parking spaces shall be provided for each guest room. Parking lot layout shall be submitted to the UDO Administrator during the application process.

### **SECTION 6.21 RURAL GUEST ESTABLISHMENT.**

Rural Guest Establishments may be allowed pursuant to the use tables provided in Section 5.4, subject to the following provisions:

**6.21.1.** All buildings shall be set back a minimum of two hundred (200) feet from any district boundary line and two hundred (200) feet shall be maintained as a natural buffer from all

## **ARTICLE 6. SUPPLEMENTAL REGULATIONS**

surrounding lots and uses. This provision shall not apply to district boundary lines abutting Hyco Lake.

**6.21.2.** Each Rural Guest Establishment structure must have a minimum total surrounding area of 30,000 square feet.

**6.21.3.** Occupancy shall not exceed forty (40) guests.

### **Section 6.22 Solid Waste Convenience Centers**

Solid Waste Convenience Centers may be allowed pursuant to the use tables provided in Section 5.4, and subject to the following provisions:

**6.22.1.** A landowner must enter into an agreement with the Board of Commissioners, or their designee(s), and present said approved contract to the UDO Administrator prior to development.

**6.22.2.** Minimum lot area for the Convenience Center shall be one half (1/2) acre and the setbacks from the area of operations to all surrounding property lines and occupied dwellings shall be at least 50 feet.



**ARTICLE 7.**  
**NONCONFORMING SITUATIONS**

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Section 7.2 Extension or Enlargement of Nonconforming Situations ..... 7-2  
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Section 7.4 Re-Establishment of a Nonconforming Situation Prohibited..... 7-3  
Section 7.5 Nonconforming Uses..... 7-4

NOTE: Article 7 applies to the entire Caswell County planning jurisdiction.

# **ARTICLE 7. NONCONFORMING SITUATIONS**

## **SECTION 7.1 PURPOSE AND APPLICABILITY.**

The purpose of this Article is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such use, structure or property does not conform to the provisions of this Ordinance. Any nonconformity created by an establishment or change in the zoning districts or text of these regulations shall be regulated by the provisions of this Article. This Article is also established to require that nonconforming situations be terminated under certain circumstances.

## **SECTION 7.2 EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS.**

**7.2.1.** 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.

**7.2.2.** A nonconforming use may be extended through 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, a nonconforming use may not be extended to additional buildings or to land outside the original building.

**7.2.3.** A nonconforming use may not be extended to cover more land than was occupied, or manifestly designed and arranged to be occupied, by that use when it became nonconforming. Per subsection 7.2.7., below, nothing herein shall prevent the reconstruction or expansion of a single-family dwelling that is nonconforming as to use.

**7.2.4.** The volume, intensity, or frequency of use of property 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 Article occur.

**7.2.5.** Physical alteration of nonconforming structures or structures containing a nonconforming use is unlawful if it results in:

**7.2.5.1.** An increase in the total amount of space devoted to a non-conforming use;

**7.2.5.2.** Greater non-conformity with respect to dimension restrictions such as yard requirements, height limitations, or density requirements; and

**7.2.5.3.** The enclosure of previously unenclosed areas, even though those areas are or were used in connection with the nonconforming activity.

## **ARTICLE 7. NONCONFORMING SITUATIONS**

**7.2.6.** Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. For the purpose of this section, minor repairs and routine maintenance shall not exceed ten percent of the taxed value to be repaired and/or maintained. Major renovations/work costing more than ten percent but less than 60 percent of the taxed value of the structure to be renovated may be done provided that the work will not result in a violation of any other paragraph in this Article. In no case, however, shall work costing more than 60 percent of the taxed value of the structure be done, singularly or cumulatively, within any five-year period.

**7.2.7.** Any structure used as a single-family dwelling unit and maintained as a nonconforming situation may be enlarged or replaced, 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. Nothing herein shall prevent the maintenance, repair, extension or construction of a residential accessory building or swimming pool, provided it is done in the conformance with the requirements of this Ordinance.

### **SECTION 7.3 NONCONFORMING LOTS OF RECORD.**

Where the owners of a legally existing lot of record at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this Ordinance, such lot may be used as a building site provided all other dimensional and use requirements are met. This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it.

### **SECTION 7.4 RE-ESTABLISHMENT OF A NONCONFORMING SITUATION PROHIBITED.**

**7.4.1.** If a nonconforming use is abandoned for a period of one year or more, the use shall not be allowed to re-establish. All new uses in said structure shall thereafter be conforming.

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

**7.4.3.** Per subsection 7.2.7., above, nothing herein shall prevent the reconstruction of a single-family dwelling that is nonconforming as to use.

## **ARTICLE 7. NONCONFORMING SITUATIONS**

### **SECTION 7.5 NONCONFORMING USES.**

**7.5.1.** A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert back to a nonconforming use.

**7.5.2.** A nonconforming use shall not be changed to another nonconforming use nor shall a nonconforming structure be replaced after it has been destroyed except upon approval by the Board of Adjustment.

**7.5.3.** If a nonconforming use and a conforming use, or any combination of nonconforming uses exist on one lot, the use made of the property may be changed only to a conforming use.

**7.5.4.** Conforming uses may be established or re-established in nonconforming buildings or structures provided that off-street parking is provided as required by this Ordinance and provided no other provisions of this Ordinance for the establishment of new uses is violated.

**ARTICLE 8.**  
**DEVELOPMENT REVIEW PROCESS**

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NOTE: Article 8 applies to the entire Caswell County planning jurisdiction.

## **ARTICLE 8. DEVELOPMENT REVIEW PROCESS**

### **SECTION 8.1 APPLICABILITY.**

The purpose of this Article is to establish an orderly process to develop land within Caswell County. It is also the intent of this Article to provide a clear and comprehensible development process that is fair and equitable to all interests including the petitioners, affected neighbors, county staff, related agencies, the Planning Board, and the Board of Commissioners. Approved plans shall be the guiding documents for final approval and permitting.

The development review process applies to minor and major subdivisions, outdoor storage site plans, manufactured home siting site plans, recreational vehicle site plans, wireless communication facility site plans, and sexually oriented business site plans. The UDO Administrator may waive the required development review 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:

**8.1.1.** Accessory structures.

**8.1.2.** 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.

**8.1.3.** A change in the approved site plan where such change would not result in a change in lot coverage, parking, or other site characteristics as shown on the approved site plan.

### **SECTION 8.2 PRE-APPLICATION MEETING AND SKETCH PLAN.**

**8.2.1.** The applicant or his/her representative shall schedule a pre-application meeting with the UDO Administrator to review a Sketch Plan of a proposed minor or major subdivision and minor or major site plans. The Sketch Plan shall meet the requirements of Section 8.2.3. The UDO Administrator will advise the applicant of all applicable county regulations and policies, suggest development alternatives, application procedures, and fees (see Section 1.13). 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 Caswell County 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.

**8.2.2.** 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

## **ARTICLE 8. DEVELOPMENT REVIEW PROCESS**

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.

**8.2.3.** Three copies of the sketch plan, drawn to scale, shall be submitted, including the following:

**8.2.3.1.** A scale, preferably the same scale as required for development plan submittal.

**8.2.3.2.** Property boundaries and total acreage.

**8.2.3.3.** Major topographical and physical features such as creeks, buildings, streets, and the like.

**8.2.3.4.** Proposed streets, buildings, and/or lot arrangements, including proposed lot sizes.

**8.2.3.5.** 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.

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

**8.2.3.7.** Adjacent street names, numbers, and right-of-way widths, if streets are proposed.

**8.2.3.8.** Zoning district classification of site and surrounding properties, including those across streets, if located within the Hyco Lake Zoning District area.

**8.2.3.9.** The boundaries of any proposed phasing.

### **SECTION 8.3 ADMINISTRATIVE APPROVAL - MINOR SITE PLAN OR SUBDIVISION.**

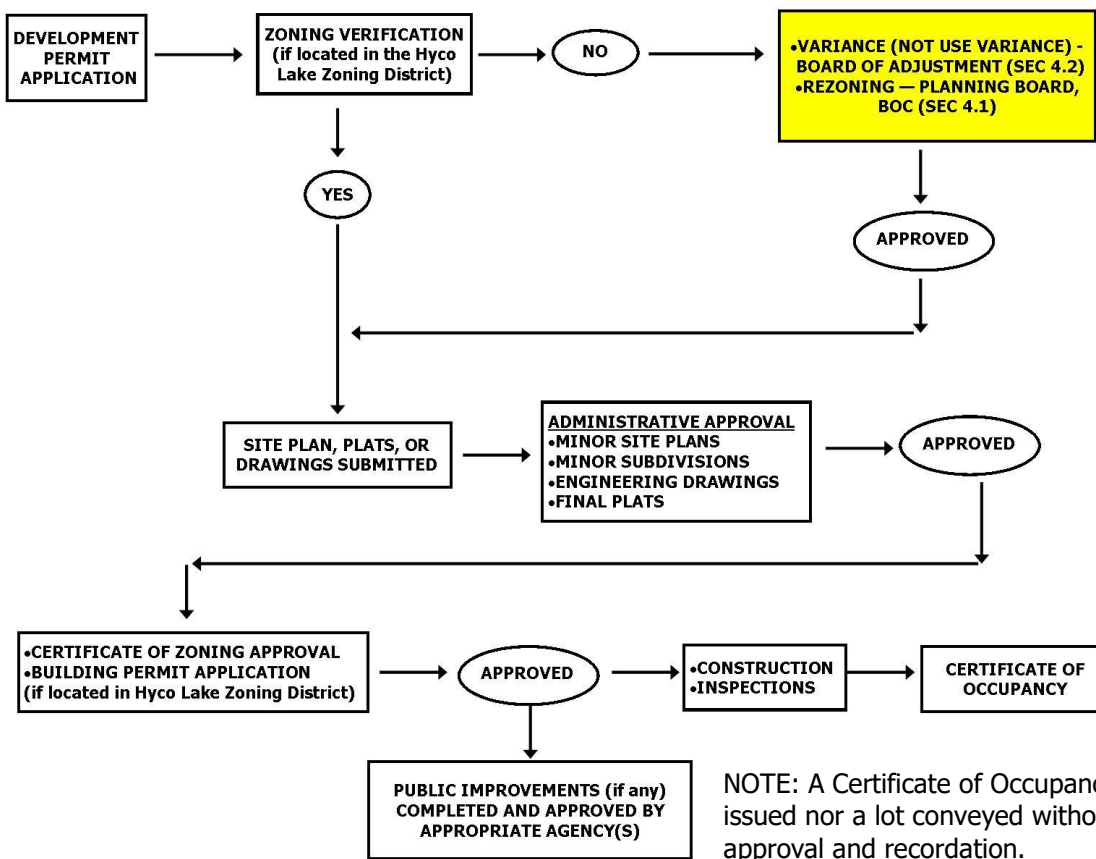
Administrative approval includes:

- Minor Site Plans (NOTE: Minor site plans are defined as site plans with one acre or less of disturbed area.)
- Class I, II, or III Minor Subdivisions, as defined in Appendix A of this Ordinance.
- Surveyor/Engineer Drawings
- Final Plats

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

# ARTICLE 8. DEVELOPMENT REVIEW PROCESS

## 8.3.1. Administrative Approval Flowchart.



### 8.3.2. Development Application/Zoning Verification Within the Hyco Lake Zoning District.

A development application shall be submitted and zoning compliance verified by the UDO Administrator if located within the Hyco Lake Zoning District. If the zoning is in compliance, 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 4.2) before proceeding with site plan, plat, or drawing submittal.

### 8.3.3. Site Plan, Minor Subdivision Plat, or Surveyor or Engineer Drawings Submitted for Review.

A plan of the proposed development shall be submitted in accordance with Sections 8.2 and 8.7.3, and shall be submitted with the completed application and payment of a fee as adopted by the Board of Commissioners (see Section 1.13).

### 8.3.4. Staff Review.

The UDO Administrator may circulate the plan to relevant governmental agencies and officials for review and comment.



## **ARTICLE 8. DEVELOPMENT REVIEW PROCESS**

### ***8.3.5. Approval.***

If the site plan, surveyor/engineer drawings, or final plat is found to meet all of the applicable regulations of this Ordinance, then the UDO Administrator shall issue a zoning permit for site plans or approve final subdivision plats if located within the Hyco Lake Zoning District.

### ***8.3.6. Appeal of Administrative Denial.***

Administrative denial of an application for approval of a site plan, minor subdivision, surveyor/engineer drawings, or final plats may be appealed by the applicant to the Planning Board within thirty (30) days following written notification of denial by the UDO Administrator. Action of the UDO Administrator and/or Planning Board are subject to review by the Superior Court by proceedings in the nature of certiorari.

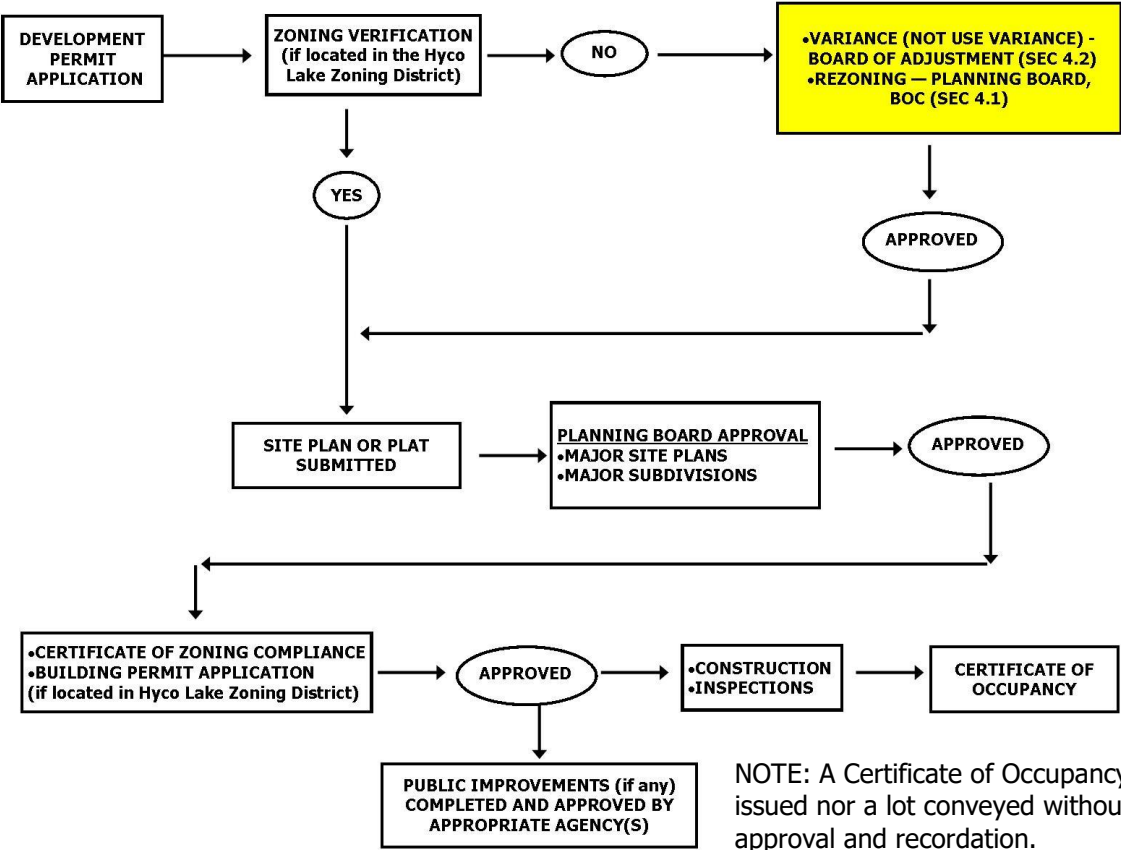
### **SECTION 8.4 PLANNING BOARD REVIEW AND APPROVAL - MAJOR SITE PLAN OR SUBDIVISION.**

Planning Board review and approval applies to the following:

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

# ARTICLE 8. DEVELOPMENT REVIEW PROCESS

**8.4.1. Planning Board Review and Approval Flowchart.**



**8.4.2. Development Application/Zoning Verification Within the Hyco Lake Zoning District.**

A development application shall be submitted and zoning compliance verified by the UDO Administrator if located within the Hyco Lake Zoning District. If the zoning is in compliance, 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 4.2) before proceeding with site plan, plat, or drawing submittal.

**8.4.3. Major Site Plan, Major Subdivision Plat, Submitted for Review.**

All major site plans and major subdivision preliminary plats shall be submitted in accordance with Sections 8.5 through 8.7, and shall be accompanied by the completed application and payment of a fee as adopted by the Board of Commissioners (see Section 1.13).

**8.4.4. Staff Review.**

The UDO Administrator may require that the plan be circulated to relevant governmental agencies and officials for comments and recommendations.

## **ARTICLE 8. DEVELOPMENT REVIEW PROCESS**

### ***8.4.5. Review and Approval by the Planning Board.***

**8.4.5.1.** 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.

**8.4.5.2.** The Planning Board shall have up to 45 days from the date of referral by the UDO Administrator to recommend approval, approval with conditions, or denial of the request. Alternatively, the Planning Board 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.

### ***8.4.6. Approval.***

All required local, state, and/or federal permits must be obtained prior to the final 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 zoning permit for site plans or approve final subdivision plats if the site plan or major subdivision is located within the Hyco Lake Zoning District.

### ***8.4.7. Appeal of Planning Board Denial.***

**8.4.7.1.** Planning Board denial of an application for approval of a site plan or major subdivision may be appealed by the applicant to the Board of Commissioners within thirty (30) days following written notification of denial by the Planning Board.

**8.4.7.2.** Following denial by the Planning Board or Board of Commissioners (if appealed to the Board of Commissioners), the applicant may file a new application and associated fee. Unless the Planning Board/Board of Commissioners 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 Planning Board/Board of Commissioners 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 Planning Board/Board of Commissioners for reapplication.

**8.4.7.3.** Action of the Planning Board and/or Board of Commissioners are subject to review by the Superior Court by proceedings in the nature of certiorari.

## **SECTION 8.5 SURVEYOR/ENGINEER DRAWING REVIEW REQUIREMENTS.**

### ***8.5.1. Applicability and Process.***

## **ARTICLE 8. DEVELOPMENT REVIEW PROCESS**

The Surveyor/Engineer Drawings for Site Plans, Minor and Major Subdivisions, and other site-specific plans shall be submitted with the application in accordance with this section. Upon determination by the UDO Administrator that an application is complete, the Surveyor/Engineer Drawings shall follow the Administrative Approval process outlined in Section 8.3. Surveyor/Engineer Drawings shall constitute the complete submittal requirements for Minor and Major Site Plans and Minor and Major Subdivisions.

### ***8.5.2. Submittal Requirements.***

Surveyor/Engineer Drawings shall be drawn to the specifications in Section 8.7.4.5. The types of plans to be included in a set of Surveyor/Engineer Drawings are as follows:

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

## **SECTION 8.6 MAJOR SITE PLAN PROCEDURES.**

### ***8.6.1. 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 advise the applicant of all applicable county regulations and policies, applications procedures, and fees.

### ***8.6.2. Site Plans.***

Site Plans follow the Planning Board approval process. The 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 for recommendation and approval by the Planning Board. Following Planning Board approval, Surveyor/Engineer Drawings may be submitted and reviewed in accordance with Section 8.5. Surveyor/Engineer Drawing approval is required prior to the issuance of a Zoning Permit.

### ***8.6.3. Site Plan Requirements.***

Ten (10) copies of a detailed site plan shall be submitted. It shall be prepared by a registered/licensed engineer or registered land surveyor, on a sheet or sheets not less than 18" x 24" in size. Reasonable fees sufficient to cover the costs of administration and enforcement may be charged to applicants.

## **ARTICLE 8. DEVELOPMENT REVIEW PROCESS**

### ***8.6.3.1 Information to be Shown on the Site Plan.***

#### ***8.6.3.1.1 General Legend.***

- Scale and north arrow (plans shall be at a scale no smaller than 1" = 100').

#### ***8.6.3.1.2 Title Block.***

- Location (township, county, state).
- Date of plan.
- Name, address, and phone number of person preparing plan.
- Manufactured home park name and phase, if applicable.

***8.6.3.1.3.*** The name and address of the owner and site plan applicant.

***8.6.3.1.4.*** A key map of the site with reference to surrounding areas and existing street locations.

***8.6.3.1.5.*** Lot line dimensions and setback lines/yard areas.

***8.6.3.1.6.*** Location of all structures, streets, entrances, and exits on the site and on contiguous property directly across the street.

***8.6.3.1.7.*** Location of all existing and proposed structures, including their outside dimensions and elevations.

***8.6.3.1.8.*** Building setback, side line, and rear yard distances.

***8.6.3.1.9.*** Location of all 100-Year Flood Hazard Areas.

***8.6.3.1.10.*** All proposed screening, buffering, and/or landscaping as may be required by other sections of the Ordinance.

***8.6.3.1.11.*** Topography showing existing and proposed contours at two-foot intervals. All reference benchmarks shall be clearly designated.

***8.6.3.1.12.*** Proposed septic drain field, if required.

***8.6.3.1.13.*** Parking, loading, and unloading areas, if any, shall be indicated with dimensions, traffic patterns, access aisles, and curb radii.

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

## ARTICLE 8. DEVELOPMENT REVIEW PROCESS

**8.6.3.1.15.** Location and design of existing and proposed stormwater systems, sanitary waste disposal systems, water mains and appurtenances, and method of refuse disposal and storage.

**8.6.3.1.16.** Landscaping and buffering (if required by this Ordinance) plan showing what will remain and what will be planted, indicating names of plants and trees.

**8.6.3.1.17.** Lighting plan indicating type of standards, location, radius of light, and intensity in foot candles.

**8.6.3.1.18.** Location, dimensions, and details of signs.

**8.6.3.1.19.** Location of all 404 wetland areas.

**8.6.3.1.20 *Manufactured Home Site Plan - Additional Requirements.***

- Location and dimensions of proposed roads.
- Proposed road names.
- Location of all individual manufactured home spaces and space line dimensions.
- Approximate location and dimensions of proposed recreation areas, clubhouses, trails, common open spaces, etc.
- Location of mail delivery collection points.
- The square feet and percentage of individual spaces/lots as built upon area if the lot is located in a Watershed;
- Master plan showing relation of the phase reviewed to the entire project, if applicable.
- Names of adjoining property owners and uses, subdivisions or public rights of way within 100 feet of the property boundary line as shown by the most recent tax records.
- Total project or phase area in acres.
- Number of proposed manufactured home spaces, if applicable.
- The density (units per acre) to the nearest .1 acre.
- Location of solid waste collection facilities, including dumpster pads.

**8.6.3.1.21 *Wireless Communication Facility Site Plan - Additional Requirements.***

- Lease agreement signed by property owner(s), if applicable.
- Copy of applicable FCC license.
- Application fees.

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### **8.6.3.1.22. Recreational Vehicle Park Site Plan - Additional Requirements.**

- Proposed recreational vehicle site locations.

### **8.6.3.1.23 Shooting Range Facility- Additional Requirements**

-complete layout of each range, including, shooting stations or firing lanes, target areas, short-fall zones or safety fans, backstops, berms, baffles, and impact areas.

- Existing and proposed structures; occupied dwellings within one-quarter (1/4) mile (one thousand three hundred and twenty (1,320) feet); roads, streets, or other access areas; buffer areas; and parking areas for the range facility; and

- Any other appropriate information related to the specific type of range(s) being proposed.

**8.6.3.2. Performance Standards.** In reviewing any site plan, the Planning Board shall consider:

**8.6.3.2.1.** 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. 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.

**8.6.3.2.2.** 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.

**8.6.3.2.3.** Lighting which is adequate to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be a type approved by the Planning Board.

**8.6.3.2.4.** 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.

**8.6.3.2.5.** Signs shall be designed so as not to constitute hazards to vehicles and pedestrians.

**8.6.3.2.6.** Storm drainage, sanitary waste disposal, water supply, and garbage disposal shall be reviewed for compliance with applicable Federal, State, and local

## **ARTICLE 8. DEVELOPMENT REVIEW PROCESS**

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.

**8.6.3.2.7.** 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.

### ***8.6.4. Certificate of Zoning Compliance/Building Permit Within the Hyco Lake Zoning District.***

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 Section 8.8.

## **SECTION 8.7 SUBDIVISION PROCEDURES.**

### ***8.7.1. Subdivision Exceptions.***

This section shall be applicable to all subdivisions except those which are exempt in accordance with Section 9.45. The Board of Adjustment may authorize a variance 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 Planning Board 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. Relief shall be granted upon a showing of all of the following:

**8.7.1.1.** Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;

**8.7.1.2.** 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;

**8.7.1.3.** The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property without knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;

**8.7.1.4.** The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.



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Every decision of the Board of Adjustment 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 Board of Adjustment 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 Planning Board's hearing of the case, whichever is later.

### ***8.7.2. 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 8.2. 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 county regulations and policies, application procedures, and fees.

### ***8.7.3. Review Procedure for Minor Subdivisions.***

***8.7.3.1.*** The developer shall submit a sketch development plan, as specified in Section 8.2, to the UDO Administrator. At this stage, the UDO Administrator and the developer shall informally review the proposal.

***8.7.3.2.*** After this initial review has been completed, the subdivider or his authorized representative shall prepare a final plat as specified in Section 9.55 and submit it to the UDO Administrator. At the time of submission, the subdivider shall pay to the county an application fee as established by the Board of Commissioners in accordance with Section 1.13. Refer to Article 9, Part VI for plat requirements.

***8.7.3.3.*** 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.

### ***8.7.4. Review Procedure for Major Subdivisions.***

#### ***8.7.4.1. Sketch Plan.***

A Sketch Plan is required as specified in Section 8.2.

#### ***8.7.4.2. Preliminary Plat.***

***8.7.4.2.1.*** At the time of submission of the preliminary plat, the subdivider shall pay to the county an application fee as established by the Board of Commissioners in accordance with Section 1.13. Refer to Article 9, Part VI for plat requirements.

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**8.7.4.2.2.** The subdivider or his or her authorized agent shall submit ten (10) copies of the preliminary plat to the UDO Administrator at least 14 days prior to a regular meeting of the Planning Board. The preliminary plat shall be prepared in accordance with Section 9.55. 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.

**8.7.4.2.3.** After the UDO Administrator determines that the preliminary plat meets the requirements of this Ordinance, it shall be submitted to the Planning Board for approval. The Planning Board shall approve, approve with conditions, or disapprove the plan within 45 days after first consideration by them. When the Planning Board fails to act within the 45-day period, the subdivider may appeal directly to the Board of Commissioners.

**8.7.4.2.4.** Upon approval of the preliminary plat, the subdivider may begin constructing the subdivision. Prior to any development, all construction plans shall be approved by the proper regulatory agencies prior to commencing construction.

### **8.7.4.3. Final Plat.**

**8.7.4.3.1.** At the time of submission of the final plat, the subdivider or his or her authorized agent shall pay the county an application fee as established by the Board of Commissioners in accordance with Section 1.13. Refer to Article 9, Part VI for plat requirements.

**8.7.4.3.2.** Within thirty-six (36) months after approval of the preliminary plat by the Planning Board, 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 Board of Commissioners, in accordance with Section 8.7.4.7 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 Board of Commissioners has accepted the publicly dedicated improvements or approved a performance bond. Only after the final plat has been approved and recorded at

## ARTICLE 8. DEVELOPMENT REVIEW PROCESS

the Caswell County Register of Deeds office shall any lots be transferred or conveyed. The plat must be recorded within 30 days after approval.

**8.7.4.3.3.** Five (5) copies of the final plat shall be submitted: the original, two mylar copies, and two blueline paper copies. The mylar shall be three ml., suitable for reproduction. 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 Caswell County Register of Deeds office, and one mylar copy of the recorded plat shall be returned to the UDO Administrator.

**8.7.4.3.4.** 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*.

**8.7.4.3.5.** The final plat shall depict or contain the information specified in Section 9.55. Plats not illustrating or containing the information required in Section 9.55 shall be returned to the subdivider or his or her authorized agent for completion and resubmission.

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

**8.7.4.4. Time Limitation/Approval of Preliminary Plat.** Preliminary plat approval shall be valid for thirty-six (36) months unless a greater time period is granted through a Vested Rights request. If final plat approval has not been obtained within said thirty-six (36) month 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.

**8.7.4.5. Surveyor/Engineer Drawing Submittal.** Following approval of the Preliminary Plat, Surveyor/Engineer Drawings may be submitted and reviewed in accordance with Section 8.5. The preliminary plat may be altered by no more than 10% of the total subdivision area due to issues discovered during the Surveyor/Engineer

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Drawing process. If changes to more than 10% of the total subdivision area result, a new preliminary plat shall be submitted and reviewed.

**8.7.4.6. 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 proper agency prior to construction.

**8.7.4.7. Performance Guarantees.** In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, Caswell County 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 not to exceed one (1) year. Once agreed upon by both parties and the security required herein is provided, the final plat may be approved by the Board of Commissioners, if all other requirements of this Ordinance are met. The county shall require a certified cost estimate from a licensed contractor or engineer for the cost of completion of such improvements.

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

**8.7.4.7.1.1. Surety Performance Bond(s).** The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bond(s) shall be payable to Caswell County, and shall be in an amount equal to 125% of the entire cost, as estimated by the UDO Administrator in conjunction with the Board of Commissioners, and approved by the Board of Commissioners for installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are completed and accepted as such by Caswell County.

**8.7.4.7.1.2. Cash or Equivalent Security.** The subdivider shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the county or in a non-interest bearing escrow account with a financial institution designated as an official depository of the county. The use of any instrument other than cash shall be subject to the approval of the Board of Commissioners. The amount of deposit shall be 125% of the cost, as estimated by an engineer designated by the County in conjunction with the Board of Commissioners for installing all required improvements. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider

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shall file with the county an agreement between the financial institution and himself guaranteeing the following:

- That said escrow account shall be held in trust until released by the Board of Commissioners and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and
- That in the case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon notification by the county and submission by the county to the financial institution of an engineer=s estimate of the amount needed to complete the improvements, immediately either pay to Caswell County the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the county any other instruments fully endorsed or otherwise made payable to the county.

**8.7.4.7.2.** Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the county, pay all or any portion of the bond or escrow fund to Caswell County up to the amount equal to 125% of the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Caswell County Board of Commissioners, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The county shall return to the subdivider any funds not spent in completing the improvements.

**8.7.4.7.3.** The county 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 Board of Commissioners shall approve or not approve said improvements. If the Board of Commissioners approves said improvements, then it shall immediately release any security posted.

**8.7.4.7.4.** 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 county, the bond-posting requirement may be waived and the final plat approved prior to completion of facilities or improvements.

**8.7.4.8. Transfer of Lots in Unapproved Subdivision Plats.** Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the county,

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thereafter subdivides his land in violation of applicable county ordinances 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 applicable county ordinances and recorded in the office of the Caswell 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 county 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 regulations. Building permits required pursuant to NCGS 160D-408 may be denied for lots that have been illegally subdivided. In addition to other remedies, the county may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

### ***8.7.5. Procedure for Plat Recordation.***

After the effective date of this Ordinance, no subdivision plat of land within the county'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 Board of Commissioners contingent upon final plat recordation or acceptance of an approved performance bond.

A plat shall not be filed or recorded by the County Register of Deeds of any subdivision located within the county'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.

### ***8.7.6. Issuance of Permits and Conveyance of Subdivision Lots.***

Zoning permits and building permits may be issued by Caswell County 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 Caswell County Health Department, if required. **A certificate of occupancy may not be issued until the final plat has been approved and recorded.**

After the effective date of this Ordinance, it shall be illegal for any person being the owner or agent of the owner of any land located within the territorial jurisdiction of this Ordinance, to subdivide his land in violation of this Ordinance or to transfer or sell 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 the terms of this Ordinance.

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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 Board of Commissioners, through its attorney or other official so designated, may enjoin an illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this Ordinance shall be subject to civil penalties in accordance with Section 1.12.8.

### ***8.7.7. Effect of Plat Approval on Dedications.***

Pursuant to NCGS 160D-806, the approval of a plat shall not be deemed to constitute or effect the acceptance by the county of the dedication of any ground, public utility line or other public facility shown on the plat. However, the Board of Commissioners may, by resolution, accept any dedication made to the public of lands or facilities for parks, public utility lines or other public purposes.

### ***8.7.8. School Site Reservation.***

If the Board of Commissioners and the Caswell County Board of Education have jointly determined the specific location and size of any school sites to be reserved in accordance with Caswell County 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.

## **SECTION 8.8 CERTIFICATES OF ZONING AND BUILDING PERMITS**

### ***8.8.1 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, in the Hyco Lake Zoning District, 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

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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 county standards. The Board of Commissioners must have accepted all publicly dedicated improvements contingent upon the recordation of the final plat or provision of performance guarantees approved by the Board of Commissioners as specified in Section 8.7.4.7.

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

### ***8.8.2 Certificate of Zoning Compliance Within the Hyco Lake Zoning District.***

***8.8.2.1.*** 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 stating that the building or the proposed use thereof complies with the provisions of this Ordinance.

***8.8.2.2.*** 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.

***8.8.2.3. Application for Certificate of Zoning Compliance Within the Hyco Lake Zoning District.*** Each application for a preliminary certificate of zoning compliance shall be accompanied by a site plan (if not already submitted in accordance with Section 8.3.3 or 8.4.3) in duplicate, drawn to scale, one copy of which shall be returned to the owner upon approval. The plan shall show the following:

***8.8.2.3.1.*** The shape and dimensions of the lot on which the proposed building or use is to be erected or constructed.

***8.8.2.3.2.*** The location of the lot with respect to adjacent rights-of-way.



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**8.8.2.3.3.** The shape, dimensions, and location of all buildings, existing and proposed, on the lot.

**8.8.2.3.4.** The nature of the proposed use of the building or land, including the extent and location of the use on the lot.

**8.8.2.3.5.** The location and dimensions of off-street parking and the means of ingress and egress to the space.

**8.8.2.3.6.** 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.

### **8.8.3. Building Permit Required.**

**8.8.3.1.** 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 in the Hyco Lake Zoning District, 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.

**8.8.3.2. Application for Building Permit.** All applications for building permits shall be accompanied by plans as specified in Section 8.2.3 and in compliance with 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.

# ARTICLE 9.

## PERFORMANCE STANDARDS

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NOTE: Article 9 applies to the entire Caswell County planning jurisdiction.

# **ARTICLE 9. PERFORMANCE STANDARDS**

## **PART I. OUTDOOR STORAGE**

### **SECTION 9.1 PURPOSE.**

The purpose of this section is to:

- Protect the citizens and residents of Caswell County from possible injury.
- Preserve the integrity and aesthetic quality of the environment in Caswell County.
- Protect the economic interests of the citizens and residents of Caswell County.
- Achieve responsible economic growth in Caswell County.

### **SECTION 9.2 APPLICATION.**

Refer to Article 8, Development Review Process.

### **SECTION 9.3 FEES.**

Application and permit fees, including yearly permit fees, shall be paid as specified in Section 1.13.

### **SECTION 9.4 EXISTING OUTDOOR STORAGE FACILITIES.**

Within sixty (60) days after the effective date of this Ordinance, any person, firm, corporation or other legal entity who has not filed an application at the County Planning Department to operate and maintain a permitted facility used for outdoor storage in Caswell County shall be judged as being in violation of this Ordinance.

The UDO Administrator and/or Code Enforcement Officer may grant an extension to the grace period provided that constant and substantial progress has been made toward gaining compliance and that mitigating circumstances exist that have prevented the owner/operator from complying with the terms and conditions of this Ordinance. Said extension periods shall be no longer than six (6) months in length. Any and all other nonconformities shall be addressed in compliance with Article 7, Nonconforming Situations.

### **SECTION 9.5 SITE PLAN.**

A site plan is required in accordance with Article 8, Development Review Process.

### **SECTION 9.6 TABLE OF DIMENSIONS.**

**9.6.1.** Stream Buffer Setback: 50 ft.

## **ARTICLE 9. PERFORMANCE STANDARDS**

**9.6.2.** Lakes, Ponds, & Reservoirs Buffer Setback: 100 ft.

**9.6.3.** 100-Year Flood Zone Setback: 500 ft.

**9.6.4.** Churches, Schools, etc., Setback: 3 mile.

**9.6.5.** All outdoor storage on residential property, including up to two (2) junk or inoperable vehicles shall be screened from public view, in accordance with Section 9.7. However, outdoor storage on residential property shall not exceed ten (10) feet in height. Outdoor storage shall not result in any public nuisance or health hazard as determined by the UDO Administrator.

**9.6.6.** Minimum Fence Height: 6 ft.

**9.6.7.** Minimum Planted Buffer Height: 6 ft.

**9.6.8.** Minimum Planted Buffer Width: 10 ft.

**9.6.9.** Minimum Natural Vegetation Buffer Width: 50 ft.

**9.6.10.** Maximum Number Vehicles Exempt on Residential Property: 2.

**9.6.11.** Maximum Number of Customer Vehicles Exempt on Commercial Property: 25.

### **SECTION 9.7 BUFFERS, SCREENING, AND FENCING REQUIREMENTS.**

All facilities for Outdoor Storage shall be screened in such a way as to effectively restrict them from public view. A combination of a natural or planted vegetation and or fencing may be used to accomplish the desired effect. Buffers, screening, and fencing may coexist within the setback areas described in this Ordinance but shall not be within the right-of-way of any public or private road.

#### **9.7.1. Buffers.**

**9.7.1.1.** No Outdoor Storage Facility shall be located within the Water Critical Area of any WS-II Watershed Protection District.

**9.7.1.2.** No Outdoor Storage Facility shall store materials within fifty (50) feet of any stream, watercourse, or natural or man-made drainage ditch. A fifty (50) foot buffer of undisturbed vegetation shall be maintained on both sides of said streams, watercourses, or natural or manmade drainage ditches, except that any Outdoor Storage Facility located within a WS-II watershed area must meet the buffer requirements of Article 10, Part II, Watershed Protection Regulations.

## ARTICLE 9. PERFORMANCE STANDARDS

**9.7.1.3.** No Outdoor Storage Facility shall store materials within one hundred (100) feet of any reservoir, lake, or pond. A one hundred (100) foot buffer of undisturbed vegetation shall be maintained around all reservoirs, lakes, and ponds.

**9.7.1.4.** No new Outdoor Storage Facility shall be located within one quarter (1/4) mile of a public or private school, playground, athletic field, recreation center, community center, church, or any other facility where children normally gather. Facilities existing at the adoption of this Ordinance may expand provided that they are in compliance with all of the terms and conditions of this Ordinance.

**9.7.1.5.** No new Outdoor Storage Facility shall be located within five hundred (500) feet of the 100-year floodplain as shown on the latest Federal Emergency Management Agency maps for Caswell County.

### **9.7.2. Fencing.**

**9.7.2.1.** All facilities for Outdoor Storage shall be enclosed by fence not less than six (6) feet in height from the ground. Fences may be solid or perforated. Said fences shall have gated entrances. All gates shall be securely locked at all times except during business hours.

**9.7.2.2.** If said fence is to serve as screening, it must then be a solid fence, constructed of approved materials to create an attractive and effective sight barrier. It shall be the responsibility of the UDO Administrator and or his/her agent to determine the effectiveness of such a fence. Storage of materials higher than six (6) feet may require additional height to be added to the fence to provide adequate screening, but for no reason shall be less than six (6) feet in height. Construction materials for said fence shall include wood, masonry products, and metal.

**9.7.2.3.** All fences used for this purpose shall be attractive and shall not in and of themselves create a nuisance. All fences used in conjunction with this Ordinance shall be maintained in good order and shall be located on the property but not within the required setbacks.

### **9.7.3. Natural and Planted Buffers.**

A natural or planted buffer may be required to effectively screen from view all facilities for Outdoor Storage. All facilities where the stored materials exceed a height of five (5) feet shall require a natural or planted buffer in addition to any fences that may be employed provided that said fences do not adequately screen the stored materials from view. Buffers shall meet the following minimum standards:

## **ARTICLE 9. PERFORMANCE STANDARDS**

**9.7.3.1.** Natural buffers shall be comprised of varied species composition so long as they provide a year round effective sight barrier. They shall be no less than fifty (50) feet in width and shall be maintained to be effective. If at any time they no longer provide an effective visual barrier they shall be replaced by another option for screening as provided by this Ordinance.

**9.7.3.2.** Planted buffers shall be comprised of species which remain evergreen throughout the year. They shall be no less than ten (10) feet in width. They shall be planted in doubled, staggered rows and shall obtain an effective height to screen from view the stored materials within three (3) years of being planted. All planted buffer shall be maintained to provide an effective visual barrier. If, for whatever reason, they fail to do so they must be replaced and or augmented by another option for screening as provided by this Ordinance.

**9.7.3.3.** All natural or planted buffers shall be approved by the UDO Administrator and or his/her agent.

### **SECTION 9.8 ADDITIONAL REQUIREMENTS.**

**9.8.1.** An approved Driveway Entrance Permit from NCDOT for all new entrances.

**9.8.2.** Written approval from the Caswell County Fire Inspector stating compliance with NC State Fire Prevention Code.

**9.8.3.** A copy of a valid document; NC Sales Tax License, DMV License, Business License, or some other valid instrument, shall be presented to the UDO Administrator as proof of operating a legitimate business. The UDO Administrator may require any or all such documents as is deemed necessary to validate the operations existence.

**9.8.4.** All tires which are not mounted on rims and properly inflated shall be stored indoors or in a shelter which prevents the tires from being exposed to the elements.

**9.8.5.** All batteries shall be stored indoors or in a shelter which prevents them from being exposed to the elements. Batteries shall be stored so as to prevent their contents from leaching into the soil or being carried by storm water runoff.

**9.8.6.** When crushing vehicles on site, it shall be the responsibility of the owner/operator of the facility to properly drain, store and dispose of all toxic, hazardous and flammable liquids and materials prior to crushing said vehicles.



# ARTICLE 9. PERFORMANCE STANDARDS

## **SECTION 9.9 APPLICABILITY AND EXCEPTIONS.**

All of the provisions of this Ordinance pertain to any and all persons, firm, corporation, partnership or any other legal entity that operates a facility for Outdoor Storage except as noted below. It is the intent of this section to allow up to twenty-five (25) motor vehicles (not including Manufactured Homes) to be stored at the facilities described below and be exempt from those portions of the Ordinance cited. It shall not be interpreted to mean that operations engaged in more than one of the activities below would be allowed to accumulate the twenty-five (25) vehicle exemption for each activity that they are engaged in. This section shall exempt a total of twenty-five (25) vehicles only. Employee's vehicles parked on the premises during normal business hours shall not be counted when computing the twenty-five (25) vehicle limit.

### ***9.9.1. Auto Sales.***

Operators of these facilities shall provide the UDO Administrator with evidence of operating a legitimate business as required in Section 9.8.3 of this Ordinance. Vehicles being offered for sale to the public are not subject to the provisions of this Ordinance provided that:

***9.9.1.1.*** Said vehicles are in such condition that all licensing, registration and inspection requirements by the NC Division of Motor Vehicles can be met.

***9.9.1.2.*** Said vehicle shall be completely operable and able to be used as intended.

***9.9.1.3.*** Said vehicle may be displayed for sale up to the right-of-way of any public or private road provided that they are arranged and presented in a neat, orderly fashion. No vehicles shall be placed within the right-of-way of any public or private road.

***9.9.1.4.*** All other vehicles on the premises for the purpose of repair and/or salvage are subject to all other provisions of this Ordinance except that up to twenty-five (25) customer vehicles may be exempt from the terms and conditions of this Ordinance.

### ***9.9.2. Repair and Body Shops.***

Operators of these facilities shall provide the UDO Administrator with evidence of operating a legitimate business as required in Section 9.8.3 of this Ordinance. Vehicles at such facilities are not subject to all of the requirements of this Ordinance except as follows:

***9.9.2.1.*** Operators of said facilities may store up to twenty-five (25) customer vehicles and not be subject to the provisions of this Ordinance except that they shall comply with all other Local, State or Federal regulations.

***9.9.2.2.*** All vehicles other than those described in subsection 9.9.2.1 are subject to all terms and conditions of this Ordinance.

## **ARTICLE 9. PERFORMANCE STANDARDS**

### ***9.9.3. Towing Services.***

Operators of these facilities shall provide the UDO Administrator with evidence of operating a legitimate business as required in Section 9.8.3 of this Ordinance. Vehicles at such facilities are subject to all of the requirements of this Ordinance except as follows:

***9.9.3.1.*** Operators of said facilities may store up to twenty-five (25) customer vehicles and not be subject to the provisions of this Ordinance except that they shall comply with all other Local, State or Federal regulations.

***9.9.3.2.*** All vehicles other than those described in subsection 9.9.3.1 above are subject to all terms and conditions of this Ordinance.

### ***9.9.4. Other Non-Commercial/Industrial Properties.***

Properties whose primary use is residential (in compliance with Section 9.6.5) may store up to two (2) unlicensed, unregistered, and/or inoperable vehicles property shall be exempt from the terms or conditions of this Ordinance provided that the materials being stored are screened from view by opaque screening or placed under a shelter.

## **SECTION 9.10 SALVAGE YARD MAINTENANCE.**

***9.10.1.*** All salvage yards shall be maintained to protect the public from health nuisances and safety hazards.

***9.10.2.*** The Caswell County Health Department may inspect each salvage yard to determine that no vectors are present. Should vectors be identified, the owner/operator/maintainer shall submit satisfactory evidence to the Health Department and Planning Department that vectors have been eliminated.

***9.10.3.*** Failure to comply with this section may result in revocation of the permit as well as other penalties and remedies for violation as provided for in Section 1.12.

# ARTICLE 9. PERFORMANCE STANDARDS

## PART II. MANUFACTURED HOME SITING

### **SECTION 9.11 PURPOSE.**

The purpose of this section is to regulate and guide the development of manufactured home parks and individual manufactured homes in order to promote the public health, safety, and general welfare of the citizens of Caswell County. More specifically, these regulations shall ensure that adequate roadways, fire safety, emergency access, off-street parking, utilities (water, sewer, and electricity), solid waste disposal, recreation, as well as privacy, are provided to residents of manufactured homes on individual lots or in parks.

### **SECTION 9.12 APPLICATION.**

Refer to Article 8, Development Review Process.

### **SECTION 9.13 FEES.**

Application and permit fees shall be paid as specified in Section 1.13.

### **SECTION 9.14 OTHER INFORMATION.**

In addition to the site plan, the application shall contain the following supporting information:

**9.14.1.** A copy of any park regulations which the owner proposes to use.

**9.14.2.** A letter from the NCDOT, Division of Highways, District Engineer, indicating that his office has reviewed the development plan and specifying any problems such as highway access or right-of-way encroachments and driveway approval which need to be resolved prior to approval of the application.

**9.14.3.** Certificates or letters of approval from appropriate agencies if the developer is proposing to connect to a public sewer, package treatment plant, and a public or community water system.

**9.14.4.** Where public water or public sewerage is not available, a written statement from the Caswell County Health Department, indicating that the park has sufficient land area and adequate soil conditions to accommodate the proposed water supply and sewage disposal system.

**9.14.5.** If an erosion and sedimentation control plan is required, a letter of approval from NCDENR, Division of Land Quality, shall be submitted.

## **ARTICLE 9. PERFORMANCE STANDARDS**

### **SECTION 9.15 PERIODIC INSPECTION.**

During construction and before an operating permit is issued, the UDO Administrator, or other authorized personnel requested by the UDO Administrator, shall inspect the installation of improvements to ensure compliance with the approved site development plan. Each park shall be inspected annually by the UDO Administrator to ensure compliance with these regulations.

### **SECTION 9.16 OPERATING PERMIT.**

**9.16.1.** When a developer has completed the construction of a park pursuant to a construction permit, he shall apply to the UDO Administrator for an operating license which is required before a developer shall lease or rent spaces in the park.

**9.16.2.** The UDO Administrator shall issue an operating license if the park conforms to the application and plans approved by the Planning Board and the developer presents satisfactory evidence of compliance with other applicable laws.

### **SECTION 9.17 PHASE DEVELOPMENT.**

**9.17.1.** The UDO Administrator shall issue an operating license for any phase properly completed.

**9.17.2.** If the park is to be built in stages, the application shall be submitted for the entire development, with a statement that certain designated portions are to be developed in phases according to a described calendar.

### **SECTION 9.18 VIOLATION AND LOSS OF OPERATING PERMIT.**

**9.18.1.** Any manufactured home park that is found to be in violation of this Ordinance shall cease entering into new leases.

**9.18.2.** The notice of violation shall be sent to the park operator, specifying what violations have been found, what corrective measures must be taken, and that failure to comply with the Ordinance shall result in revocation of the operating license.

**9.18.3.** Unless an inspection shows the violation to have been corrected or to satisfactorily be in the process of completion no later than thirty (30) days after notice of permit violation is given. The Manufactured Home Park Owner/Operator/Permit holder may appeal the UDO Administrator=s decision to the Board of Adjustment as provided in Section 4.2.

## **ARTICLE 9. PERFORMANCE STANDARDS**

### **SECTION 9.19 REVOKING OF PERMIT.**

**9.19.1.** In the event that the park is found to be in violation, the operating permit for all spaces shall be revoked. If the owner later wishes to correct the violation, he shall be required to resubmit his manufactured home park plan in compliance with this Ordinance in order to get an operating permit.

**9.19.2.** Upon the revocation of the operating permit, all leases shall be automatically terminated, and the park owner or operator may only collect rent due for any preceding month or portion thereof and in no event shall the owner or operator keep or collect any rent for occupancy after the termination date.

**9.19.3.** Tenants shall be notified by the UDO Administrator by certified mail within ten (10) days of the termination of their leases on account of the revocation of the operating permit.

**9.19.4.** The owner or operator of the park shall continue to provide or perform services at the park deemed necessary by the UDO Administrator, Building Inspector, and the County Health Department for the health and safety of the tenants.

**9.19.5.** The park owner shall be responsible for all expenses involved in moving manufactured homes from his park to another site within a seventy-five (75) mile radius of their present location. However, should a renter be in the process of being evicted for judgment for failure to pay rent, the park owner shall not be responsible for the related moving expenses so long as the eviction process started at least sixty (60) days prior to the revocation process. It shall be the responsibility of the renter (and not Caswell County) to bring a civil action against the park owner and/or others to enforce this paragraph if the provisions contained herein are not voluntarily met. Furthermore, the park owner shall be responsible for the attorney fees and other reasonable court costs which are not necessarily incurred by the renter.

**9.19.6.** The park owner shall remove all manufactured homes from the manufactured home park within 90 days of receipt of the revoking of the operating permit.

### **SECTION 9.20 DEVELOPMENT STANDARDS.**

#### ***9.20.1. Drainage and Grading.***

The site must be graded to prevent any water from ponding or accumulating on or around the park. Each space shall be graded with the area under the manufactured home built up at least three (3) inches and grassed to prevent erosion and provide adequate storm drainage away from the manufactured home site. No manufactured home park shall be located in any Flood Zone identified on the Flood Insurance Rate sheet for Caswell County (September 24, 2007), as it may be from time to time amended.

## **ARTICLE 9. PERFORMANCE STANDARDS**

### ***9.20.2. Manufactured Home Space Requirements.***

Size of spaces within a manufactured home park shall vary with the type of utilities and whether or not the park is located in a designated water supply watershed. Units within the park shall comply with the following space requirements. However, any units in a designated water supply watershed shall comply with the Caswell County Watershed Protection Regulations, as adopted and amended, as it may be from time to time, if it is more restrictive or imposes higher development standards. Each space shall be designated by permanent markers located on the ground and may be occupied by only one manufactured home. Each manufactured home shall have a total surrounding area of one of the options below:

***9.20.2.1.*** One (1) acre (43,560 square feet) with individual wells and septic tank system; (lots in designated watersheds may require more area per unit);

***9.20.2.2.*** 30,000 square feet with community water system and individual septic tank system; (lots in designated watersheds may require more area per unit);

***9.20.2.3.*** 10,000 square feet with individual well and public/community sewer system (including a package treatment plant); (lots in designated watersheds may require more area per unit); or

***9.20.2.4.*** 8,000 square feet with public/community water and sewer; (lots in designated watersheds may require more area per unit).

Any and all lot sizes may be increased by the Board of Commissioners to protect public health safety and welfare.

### ***9.20.3. Types of Units Allowed.***

Class A or B Manufactured Homes may be sited in a manufactured home park; provided that such manufactured homes were constructed or have been improved such that they meet the construction standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 (effective 1976). Manufactured homes which were older than the applicable standard when placed, or which are Class C or D, may continue in existence, but must be replaced by conforming Class A or B units at the time of replacement.

### ***9.20.4. Separation and Setback Requirements.***

All manufactured home parks shall comply with the following separation and setback requirements:

***9.20.4.1. Separation of Units.*** Within a manufactured home park, each manufactured home and any accessory building shall be separated from any other manufactured home by a minimum of thirty (30) feet end-to-end and sixty (60) feet side-to-side. All attached structures to a manufactured home including storage buildings, carports, covered porches,

## ARTICLE 9. PERFORMANCE STANDARDS

open decks and porches, will be considered part of a manufactured home for purposes of determining separation requirements.

**9.20.4.2. Unit Setbacks.** All manufactured homes and accessory buildings, shall be located no closer than fifteen (15) feet from the boundary of the manufactured home space. The buffer/screen requirement cannot be located within this setback. However, when a park fronts on a public roadway, it shall comply with the larger setback requirements specified below in subsection 9.20.4.3.

**9.20.4.3. Setbacks From Exterior Public Roadway.** When any park fronts on a public roadway, the minimum manufactured home space setback depth measured from the edge of the nearest road right-of-way shall be fifty (50) feet.

**9.20.4.4. Setbacks From Interior Roads.** All manufactured homes shall be located at least thirty (30) feet from the edge of the right-of-way of interior roads.

**9.20.4.5. Separation From Utilities.** All manufactured homes shall be located at least one hundred (100) feet from any public water or sewage treatment system, excluding distribution lines.

### **9.20.5. Utilities.**

**9.20.5.1. Water Supply.** An adequate, safe and potable water supply shall be provided for each space or other structure requiring water service within a manufactured home park. For manufactured home parks developed in phases, the water system may be expanded to support each phase or expansion. All water systems shall be approved by the appropriate local or state agency. Water may be supplied to the park by one of following methods:

**9.20.5.1.1.** Community water supply systems serving up to fourteen (14) connections and serving less than twenty-five (25) residents shall be approved by the Caswell County Health Department. Public water supply systems serving more than fourteen (14) connections or serving more than twenty-four (24) residents shall be approved by NCDENR, Division of Environmental Management, Groundwater Section.

**9.20.5.1.2.** Individual private water supplies shall be approved by the Caswell County Health Department.

**9.20.5.1.3.** Public (municipal) water supply system shall be approved and permitted by the appropriate state agency and the system operator. When a park proposes to connect to a public water supply system where a water line six (6)

## ARTICLE 9. PERFORMANCE STANDARDS

inches or larger is planned, fire hydrants shall be installed on said line. The utility operator shall approve the type and location of hydrants, as well as installation and maintenance agreements. Fire hydrants shall be accessible and be located within 1,000 feet of each other.

**9.20.5.2. Sewage Disposal.** An adequate, and safe wastewater treatment and disposal system shall be provided for each space or other structure requiring wastewater disposal service within a manufactured home park. For manufactured home parks developed in phases, the system may be expanded to support each phase or expansion. Any system shall be approved by the appropriate local or state agency. Wastewater disposal shall be supplied to the park by one of following methods:

**9.20.5.2.1.** Individual septic tank systems shall be approved by the Caswell County Health Department;

**9.20.5.2.2.** Sewage treatment system with a surface discharge shall be approved by the NCDEHNR, Division of Environmental Management, Water Quality Section; or

**9.20.5.2.3.** Connection to an existing public sewer system approved by the system operator and other appropriate local and state agencies.

### **9.20.6. Erosion and Sedimentation Control.**

Where required under the North Carolina Sedimentation Pollution Control Act of 1973, evidence of receipt and approval of an erosion and sedimentation control plan by the NCDENR, Land Quality Division, shall be submitted with the application for a construction permit or, at least, before a construction permit can be issued by the UDO Administrator.

### **9.20.7. Roads.**

All interior collector roads and streets and all interior local roads and streets constructed within a manufactured home park shall be designed and constructed according to NCDOT Subdivision Road Standards.

**9.20.7.1.** All manufactured/mobile home parks shall be provided with a network of streets, roads, or driveways that will allow safe and convenient vehicular access to an improved public street from each manufactured/mobile home space. No manufactured/mobile home park space may have direct driveway access to public roads. Direct driveway access may not be misconstrued in the meaning as to serve other manufactured/mobile home park spaces as an entrance or a primary manufactured/mobile home park road.



## ARTICLE 9. PERFORMANCE STANDARDS

**9.20.7.2.** All manufactured/mobile home park roads, streets, driveways, and parking areas shall be constructed and maintained with an all-weather surface. The design and construction of the road cross-section and associated drainage features shall be in compliance with the Division of Highways, North Carolina Board of Transportation Subdivision Roads / Minimum Design Standards with the exception that pavement surface (S9.5A or S9.5B) will not be required. Appropriate construction testing reports certifying compliance with NCDOT standards shall be provided to the Planning Department. As an alternative cross-section to that specified in the referenced NCDOT standards, four inches (4") of ABC with a test certified subgrade at ninety-eight percent (98%) compaction or six inches (6") of ABC with a non-certified compacted subgrade may be used.

**9.20.7.3.** Roads and streets within the manufactured/mobile home park shall have a minimum travel-way width of eighteen (18) feet and be aligned and graded to provide adequate drainage.

**9.20.7.4.** The intersection of the public street with the entrance way or private access road to the manufactured/mobile home park shall be designed to facilitate the free movement of traffic on the public street and to minimize the hazards caused by traffic entering or leaving the manufactured/mobile home park. All park entrance ways shall be hard surface, approved by the North Carolina Department of Transportation, and shall be well marked and lighted. All manufactured/mobile home spaces must be accessed through the use of the interior road network of the manufactured/mobile home park.

**9.20.7.5.** Through streets connecting two (2) public thoroughfares or extending to adjacent properties shall be built to minimum construction standards required by the NCDOT for acceptance to the State Highway System. All through streets shall have approval by the NCDOT.

**9.20.7.6.** Grades of all roads shall not exceed eight (8) percent, except short segments (no greater than five (5) percent of the total roadway) may have a maximum grade of twelve (12) percent, if traffic safety is assured and it has been approved by the UDO Administrator.

**9.20.7.7.** Road intersections shall generally be at right angles. Off-sets at intersections and intersections of more than two (2) roads at one point shall be avoided.

### **9.20.8. Street Naming.**

In order to lessen confusion which could hamper the response time for emergency vehicles, the name of the manufactured home park and the roads shall not duplicate nor closely approximate the name of an existing park, subdivision or roads within Caswell County. All roads and street addresses shall be subject to the approval of the E911 Addressing Administrator.

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### ***9.20.9. Signage.***

**9.20.9.1.** A park identification sign, consistent with the Caswell County 911 sign standards, but not larger than sixteen (16) square feet in area shall be placed at each entranceway. The name of the park may be indicated on both sides. The sign may be lighted by an interior or exterior source provided no blinking or flashing lights are involved. Sign lettering shall be no less than six (6) inches in height. The location of the sign shall not obstruct the visibility of motorists entering or leaving the park. The location of such sign(s), including a sketch, shall be submitted with the site plan application.

**9.20.9.2.** Each proposed home space in a manufactured home park shall be clearly marked by a permanent home space number sign or marker, consistent with the Caswell County 911 system. The home space number shall be placed in a consistent location on each space throughout the park.

### ***9.20.10. Parking Requirements.***

**9.20.10.1.** A minimum of two (2) off-street parking spaces shall be provided for each manufactured home space. Such spaces shall be located adjacent to each manufactured home space and included within the minimum space requirements or grouped in a common parking area, provided the parking is accessible and within 100 feet of all units being served. Parking lot layout shall be submitted during the site plan review process.

**9.20.10.2.** Any travel trailer, camper, boat, or other auxiliary vehicle shall be parked within the respective manufactured home space or in a storage area designated in the park. In no cases shall this type of equipment be parked on the interior road system.

### ***9.20.11. Non-Residential Uses.***

Commercial activities such as coin-operated laundries, food stores, or common storage units may be permitted in a park, provided the uses are: (1) clearly subordinate to the residential use of the park; (2) designed to serve primarily the needs of park residents; and (3) developed to be in harmony with the residential character of the park.

### ***9.20.12. Open Space for Recreation.***

**9.20.12.1.** For manufactured home spaces less than 15,000 square feet in area, a minimum of 200 square feet per unit shall be provided as common recreational and/or open space for the exclusive use of the occupants of the park. Such use may include space for community buildings, swimming pools and outdoor play areas. Although the location of this recreational and/or open space shall depend on the design and layout of each park, it shall be easily accessible to all units within the park and shall not be located adjacent to a public roadway. These areas shall be stabilized by grass or some other form

## **ARTICLE 9. PERFORMANCE STANDARDS**

of ground cover which will prevent dusty or muddy areas. Walking trails within the buffer areas may not be included in calculating the total recreation area requirements.

**9.20.12.2.** If facilities such as recreation buildings and swimming pools are to be included as a part of the manufactured home park, the owner shall submit with his application a copy of his management rules or procedures to ensure such facilities are adequately supervised and maintained.

### **9.20.13. Buffers and Screens at Perimeter of Park.**

All manufactured home parks will provide screening and buffering. Buffering and screening requirements will vary according to the adjacent land use. The greater the potential is for incompatibility, the more extensive the screening and buffering requirements shall become. See definitions of buffers and screens in Appendix A Definitions. The provisions of this section shall apply to any park site within 1,000 feet of an incompatible use. It shall be the responsibility of the manufactured home park owner to establish and maintain any required buffer and screening.

#### **9.20.13.1. Determination of Buffer and Screen Requirements.**

**9.20.13.1.1.** Buffer and screening requirements are based on adjacent land uses. To simplify the process of assigning buffer and screening standards to particular land uses, the adjacent land uses have been grouped in the following manner:

- Agriculture (AG). This group includes all bona fide farm operations.
- Single-Family Residential (SFR). This group includes single- family and two (2) family (duplex) residential development.
- Multi-Family Residential (MFR). This group includes all multi-family residential uses (condominiums, townhouses, apartments, or another manufactured home park, etc.).
- Light Commercial (LC). This group includes all commercial uses which do not have outside activities associated with the use, generate low trip rates, or have the potential for nuisances to adjacent properties due to noise, light and glare or hours of operation.
- Heavy Commercial (HC). This group includes all commercial uses which do have outside activities associated with the use, have high trip generation rates, or have the potential for nuisances to adjacent properties due to noise, light and glare or hours of operation.

## ARTICLE 9. PERFORMANCE STANDARDS

- Industrial (I). This group includes all industrial uses and other uses which require outdoor storage, have high trip generation rates, or have the potential for nuisance to adjacent properties due to noise, light and glare or typical hours of operation. The following list of specific uses identified shall have the same buffers and screens as are required for industrial uses:
  - (1) Banking and Financial Services with Drive-thru Facilities;
  - (2) Car Washes;
  - (3) Convenience Stores;
  - (4) Implement Sales and Services;
  - (5) Kennels;
  - (6) Outdoor Displays, Retail;
  - (7) Motor Vehicle Repair and Maintenance;
  - (8) Motor Vehicle Storage Yards;
  - (9) Recreational Vehicle Parks;
  - (10) Recreation Services, Outdoor;
  - (11) Restaurants; and
  - (12) Storage and Salvage Yards.

**9.20.13.1.2.** To determine the type of buffer and screen needed, identify the "Use Group" listed in subsection 9.20.13.1.1, above, of all adjacent properties, excluding properties located across a public right-of-way. Then, use the tables in subsection 9.20.13.1.3, below, to identify the buffer and screen type required. The number refers to the buffer and the letter to the screen required.

**9.20.13.1.3.** The following table lists the specifications for required widths of buffer areas and for screens.

<b>Buffer Area Widths</b>	
1	10 Feet
2	20 Feet
3	40 Feet
4	60 Feet
<b>Screens (Minimum Plant Material per 100 Linear Feet)</b>	
A	Two (2) Deciduous Trees; Eight (8) Primary Evergreen Plants; Ten (10) Supplemental Evergreen Shrubs
B	Three (3) Deciduous Trees; Ten (10) Primary Evergreen Plants; Twelve (12) Supplemental Evergreen Shrubs
C	Four (4) Deciduous Trees; Twelve (12) Primary Evergreen Plants; Sixteen (16) Supplemental Evergreen Shrubs
D	Five (5) Deciduous Trees; Fourteen (14) Primary Evergreen Plants; Twenty (20) Supplemental Evergreen Shrubs

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<b>Land Uses Adjoining Manufactured Home Park</b>	
<i>Type of Screen &amp; Buffer</i>	<i>Adjoining Land Use</i>
1A	Agricultural
3D	Single-Family Residential
3B	Light Commercial
3C	Heavy Commercial
4D	Industrial
1A	Multi-Family Residential

**9.20.13.2. Buffer Location.** Buffers shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, with the following exceptions:

**9.20.13.2.1. Portion of Site Proposed for Development.** If only a portion of a site is proposed for development, the required buffer and/or screen may be located at the limit of the construction perimeter with approval of the UDO Administrator;

**9.20.13.2.2. Topographic Irregularities.** Where topographic irregularities require a different location to meet the intent of this section, the location of the buffers and screens may be varied with approval of the UDO Administrator; and

**9.20.13.2.3. Rights of Way and Roads.** Buffers and/or screens shall not be located on any portion of an existing, dedicated or proposed right-of-way or a private road.

**9.20.13.3. Size of Plant Material.**

**9.20.13.3.1.** Deciduous trees planted in buffers thirty (20) feet in width or less may be either medium or large varieties, however, at least one-half (1/2) of the required trees shall be the large variety. Deciduous trees in buffers of greater than thirty (20) feet in width shall be the large variety trees.

**9.20.12.3.2.** All deciduous trees used for screening must be a minimum of eight (8) feet in height at installation and shall be at least two (2) inches in diameter measured six (6) inches above ground level.

**9.20.12.3.3.** All primary evergreen plants shall be a minimum of six (6) feet in height at the time of planting unless combined with an approved earthen berm and shall be not less than ten (10) feet in height at maturity.

## ARTICLE 9. PERFORMANCE STANDARDS

**9.20.12.3.4.** All supplemental evergreen shrubs shall be a minimum of eighteen (18) inches in height at installation and shall attain a minimum height of thirty-six (36) inches three (3) years after installation.

### **9.20.13.4. Spacing of Plant Material.**

**9.20.13.4.1.** All deciduous trees shall be installed with tree trunks spaced a minimum distance of thirty (30) feet apart and a maximum distance of sixty (60) feet apart.

**9.20.13.4.2.** All primary evergreen plants shall be distributed evenly along the length of the buffer and shall be staggered where quantities permit. Primary evergreen plants shall be installed with tree trunks spaced a minimum of seven (7) feet apart and a maximum of fifteen (15) feet from other primary evergreen plants and from any required deciduous tree.

**9.20.13.4.3.** All supplemental evergreen shrubs shall be distributed evenly along the length of the buffer and shall be staggered where quantities permit.

**9.20.13.5. Maintenance.** Any fence, earthen berm or plant material used for screening shall be maintained in sound condition by the property owner. Maintenance includes replacement of any required screening materials which are damaged and /or dying.

### **9.20.13.6. Multiple Use of Buffers.**

**9.20.13.6.1.** Buffers may not be used to satisfy minimum setback and space requirements.

**9.20.13.6.2.** Buffers may be used for the installation of underground utilities, provided the location and use of the utility lines do not interfere with the required screen plantings.

**9.20.13.6.3.** Prohibited uses in a buffer shall include: playfields, stables, swimming pools, tennis courts or other similar active recreation uses and storage or parking facilities.

**9.20.13.7. Modifications to Buffer and Screen Requirements.** Modifications or changes of the approved design of the buffer area and screen shall be heard and decided upon by the Planning Board. Requests for changes must exhibit at least one (1) of the following traits:

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**9.20.13.7.1. Narrow.** Unusually narrow sections of land are available for planting within the back and/or side yards because of existing permanent structures, existing paving or natural features such as rock outcroppings;

**9.20.13.7.2. Steep Slopes.** Slopes in excess of 2:1 exist in locations where a buffer is required;

**9.20.13.7.3. Public Safety.** Specialized land uses such as public utilities, airports, etc., exist where strict adherence to the screening standards would significantly interfere with the function of that use and would create a public safety problem;

**9.20.13.7.4. Public Agency.** Lot size reduction due to public action;

**9.20.13.7.5. Platting or Deeding.** Difficulties have arisen from a plat or deed which was recorded prior to the adoption of this Ordinance.

### **9.20.14. Lighting.**

All manufactured home parks shall be furnished with adequate lights to illuminate roads, driveways, and walkways for the safe movement of vehicles and pedestrians at night. Electric service to such lights shall be installed underground, where feasible.

### **9.20.15. Mail Facilities.**

Cluster mail box sites shall be well lighted, properly maintained, and easily accessible to the residents of the park. Each site shall be approved by the United States Postal Service.

### **9.20.16. Solid Waste Management.**

**9.20.16.1.** Each space shall have a minimum of one solid waste container with a tight fitting cover and a capacity of not less than thirty-two (32) gallons. Dumpsters large enough to accommodate the needs of the park may be substituted. If dumpsters are provided, each such container shall be located on a concrete slab and screened on three (3) sides by an opaque fence at least three (3) feet higher than the dumpster. The location of these dumpsters shall be convenient to all units in the park and easily accessible by garbage trucks. The provisions shall only apply within parks with fifteen (15) or more spaces and lot sizes less than 43,560 square feet.

**9.20.16.2.** Solid wastes shall be collected at least once weekly.

**9.20.17. Skirting.** Manufactured homes located after the effective date of this Ordinance shall have a nonflammable skirting installed prior to the final electrical inspection.

## **ARTICLE 9. PERFORMANCE STANDARDS**

### ***9.20.18. Building Permit, Individual Manufactured Home Placement.***

**9.20.18.1.** No manufactured home shall be erected, moved, added to, or structurally altered without a building permit issued by the Building Inspector.

**9.20.18.2.** The owner of the manufactured home shall submit an application for a building permit containing: (1) name and mailing address of the owner(s) of the manufactured home; (2) a description of the manufactured home, including the name of the manufacturer and year of construction; and (3) the proposed location of the manufactured home along with a permit fee which shall be set by the Board of Commissioners.

**9.20.18.3.** Following placement of a manufactured home, the Building Inspector shall promptly inspect it and if he finds the unit complies with all applicable State and County ordinances, he shall issue a Certificate of Occupancy.

**9.20.18.4.** No manufactured home may be occupied, maintained, stored or used for any purpose unless and until the Building Inspector has issued a Certificate of Occupancy. After being sited within the park, the Certificate of Occupancy shall be completed within fifteen (15) days by the Building Inspector. The Certificate of Occupancy shall be permanently affixed to the manufactured home in a location convenient for inspection by the Building Inspector.

### ***9.20.19. Maintenance - Responsibilities of Park Management.***

**9.20.19.1.** The person to whom an operating permit is issued shall operate the park in compliance with local ordinances and shall provide adequate supervision of the park, its grounds, facilities and equipment and ensure such facilities are in good repair, clean and sanitary. All roads shall be kept and maintained in good condition (sufficient gravel, adequate road drainage, etc.). Grassed areas shall be maintained so as to render the areas attractive.

**9.20.19.2.** The operator shall notify park occupants of all applicable provisions of the local ordinances and inform them of their responsibilities under such ordinances and regulations.

**9.20.19.3.** The manufactured home park operator shall check and ascertain that the owner of a manufactured home moving into his park has all required permits and meets the regulations as set forth by Caswell County or the State of North Carolina before the manufactured home unit can be occupied.



## **ARTICLE 9. PERFORMANCE STANDARDS**

**9.20.19.4.** The park operator shall maintain a register containing the names of all occupants and to the extent possible, the make and year of each manufactured home. Such register shall be available to the UDO Administrator or his authorized representatives inspecting the park. A copy shall be forwarded to the Caswell County tax collector and UDO Administrator each year.

### ***9.20.20. Maintenance - Responsibilities of Occupants.***

**9.20.20.1** Each park occupant shall comply with all applicable requirements of the Caswell County Manufactured Home Siting Regulations (Article 9, Part II).

**9.20.20.2** It shall be the responsibility of each manufactured home owner to keep their manufactured home in good repair and sanitary conditions. In instances when a manufactured home falls into a state of disrepair, is condemned by the county Building Inspector, or becomes a nuisance, it shall be the responsibility of the manufactured home owner to remedy the violation by repairing, removing, or replacing it. If the manufactured home owner has vacated the property, or is otherwise unable to remedy the violation, the responsibility shall fall to the manufactured home park owner.

### **SECTION 9.21 STANDARDS FOR INDIVIDUAL MANUFACTURED HOMES.**

#### ***9.21.1. Types of Manufactured Homes Permitted.***

Manufactured homes which, at the time of construction or renovation, were not built to the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 (effective 1976) are prohibited within Caswell County under this article.

#### ***9.21.2. Set-Up Requirements for Manufactured Homes.***

All manufactured homes, whether on individual lots or within a manufactured home park, shall be provided with tie downs and stands or blocks that provide a firm base and stabilize the unit on the site. Any stairs, porches, entrance platforms, ramps, and other means of entrance to and exit from the home shall be installed consistent with the North Carolina Department of Insurance Regulations for manufactured housing, including any amendments thereto.

#### ***9.21.3. Foundation and Related Structural Requirements.***

**9.21.3.1.** Any masonry style foundation wall constructed in accordance with the State of North Carolina Regulations for Manufactured Homes Chapter 3, Section 3.6, unpierced except for required ventilation with access installed under the perimeter, shall be required for all manufactured homes to which this article applies. All other foundation and related structural requirements shall comply with the State of North Carolina Regulations for Manufactured Homes. Skirting materials shall be approved for ground

## ARTICLE 9. PERFORMANCE STANDARDS

contact per the manufacturer's instructions. In addition, tongues and axles shall be removed from such manufactured homes.

**9.21.3.2.** Skirting requirements shall not apply to manufactured homes used for seasonal farm workers or when placed on the existing lot alongside the residence of a direct family member. However, if a future subdivision causes the exempted manufactured home to exist on its own lot, it shall then be made to comply with permanent skirting requirements. For cases where individuals set up a manufactured home for temporary use while in the process of constructing a stick-built home, a masonry style foundation is not required given that the following conditions are applied:

**9.21.3.2.1.** The term for the temporary placement of the manufactured home is to be a maximum of three years from the date of approval or no longer than 30 days past the date the Certificate of Occupancy is issued for the site built home to be constructed on the same parcel, whichever is the lesser of the two. At that time the manufactured home is to be disconnected from the power, sewer and water system and removed from the property or be brought into compliance with the masonry underpinning requirements of Section 9.21.3, and all other applicable Federal, State and Local regulations.

**9.21.3.2.2.** Should, under extenuating circumstances, additional time be required, the applicant shall be required to come back before the Planning Board and the Board of Commissioners and present their argument for an extension of time.

**9.21.3.2.3.** During the temporary time period that the manufactured home occupies the site it shall be underpinned with the type of skirting material entered into evidence at the public hearing.

**9.21.3.3.** Any additions to a manufactured home (such as a porch roof, additional rooms, raised porches, carports, cabanas, or enclosed porches) shall require a building permit. The additions shall meet the requirements of the State building code.

### **9.21.4. Building Permit (see Section 8.8.3).**

**9.21.4.1.** No manufactured home shall be erected, moved, added to, or structurally altered without a building permit issued by the Building Inspector.

**9.21.4.2.** The owner of the manufactured home shall submit an application for a building permit containing (1) the name and mailing address of the owner(s) of the manufactured home, (2) a description of the manufactured home, including the name of the manufacturer and year of construction, and, (c) the proposed location of the

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manufactured home along with a permit fee which shall be set by the Board of Commissioners.

**9.21.4.3.** Following placement of a manufactured home, the Building Inspector shall promptly inspect it and if he finds the unit complies with all applicable State and County ordinances, he shall issue a Certificate of Occupancy.

**9.21.4.4.** No manufactured home may be occupied, maintained, stored or used for any purpose unless and until the Building Inspector has issued a Certificate of Compliance and Registration. This certification and registration shall be completed within fifteen (15) days after placement by the Building Inspector. The Certificate of Compliance and Registration shall be permanently affixed to the manufactured home in a location convenient for inspection by the Building Inspector.

**9.21.4.5.** Dealers who place manufactured homes on their sales lots (when such manufactured homes are not to be occupied for residential use) are exempt from the requirements of Section 9.21.4.1 to 9.21.4.4.

### ***9.21.5. Manufactured Home Condition***

It shall be the responsibility of each manufactured home owner to keep their manufactured home in good repair and sanitary conditions. In instances when a manufactured home falls into a state of disrepair, is condemned by the county Building Inspector, or becomes a nuisance, it shall be the responsibility of the manufactured home owner to remedy the violation by repairing, removing, or replacing it.

### **SECTION 9.22 NONCONFORMING MANUFACTURED HOME PARKS.**

**9.22.1.** Any nonconforming manufactured home park, as defined by this Ordinance, existing on the effective date of this Ordinance or any subsequent amendment thereto, may continue to operate without being subject to the requirements of this Ordinance, except it shall meet the requirements for the following subsections:

- 9.20.3           Types of Units Allowed
- 9.20.14         Lighting
- 9.20.15         Mail Facilities
- 9.20.16         Solid Waste Management
- 9.20.19         Maintenance - Responsibilities of Park Management
- 9.20.20         Maintenance - Responsibilities of Occupants

Nonconforming parks have one (1) year from the date of adoption of this Ordinance to comply with the above requirements. They have only ninety (90) days from the adoption of this Ordinance within which to institute the necessary procedures in Section 9.20.9, Signage.

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**9.22.2.** All park owners shall register their parks within thirty (30) days of the passage of this Ordinance and so inform the Caswell County Planning Department of the specific nonconformities that must be corrected.

**9.22.3.** Nonconforming parks may be subject to periodic inspections to ensure that satisfactory progress is being made to correct the specific deficiencies listed above within the one (1) year time period.

**9.22.4.** Refer to Article 7 for other nonconforming situations and requirements.

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## PART III. WIRELESS COMMUNICATIONS FACILITIES

### SECTION 9.23 PURPOSE.

The following development standards for the jurisdiction of Caswell County shall: 1) apply to the installation, construction, attachment and alteration of facilities to accommodate wireless communication facilities; 2) provide the criteria for evaluating such proposed activities; 3) provide a procedure for the suitability certification and accomplishing related purposes. These Wireless Communication Facility Development Standards are designed to achieve the following:

**9.23.1.** Provide a range of locations for Wireless Communication Facilities throughout the County.

**9.23.2.** Encourage the location of Wireless Communication Facilities onto existing structures to reduce the number of new communication towers needed within Caswell County.

**9.23.3.** Encourage collocation and site sharing of new and existing Wireless Communication Facilities.

**9.23.4.** Control the type of tower facility constructed when towers are permitted.

**9.23.5.** Establish adequate development and design criteria to enhance the ability of providers of telecommunications services to provide service to the community quickly, effectively, and efficiently.

**9.23.6.** Protect residential, historic preservation areas, and scenic corridors from the uncontrolled development of Wireless Communications Facilities by requiring reasonable siting conditions.

**9.23.7.** Promote the use of suitable lands for the location of wireless antennae, towers, and/or Wireless Communication Facilities.

**9.23.8.** Ensure the harmonious, orderly and efficient growth and development of Wireless Communication Facilities within the County.

**9.23.9.** Stabilize the economy of the County through the continued use of the County's public resources.

**9.23.10.** Provide clear performance standards addressing the siting of Wireless Communication Facilities.

**9.23.11.** Streamline and expedite the permitting procedures to effect compliance with the Federal Communications Act, 47 USC ' 332 as amended, section 6409 of the federal 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.

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**9.23.12.** Ensure first responders can provide for the health and safety of all residents of Caswell County and that, consistent with section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 USC ' 1455(a), which 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, it is the policy of Caswell County to facilitate the placement of wireless communications support structures in all areas of the County.

### **SECTION 9.24 CERTAIN USES NOT COVERED BY THE REGULATIONS.**

Nothing in these regulations shall reduce any of the permitted uses of any zoned property, within Caswell County. Nothing in these regulations shall affect the right of a property owner to use or develop their property. Nothing in these regulations shall affect the right of a property owner to continue any legal nonconforming use.

### **SECTION 9.25 PREFERRED LOCATIONS FOR WIRELESS COMMUNICATION FACILITIES & APPLICABILITY.**

**9.25.1.** The following Wireless Communication Facilities may be allowed within Caswell County as follows:

**9.25.1. Antenna Attachments.** Antenna attachments onto existing Support Structure or onto an Attached Wireless Communication Facility shall be permitted by administrative approval subject to the development criteria of Section 9.26.

**9.25.2. County Facilities.** Antenna attachments or Wireless Communication Facilities with support structure shall be permitted by administrative approval subject to the development criteria of Section 9.26 and collocation on Caswell County communications facilities. Collocation on county-owned facilities is encouraged.

**9.25.3. Other Lands.** Wireless Communication Facilities with support structures shall be permitted on all other lands not identified in subsection 9.25.2, above, by means of approval of the UDO Administrator. Prior to applying for a Permit, the applicant shall provide the County with adequate information to establish that lands included in subsection 9.25.2 cannot be made suitable for Wireless Communication Facility locations.

**9.25.2.** The following shall apply in Caswell County:

**9.25.2.1. Tower and Antenna Use Application Required.** No person, firm or corporation shall install or construct any Wireless Communication Facility unless and until a Tower Antenna Application (TAA) has been issued pursuant to the requirements of Section 9.28.

## ARTICLE 9. PERFORMANCE STANDARDS

**9.25.2.2. Pre-Existing Wireless Communication Facility.** Wireless Communications Facilities for which a permit has been issued prior to the effective date of this Ordinance shall be considered as nonconforming and shall not be required to meet the requirements of this Ordinance.

**9.25.2.3. Amateur Radio Exclusion.** This section shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator.

**9.25.2.4. Relationship to Other Ordinances.** Except for Historic Districts, this section shall supersede all conflicting requirements of other ordinances regarding the locating and permitting of Wireless Communication Facilities.

**9.25.2.5. Airport Zoning.** Any Wireless Communication Facility located or proposed to be located in airport areas governed by the Federal Aviation Administration shall also comply with the provisions of all applicable local, state and federal airport regulations.

**9.25.2.6. Building Codes.** Construction of all Wireless Communication Facilities shall comply with the requirements of the Caswell County Building Codes and permitting process in addition to the requirements of this section.

**9.25.2.7. Tower Agreement (County Owned Property).** All applicants for Antenna structure permits for the sites identified in subsection 9.25.2 shall be required to enter into an agreement with the County. Said Agreement will contain, but will not be limited to, term, rental fee and other identifying conditions. A fee schedule is established in Section 1.13.

**9.25.2.8. Public Property.** Antennas or towers located on property owned, leased or otherwise controlled by the County of Caswell shall be exempt from the requirements of this Ordinance, provided a license or lease authorizing such antenna or tower has been approved by the governing authority after a public hearing and adjoining owners' notification.

### **SECTION 9.26 DEVELOPMENT STANDARDS.**

Development standards for Wireless Communication Facilities are as follows:

#### **9.26.1. Height Standards.**

The following height standards shall apply to all Wireless Communications Facility installations:

## ARTICLE 9. PERFORMANCE STANDARDS

**9.26.1.1.** Attached Wireless Communications Facilities shall not add more than twenty (20) feet to the height of the existing building or structure to which it is attached (Attachment Structure). However, antenna attachments to existing communication towers shall not increase the height of the tower above the maximum permitted height of that tower.

**9.26.1.2.** Height for Wireless Communication Facilities with Support Structures on other lands not identified in subsections 9.25.2 shall be reviewed on a case-by-case basis. The height of the proposed Wireless Communication Facility should be consistent with the height standards for similar properties in similar locations; and considering ground elevations, topographical conditions and other site development criteria within this Ordinance.

### **9.26.2. Setback Standards.**

The following setback standards shall apply to all Wireless Communication Facility installations.

**9.26.2.1.** Attached Wireless Communication Facilities shall meet the following setback provisions:

**9.26.2.1.1.** Towers must be set back a distance equal to 100% of the height of the tower from any structure, property line, public highway, road, or public gathering place. The setback distance shall be measured from the center of the tower base and radiate out 360 degrees. A professional engineering certification shall be required, which states that the structure's construction will cause the tower to crumble inward thereby mitigating any risk to adjacent structures.

**9.26.2.1.2.** Any towers over 100 feet in height may not be located within a one half (1/2) mile radius of any other tower described in this Ordinance.

**9.26.2.1.3.** No tower shall be allowed within the Airport Hazard Overlay District.

**9.26.2.2.** Wireless Communications Facilities with Support Structures shall meet the setback requirements as above.

### **9.26.3. Landscaping.**

The following landscaping requirements shall be maintained by the applicant and shall apply to all Wireless Communications Facility installations.



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**9.26.3.1. New Construction.** New Wireless Communications Facilities with Support Structures and Attached Wireless Communication Facilities with new building construction shall be landscaped with a minimum landscaped area of ten (10) feet around the perimeter of the security fence meeting the following standards:

**9.26.3.1.1.** One row of evergreen trees with a minimum caliper of 1.75 inches shall be installed with a maximum spacing of 25 feet.

**9.26.3.1.2.** Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five (5) feet shall be planted with a maximum spacing of five (5) feet. Plants shall be at least three (3) gallon container plants or 24 inches tall at the time of planting.

**9.26.3.1.3.** All plants and trees shall be indigenous to northeastern North Carolina and drought resistant.

**9.26.3.2. Land Form Preservation.** Existing mature tree growth and natural Land Form on the site shall be preserved to the extent feasible; provided however, that vegetation that causes interference with the antennas or inhibits access to the Equipment Facility may be trimmed or removed.

**9.26.3.3. Existing Vegetation.** Existing vegetation on a Wireless Communication Facility site may be used in lieu of required landscaping where approved by the Planning Director or designee.

**9.26.3.4. Minimum Size Disturbance.** Grading for the new Wireless Communication Facility shall be minimized and limited only to the area necessary for the new facility.

**9.26.4. Aesthetics, Placement, Materials, and Colors.**

Wireless Communications Facilities shall be designed so as to be compatible with the existing structures and surroundings to the extent feasible, including placement in a location that is consistent with proper functioning of the Wireless Communications Facility, the use of compatible or neutral colors, camouflage technology or stealth technology.

**9.26.5. Lighting.**

The following lighting requirements shall apply to all Wireless Communications Facility installations. Wireless Communications Facilities shall not be artificially illuminated, directly or indirectly, except for:

## ARTICLE 9. PERFORMANCE STANDARDS

**9.26.5.1.** Security and safety lighting of equipment buildings if such lighting is appropriately down shielded to keep light within the boundaries of the site; and

**9.26.5.2.** Such illumination of the Wireless Communications Facility as may be required by the FAA or other applicable authority installed in a manner to minimize impacts on adjacent residences.

**9.26.5.3.** Unless otherwise required by the FAA or other applicable authority, the required light shall be red and a type of lenses used to reduce ground lighting when the site is within 100' of a residential dwelling.

### **9.26.6. Signage.**

Wireless Communications Facilities shall not display any signage, logos, decals, symbols or any messages of a commercial or noncommercial nature, except for a small message containing provider identification and emergency telephone numbers and such other information as may be required by local, state or federal regulations governing Wireless Communications Facilities.

### **9.26.7. Fencing.**

Wireless Communications Facilities with Support Structures shall be enclosed by an opaque fence (excluding slatted chain link) not less than 6 feet in height. Security features may be incorporated into the buffer and landscaping requirements for the site. Nothing herein shall prevent fencing that is necessary to meet requirements of State or Federal agencies.

### **9.26.8. Radio Frequency Emissions/Sound.**

The following radio frequency emissions standards shall apply to all Wireless Communications Facility installations:

**9.26.8.1. Radio Frequency Impact.** The ETA gives the FCC jurisdiction of the regulations of Radio Frequency (RF) emissions, and Wireless Communications Facilities that do not exceed the FCC standards shall not be conditioned or denied on the basis of RF impact.

**9.26.8.2. FCC Compliance.** In order to provide information to its citizens, copies of ongoing FCC information concerning Wireless Communications Facilities and RF emissions standards may be requested from time to time. Applicants for Wireless Communications Facilities shall be required to provide information with the application on the measurement of the effective radiated power of the facility and how this meets the FCC standards.

**9.26.8.3. Sound Prohibited.** No unusual sound emissions such as alarms, bells, buzzers or the like are permitted.

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**9.26.9. Structural Integrity.** Wireless Communications Facilities with Support Structures shall be constructed to the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled "Structural Standards for Steel Antennas Towers and Antenna Support Structures" (or equivalent), as it may be updated and amended. Each Support Structure shall be capable of supporting multiple antenna arrays as required by subsection 9.26.10.

**9.26.10. Collocation Support Structure Design.** All Wireless Communication Facilities with a support structure up to a height of 90 feet shall be engineered and constructed to accommodate one antenna array. All Wireless Communication Facilities with a support structure up to a height of 90 feet to 120 feet shall be engineered and constructed to accommodate at least 3 antenna array. All Wireless Communication Facilities with a support structure up to a height of 120 feet or greater shall be engineered and constructed to accommodate at least 5 antenna array.

**9.26.11. Use by County Emergency Services.** Applicants shall agree to make towers available for use by the County Emergency Services agencies at no charge to that agency, so long as the tower is equipped to support multiple users and the additional use of the tower or antenna does not create a technical conflict(s).

### **SECTION 9.27 REVIEW PROCESS.**

The applicable development criteria referred to herein are those set forth in subsection 9.26 of this Ordinance.

#### **9.27.1. Permitting Procedures.**

Attached Wireless Communications Facilities with or without new building construction that meet the development criteria may be permitted by administrative review. All Wireless Communications Facilities with Support Structures that meet the development criteria and that are located on lands in Section 9.25.2 or Antenna Array attachments onto existing structures may be permitted by administrative review unless the proposed facility is located on lands meeting criteria in subsection 9.27.2 or 9.27.3 below. All other proposed Wireless Communication Facilities shall be subject to the permit process.

**9.27.2.** Any Wireless Communications Facility (Attached or with a Support Structure), regardless of type, to be located within an established historic area, historic district or other designated Overlay District will be subject to review by the appropriate District Commission and the Planning Board. Review by a District Commission shall be in accordance with that District Ordinance administrative procedures for a certificate of appropriateness. All Wireless Communications Facility applications that do not conform to the Development Criteria or are otherwise not eligible for Administrative Review shall be subject to the Planning Board Review Process.

## **ARTICLE 9. PERFORMANCE STANDARDS**

**9.27.3.** Wireless Communications Facilities as a part of a Coordinated Development Approval. Wireless Communications Facilities as part of a proposed residential or nonresidential subdivision, site plan, or other coordinated development approval shall be reviewed and approved through those processes.

**9.27.4.** Temporary Wireless Communications Facilities may be permitted by Administrative Approval for a term not to exceed 90 days. Once granted, a temporary Wireless Communications Facility permit may be extended for an additional 90 days upon evidence of need by the applicant. In case of emergency (e.g., storm damage to an existing tower or other circumstances resulting in the interruption of existing service) the Administrative Review shall be expedited to the extent feasible.

### **SECTION 9.28 APPROVAL PROCESS.**

#### ***9.28.1. Application Submission.***

All Tower Antenna Applications (TAA), regardless of Wireless Communication Facility type, shall include all of the requirements contained in this section. The following situations do not require submission of an application: (1) collocated devices on approved towers; (2) an eligible facilities request; (3) the height of the tower is not increased by more than 10%; (4) the addition will not extend more than 20 feet from the tower; (5) it will add no more than one equipment shelter or four equipment cabinets; and (6) it will not involve excavation outside the tower site or existing utility and access easements.

**9.28.1.1.** Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure within the planning and land use jurisdiction of the County must do both of the following:

**9.28.1.1.1.** Submit a completed application with the necessary copies and attachments to the appropriate planning authority.

**9.28.1.1.2.** Comply with all local ordinances concerning land use and any applicable permitting processes.

**9.28.1.2. Application Contents.** Each applicant requesting a TAA under this Ordinance shall submit a sealed site plan prepared by a licensed architect or engineer as specified in Article 8. Applicants proposing to collocate on an existing wireless communication facility shall include a Radio Frequency Inter-modulation Study with their application. The review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the County may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality

## ARTICLE 9. PERFORMANCE STANDARDS

of its service to or from a particular area or site. The County may not 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 County 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 County may review the following:

**9.28.1.2.1.** 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.

**9.28.1.2.2.** 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.

**9.28.1.2.3.** The County 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 County may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

**9.28.1.3. Submission Requirements.** Application for a Wireless Communication Facility shall be submitted as a major site plan as specified in Section 8.4.

**9.28.1.4. Application Fees.** A plan review fee as established by Section 1.13 shall accompany each application. The fee imposed by the County for review of the application may not be used for either of the following:

**9.28.1.4.1.** Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.

## ARTICLE 9. PERFORMANCE STANDARDS

**9.28.1.4.2.** Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.

**9.28.1.5. Additional Technical Assistance.** In the course of its consideration of an application, the County may deem it necessary in complex situations, to employ an engineer(s) or other consultant(s) qualified in the design and installation of wireless communication facilities to assist the County in the technical aspects of the application. In such cases, any additional reasonable costs incurred by the County for the technical review and recommendation shall be reimbursed by the applicant prior to the final County hearing on the TAA.

**9.28.2. Planning Board Review.** The following shall apply to all Tower and Antenna Use Applications for substantial modifications and new towers requiring submission to the Planning Board.

**9.28.2.1. Review Authority.** The Planning Board shall be the review authority for TAA applications not eligible for Administrative Review or otherwise referred to the Board.

**9.28.2.2. Notice.** Notice of the application and the public hearing by the Planning Board shall be given once a week for two consecutive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than 10 days or more than 25 days before the date fixed for the hearing. In addition to a newspaper notice, the parcel owner and the adjoining parcel owners, as shown on the County tax listing, shall be notified by first-class mail; and the site shall be posted in a conspicuous location with the time, date and notice of public hearing.

**9.28.2.3. Hearing.** The Planning Board shall review and consider the TAA application at a public hearing. At the hearing, interested persons may appear and offer information in support or opposition to the proposed application. The Planning Board shall consider the following in reaching a decision.

**9.28.2.3.1. Development Criteria.** The complete Tower Antenna Application shall be reviewed for compliance with the development criteria set forth in Section 9.26 provided that the applicable development criteria in this Ordinance may be modified as long as the approval of the TAA meets the goals and purposes of the Ordinance. The Planning Board may recommend alternative development criteria, provided the alternative development criteria are reasonable and capable of being accomplished, by specific inclusion in a motion for approval.

**9.28.2.3.2. Tower Siting Conditions.** The Planning Board may impose conditions and restrictions on the application or on the premises benefitted by the TAA as it deems necessary to reduce or minimize any adverse effects and to

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enhance the compatibility of the wireless communication facility with the surrounding property, in accordance with the purposes and intent of this Ordinance. The violation of any condition shall be grounds for revocation of the TAA. The Planning Board may recommend additional development standards in addition to the development criteria upon the following findings:

**9.28.2.3.2.1.** The wireless communication facility would result in significant adverse visual impact on nearby residences.

**9.28.2.3.2.2.** The conditions are based upon the purpose and goals of this Ordinance.

**9.28.2.3.2.3.** The conditions are reasonable and capable of being accomplished.

**9.28.2.3.3. Action.** Following the public hearing and presentation of evidence, the Planning Board shall take one of the following actions:

**9.28.2.3.3.1.** Approve the application as submitted;

**9.28.2.3.3.2.** Approve the application with conditions or modifications;

**9.28.2.3.3.3.** Refer the application for additional information or neighborhood input; or

**9.28.2.3.3.4.** Deny the application in writing.

**9.28.2.3.4. Findings.** All decisions rendered by the Planning Board concerning a Tower Antenna Application shall be supported by written findings of fact and conclusions of law based upon substantial evidence of record.

**9.28.2.3.5. Timing of Decision.** The Planning Board shall render a written decision on new tower and substantial modifications applications within 90 days or less of the final submission of all required application documents and technical review, however, this time may be increased due to deferrals by either the applicant or the Planning Board.

**9.28.2.3.6. Appeals.** An appeal may be filed with the Board of Commissioners no later than 30 days after the final action by the Planning Board. Only the applicant and those who registered an objection to the TAA in the record of the Planning Board shall have standing to appeal.

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### **SECTION 9.29 SHARED FACILITIES AND COLLOCATION POLICY.**

All new Wireless Communication Facilities shall be engineered, designed and constructed to be capable of sharing the facility with other applicants, to collocate with other existing wireless communication facilities and to accommodate the future collocation of other wireless communication facilities. A TAA shall not be issued until the applicant proposing a new wireless communications facility shall demonstrate that it has made a reasonable good faith attempt to locate its Wireless Communication Facility onto an existing structure. Competitive convict and financial burden alone are not deemed to be adequate reasons against collocation.

### **SECTION 9.30 REMOVAL OF ABANDONED SUPPORT STRUCTURES.**

Any support structure that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the County, at its election, may require the support structure owner to remove the support structure within 90 days after notice from the County to remove the support structure. If the abandoned support structure is not removed within 90 days, the County may remove it and recover its costs from the support structure owner. If there are two or more users of a single support structure, this provision shall not become effective until all providers cease to use the support structure. If the owner of an abandoned support structure cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the support is located.

### **SECTION 9.31 ADDITIONS.**

Nonconforming wireless communications facilities may add additional antennas (belonging to the same provider or other providers), subject to Administrative Review, under this Ordinance.

### **SECTION 9.32 REVOCATION OF TOWER AND ANTENNA USE APPLICATIONS.**

The approval of any Tower and Antenna Use Application issued pursuant to this Ordinance may be revoked after a hearing as provided hereinafter. If the Planning Director or designee finds that any permit holder has violated any provision of this Ordinance, or has failed to make good faith reasonable efforts to provide or seek collocation, the Planning Director or designee shall notify the permit holder in writing that the TAA is revocable due to the permit holders noncompliance with the conditions of the permit and the Planning Director or designee shall convene a meeting with the Permit holder no later than 30 days from the date of the letter. The Planning Director or designee may require the permit holder to correct the violation within a reasonable amount of time or the Planning Director or designee may recommend to the County Commissioners that the Tower Antenna Application be revoked.



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After the appropriate public hearing, the County Manager and County Commissioners may revoke the Tower Antenna Application (TAA) upon such terms and conditions, if any, that the County Manager and County Commissioners may determine. Prior to initiation of revocation proceedings, the County shall notify the permit holder, in writing, of the specific areas of noncompliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not exceed 60 days. The permit holder shall provide the County with evidence that the required corrective action has been taken. Should the permit holder fail to correct any deficiencies in the time required, the County Manager and County Commissioners shall convene a public hearing to consider revocation of the Tower Antenna Application.

The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the County not less than 10 days prior to the hearing and by written notice to the permit holder. At any such hearing, the permit holder may be represented by an attorney and may cross-examine opposing witnesses. Other interested persons may comment. The County Manager and County Commissioners may impose reasonable restrictions with respect to time and procedure. The proceedings shall be recorded; provided, however, that stenographic services, if desired, shall be provided by the requesting party at that party's expense.

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## PART IV. SEXUALLY ORIENTED BUSINESSES

### SECTION 9.33 PURPOSE.

It is the purpose of this section to regulate "sexually oriented businesses" in order to promote the health, safety, morals, and general welfare of the citizens of Caswell County, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of "sexually oriented businesses" within the County. It is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

### SECTION 9.34 LEGISLATIVE FINDINGS.

The Board makes a legislative finding that sexually oriented businesses in certain locations may have certain negative effects injurious to the health and safety of the public and the general welfare of the County and of its neighborhoods and communities. The Board makes a further legislative finding that such negative effects can include, though they are not necessarily limited to, the following:

- The spread of sexually transmitted diseases;
- An increase in crime, particularly crimes of violence and disorderly conduct;
- The increased use of drugs and increased abuse of alcohol;
- Noise;
- Increased difficulty in attracting new businesses to the County and convincing existing businesses to remain in the County; and
- A diminution in property values.

The Board makes a further legislative finding that these effects are contrary to the health and safety of persons in the County and to the economic and general welfare of the County. At the same time, the Board recognizes the constitutionally protected character of speech which can take place in sexually oriented businesses. It finds, however, in light of the factors outlined above, that important and substantial government interests provide a constitutional basis for reasonable regulation of the time, place, and manner under which sexually oriented businesses operate, as a way of minimizing these problems. The Board has determined, therefore, that persons seeking to operate sexually oriented businesses shall be required to observe specific location requirements before commencing business, as provided in this section.

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### **SECTION 9.35 GENERAL PROHIBITIONS AND LICENSE REQUIREMENTS.**

It shall be unlawful for any person to appear nude in a public place in the County, as defined herein. This prohibition is subject to the limitations contained within the definition of "public place," which are designed to protect nudity which enjoys constitutional protection as free expression or speech, or which enjoys protection on privacy grounds, or which is not otherwise designed to disrupt public health, safety and order. Moreover, this prohibition shall not be deemed to prohibit a bona fide theatrical production in which performers appear nude which is not in violation of Section 14-190.1 of the North Carolina General Statutes, defining and prohibiting obscenity. It shall however prohibit other nude appearances in public places, in order to protect the health and safety of persons in the County, and to maintain public order. Moreover, the laws prohibiting indecent exposure in the State of North Carolina remain in full force and effect within this County.

It shall be unlawful for any person to own, directly or indirectly, a legal, equitable or beneficial interest in, or to operate or manage, a sexually oriented business, as defined herein, either as principal or an accessory use, without first acquiring and keeping in full force and effect at all times a license in compliance with the provisions of this Ordinance. A separate license shall be required for each location, place, or set of premises where a sexually oriented business is operated or conducted, and no sexually oriented business shall be operated, carried on, or conducted in any place not designated in the license for its operation. Any license issued shall be issued solely in the individual name of the applicant or owner and may not be issued in a fictitious name or in the name of another legal entity. Moreover, obtaining such a license shall not relieve the applicant or owner from the obligation of securing any other licenses that may be required for operation of the business or premises in question from the State of North Carolina, Caswell County, any municipality or other unit of local government in the County, or other applicable authority, or from their agencies and instrumentalities.

### **SECTION 9.36 APPLICATION FOR ISSUANCE OF A LICENSE.**

All sexually oriented businesses, as defined herein, must obtain a license from the County before opening for business. The application for a license to operate such a business must be submitted to the UDO Administrator on a form approved by the County Manager.

**9.36.1.** The application form shall contain sufficient information to determine fully:

**9.36.1.1.** The identity of the person who is the applicant;

**9.36.1.2.** The nature of the person (i.e., whether the person is a natural person or some other sort of person recognized by law, such as a corporation);

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**9.36.1.3.** If the person who is the applicant is not a natural person, the identity of any person who owns an interest of ten percent (10%) or more in such person, as well as the identity of any person who is an officer, director, partner of such person, or an owner of an interest of ten percent (10%) or more in the person (herein described as the "control group");

**9.36.1.4.** A description of the proposed sexually oriented business, as well as any existing adult entertainment establishment or other sexually oriented business owner or operated by the applicant or by a person who is a member of the control group;

**9.36.1.5.** A sketch plan, as specified in Section 8.2, of the contemplated premises for the adult entertainment establishment;

**9.36.1.6.** A map showing its physical location, including the location, nature, and use (e.g., home, business, office) of all structures within a radius of one thousand yards (1,000 yards) of the proposed premises;

**9.36.1.7.** A brief description of the business activities to be conducted on the premises of the sexually oriented business;

**9.36.1.8.** Whether the applicant, or a member of its control group, has been convicted of a crime, including without limitation crimes relating to prostitution or the operation of an adult entertainment establishment; and

**9.36.1.9.** Any other information relating to the applicant or proposed adult entertainment establishment which the County Manager reasonably believes is properly calculated to providing information concerning the proposed establishment or the applicant, which would assist is evaluating the application.

**9.36.2.** The fee as established by Section 1.13 and a notarized statement, signed by the applicant under oath, certifying that all the information contained in the application is true, must accompany the license application.

**9.36.3.** Licenses, once issued, shall be good for a term of one year. Renewal applications shall be accompanied by a renewal fee of Five Hundred Dollars (\$500).

### **SECTION 9.37 CRITERIA FOR PROCESSING AND ISSUING THE LICENSE.**

**9.37.1. Application Submittal.** Once the license application and fee have been submitted, the UDO Administrator shall note the date and time of the filing and forward the application to the County Manager, who shall see that a background investigation is performed. In doing so, the County Manager may request the assistance of the Sheriff's Department or other properly

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constituted law enforcement authority, and shall gather all information pertinent to whether the application has met the criteria for having a license issued. These criteria are as follows:

**9.37.1.1.** Whether the applicant has permitted a full inspection of the proposed premises;

**9.37.1.2.** Whether the proposed premises conform with the applicable building and fire prevention codes;

**9.37.1.3.** Whether the applicant or a member of the applicant's control group has been convicted of (whether or not such conviction may be on appeal):

**9.37.1.3.1.** Unlawful sale of alcoholic beverages, including but not limited to sale of such beverages without a license or to a minor, or unlawful sale of controlled substances;

**9.37.1.3.2.** A crime involving sexual misconduct or moral turpitude, including but not limited to a violation of Sections 14-177 through 14-202.1 or 14-203 of the General Statutes of North Carolina, or any federal statute pertaining to prostitution or the operation of a sexually oriented business; or

**9.37.1.3.3.** A crime involving the commission of acts of violence or sexual or other abuse, or communicating threats thereof, against any person or persons.

**9.37.1.4.** Whether information supplied on the application form is true, complete and accurate;

**9.37.1.5.** Whether the proposed premises have sufficient parking facilities and are sufficiently set back from roadways or thoroughfares so as not to unduly disrupt traffic, and whether lighting on the premises is sufficient for safety without being so bright as to constitute a public nuisance; and

**9.37.1.6.** A sexually oriented business may not be located within 3,000 feet of any of the following:

**9.37.1.6.1.** A church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities;

**9.37.1.6.2.** A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special

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education schools, junior colleges, and universities. School includes the schools grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

**9.37.1.6.3.** A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the County which is under the control, operation, or management of Caswell County;

**9.37.1.6.4.** A fire department, hospital, or medical office;

**9.37.1.6.5.** A home;

**9.37.1.6.6.** A professional office;

**9.37.1.6.5.** An entertainment business which is oriented primarily towards children or family entertainment; or

**9.37.1.6.6.** A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State.

For the purposes of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsections 9.37.1.6.1 to 9.37.1.6.6. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

**9.37.2. Approval or Denial of Application.** Once the application has been fully considered by the County Manager, it shall be approved or denied by the County Manager, and the applicant shall be sent written notice, by certified mail, of whether the application has been granted or denied. Such notice shall be sent within sixty (60) days of the filing of the initial application. If the application is denied, the applicant shall be given written notice of the reasons for the denial, shall be offered reasonable access to the background investigation, shall be given a copy of his or her appeal rights, and shall be refunded half of the application fee.

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### SECTION 9.38 REGULATIONS GOVERNING VARIOUS LICENSED SEXUALLY ORIENTED BUSINESSES.

**9.38.1.** Violation of any of the following provisions by the operator of a sexually oriented business shall result in the revocation of the license of any sexually oriented business guilty of such violations:

**9.38.1.1.** Permitting upon its premises sexual intercourse, oral sex, masturbation, or fondling of specified anatomical parts of another person;

**9.38.1.2.** Permitting acts of prostitution upon its premises, or being party to or accomplice to any act of prostitution, whether occurring on or off the premises;

**9.38.1.3.** Failing to pay any tax, fee, or other charge imposed on or with respect to the sexually oriented business and/or the premises on which it is located;

**9.38.1.4.** Providing, or being found to have provided, false information in connection with a license application;

**9.38.1.5.** Operating a sexually oriented business during a period of suspension;

**9.38.1.6.** Permitting the possession, use, or sale of controlled substances on its premises, or the illegal possession, use, or sale of alcoholic beverages on its premises;

**9.38.1.7.** Committing, or employing a person who has committed, a crime named in Section 9.37.3, above;

**9.38.1.8.** Appearing, or allowing any person to appear, nude on the premises, in violation of this Ordinance; and

**9.38.1.9.** Failing to have an adult on the premises managing the business during all hours of operation.

**9.38.2.** Violation of any minor provision of this Ordinance for which permanent revocation is not authorized for the operator of a sexually oriented business shall result in the suspension of the license of the sexually oriented business guilty of such violation.

**9.38.3. Age Requirements.** No one shall be permitted in a sexually oriented business who is not at least eighteen (18) years of age, and who has not presented proper identification showing their age.

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**9.38.4. Hours of Operation.** No sexually oriented business shall operate between the hours of 1:00 AM and 6:00 AM, or on Sundays, 10:00 AM, nor shall any sexually oriented business serving alcoholic beverages, operate during hours in which operation would be prohibited by the alcoholic beverage laws of the State of North Carolina.

**9.38.5.** Sexually oriented businesses' premises shall be available for inspection to the Sheriff's Department, County Administration, Fire Marshall, Building Inspector, Health Department, and other duly constituted authorities having responsibility to see that the premises are being operated in a safe, legal, and healthy manner.

**9.38.6.** Upon the transfer (as defined herein) of the ownership of a sexually oriented business, the license for operating such a business shall not be transferred as part of such sale, rather, the new owner or controlling person must apply for a new license.

**9.38.7.** No person shall serve as an escort, as defined herein, in connection with an escort agency, as defined herein, unless that person is at least eighteen years of age, and unless the person for whom they are serving as an escort is at least eighteen years of age.

**9.38.8. Adult Arcade.** A sexually oriented business, other than an adult motel, shall be deemed to be an adult arcade, subject to these regulations, if it exhibits on its premises, in a viewing room containing less than one hundred fifty (150) square feet of floor space a film, video cassette or other video reproduction or visual representation which depicts specified sexual activities or specified anatomical areas. The following regulations shall govern adult arcades in Caswell County:

**9.38.8.1.** The application for a proposed adult arcade must include a diagram of the premises. The diagram must show the manager's station on the premises (which may not exceed thirty-two (32) square feet in floor space), the location of any viewing rooms, the location of overhead lighting fixtures, and any places on the premises in which patrons are not permitted. The diagram shall also show the place at which the arcade's license to operate shall be conspicuously posted.

**9.38.8.2.** At least one employee must be in the manager's office station whenever a patron is on the premises. The employee must make sure that no more than one person is in a viewing room at a time, and that all passageways and other areas of the premises are kept free of obstructions.

**9.38.8.3.** The interior of the premises must be configured so as to ensure that there is an unobstructed view from the manager's station to all parts of the premises, excluding restrooms, at all times. Restrooms shall not contain any cameras, video equipment, or other photographic equipment.



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**9.38.8.4.** The premises must be lit at all times when a patron is on the premises by not less than one foot candle (as measured at floor level) of light.

**9.38.8.5.** The owner or operator shall ensure that there are no holes or openings between booths or viewing rooms, and that all wall, floor and seating surfaces are permanently covered by non-porous, easily cleaned material.

**9.38.8.6.** A sexually oriented business may not be located within 1,000 feet of any tract of parcel of real property used for residential purposes. The distance between a dwelling unit and a sexually oriented business shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries.

**9.38.8.7.** The operation, establishment, substantial enlargement, or transfer of ownership of a sexually oriented business with 1,500 feet of another sexually oriented business is prohibited. The distance between two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries.

**9.38.8.8.** The operation or establishment of a sexually oriented business on any road in Caswell County other than a federal aid primary system highway as designated by the federal government is prohibited.

**9.38.8.9.** The operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business is prohibited.

**9.38.8.10.** It shall not be a violation of this section to operate a sexually oriented business within the restricted areas if (1) the sexually oriented business is in operation prior to the commencement of the other enumerated use; and (2) such sexually oriented business has been maintained in continuous operation and not ceased operations for a period of no longer than sixty (60) days with any new re-opening after sixty (60) day non-operation to comply with all provisions of this section. Any expansion in size or activities of an existing sexually oriented business shall comply with all provisions of this section.

**9.38.9. Adult Live Entertainment.** The following operating procedures shall govern adult live entertainment in Caswell County.

**9.38.9.1.** It shall be unlawful to provide adult live entertainment, as defined herein, without first obtaining a license from the County in compliance with the provisions of this Ordinance; however, the following special provisions shall govern the application therefor.

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**9.38.9.2.** The license shall be issued within fifteen (15) days, provided the requirements for obtaining such license have been met.

**9.38.9.3.** In addition to the information required generally in application under this Ordinance, the application must state whether the applicant, or any employee of the applicant who would be providing adult live entertainment, has a sexually transmitted disease. If the applicant or employee does, that shall be a ground for denying the application, unless accompanied by a certificate from a licensed physician stating that the disease is not communicable or that it does not pose a threat to the health of the community. Such certificate may be required if there is reasonable suspicion, upon completion of the background examination, that the applicant or employee has such a disease. The certificate shall comply with the provisions of Section 130A-143 of the North Carolina General Statutes, "Confidentiality of Medical Information Relating to HIV Positive Status."

### **SECTION 9.39 APPEALS.**

The following procedures shall govern appeal of the suspension, revocation, or denial of reinstatement of the license for operating a sexually oriented business:

**9.39.1.** Any applicant whose license application has been denied, or whose license has been suspended or revoked, may appeal the decision to the County Board of Commissioners, in care of the Clerk to the Board, filing a written notice, giving the reason for the appeal.

**9.39.2.** The Clerk shall then schedule a hearing on the appeal within thirty (30) days of receipt of the Notice of Appeal, and shall send the appellant written notice, by certified mail, of the time and place of the hearing. Pending the hearing, a suspension of a license shall be stayed; however, a revocation shall not be stayed, nor shall a denial of the issuance of a license be overturned.

**9.39.3.** The hearing shall be informal in nature and the rules of evidence applicable in court proceedings shall not limit the information which can be presented. The applicant may be represented by an attorney, though he or she need not be.

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## PART V. RECREATIONAL VEHICLES

### SECTION 9.40 PURPOSE.

The purpose of this section is to regulate the placement of Recreational Vehicles within Caswell County in order to promote public health, safety, and general welfare of the citizens of Caswell County. More specifically, these regulations shall ensure that adequate roadways, fire safety, emergency access, off-street parking, utilities (water, sewer, and electricity), solid waste disposal, recreation, as well as privacy, are provided to residents who occupy recreational vehicles on individual lots or in parks.

### SECTION 9.41 CONSTRUCTION PERMIT AND OPERATING LICENSE FOR A RECREATIONAL VEHICLE PARK.

#### ***9.41.1. Site Plan.***

A site plan is required as specified in Article 8.

#### ***9.41.2. General Requirements.***

***9.41.2.1.*** No campsite shall be used as a permanent place of abode, dwelling, or business for indefinite periods of time. Continuous occupancy extending beyond six (6) months in any 12-month period shall be presumed to be permanent occupancy.

***9.41.2.2.*** Any action toward removal of wheels of a travel trailer except for temporary purposes of repair or to attach the trailer to the ground for stabilizing purposes shall be prohibited. There shall be no permanently attached additions.

***9.41.2.3.*** Accessory uses shall be so designed and developed so as to blend with the park's design and natural setting. Such uses shall be clearly accessory to the principal use as a campground/recreational vehicle park. Accessory uses shall include management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to the operation of the park. In addition, stores, restaurants, beauty parlors, barber shops, and other convenience establishments shall be permitted as accessory uses subject to the following conditions:

***9.41.2.3.1.*** Such establishments and the parking areas primarily related to their operation shall not occupy more than 10 percent of the gross area of the park.

***9.41.2.3.2.*** Such establishments shall be restricted in their use to occupants of the park and/or related park association members; and

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**9.41.2.3.3.** Such establishments shall present no visible evidence from any public road of their commercial character.

**9.41.2.4.** Conditions of soil, groundwater level, drainage, and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable noise, odors, or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence, or erosion shall be used for any purpose which would expose persons or property to hazards. No Recreational Vehicle Park shall be located in any floodway.

A Recreational Vehicle Park built in a floodplain shall require a Floodplain Development Application, Permit and Certification as specified in Section 10.3.2. A Recreational Vehicle Park shall also require the following:

**9.41.2.4.1** Site Plan must designate all areas in the park property which are in a flood way and flood plain. No Recreational Vehicles are allowed in the floodway of a property and no entrances, exits or park roads may exist in the floodway.

**9.41.2.4.2.** Evacuation routes shall be constructed in a way that allows vehicles to exit the park outside of the flood zone unless no practicable alternative exists.

**9.41.2.4.3.** Warning signs must be placed at all entrances informing occupants of flood zone and where to find the Emergency Evacuation plan.

**9.41.2.5.** Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with stone screenings, or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

**9.41.2.6.** Surface drainage plans for the entire tract shall be reviewed by the UDO Administrator to determine whether the proposed plan is compatible with the surrounding existing drainage pattern and relevant drainage plans, prior to issuance of site plan approval and building permits.

### **9.41.3. Dimensional Requirements.**

**9.41.3.1.** Minimum density shall be limited to 15 campsites per net acre, excluding public areas, rights-of-way, watercourses, and other areas as may be set forth.

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**9.41.3.2.** In no case shall any campsite contain less than 1,500 square feet. To the greatest extent possible, campsites shall be developed to preserve their natural character. Campsites shall be level and well-drained.

**9.41.3.3.** Recreational vehicles shall be separated from each other and from other structures within the campground/RV park by at least 10 feet. Any accessory structures such as non-attached awnings, carports, etc., for the purpose of this separation requirement, shall be considered part of the recreational vehicle. Individual storage facilities shall be at least 5 feet from all side and rear space lines. They may not be placed within the front required setback.

**9.41.3.4.** Recreational vehicle sites and off-street parking spaces shall not be within the setback areas required for main buildings or principal structures.

**9.41.3.5.** Setback areas for recreational vehicle sites shall contain natural vegetation or be landscaped and shall be used for no other purposes.

**9.41.3.6.** The minimum setback of any building, structure, or recreational vehicle site from a public road right-of-way shall be the same as that required for Article 9, Part VI, Subdivision Regulations.

**9.41.3.7.** The minimum setback from any private, interior road shall be 20 feet from the edge of gravel or pavement.

**9.41.3.8.** The minimum exterior side property line setback, when abutting residential property, shall be 50 feet. In all other cases, the exterior side property line setback shall be at least 20 feet.

**9.41.3.9.** The minimum exterior rear property line setback, when abutting residential property, shall be 50 feet. In all other cases, the exterior rear property line setback shall be at least 30 feet.

### ***9.41.4. Access and Road Requirements.***

**9.41.4.1.** Entrance driveways shall be located not closer than 150 feet from the intersection of public roads.

**9.41.4.2.** Interior access roads not proposed for public dedication shall conform to the construction standards for subdivision roads of NCDOT. However, requirements for minimum rights-of-way and paving widths shall not apply. Plans and profiles shall be submitted for review and approval. In no case shall the road or parking width be less than 10 feet.

## **ARTICLE 9. PERFORMANCE STANDARDS**

**9.41.4.3.** Entrances and exits to campgrounds/RV parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic into and out of the park. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended. Radii of curbs and pavements at intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached. No impediment to visibility shall be created or maintained which obscures the view of an approaching driver in the right lane of the road within (a) 100 feet where the speed limit is 45 mph or (b) within 150 feet where the speed limit is over 45 mph or any portion of the approach lane of the access way within 25 feet of its intersection with the right hand of the lane.

### **9.41.5. Parking Requirements.**

**9.41.5.1.** There shall be at least three (3) off-street parking spaces designated in a campground/RV park for each two (2) campsites. At least one (1) space must be provided on each campsite with any residual spaces provided within the parks perimeter.

**9.41.5.2.** Each campsite shall contain a stabilized vehicular parking pad of gravel or pavement.

### **9.41.6. Utility Requirements.**

All Recreational Vehicle Parks shall have approved water and sewer connections.

**9.41.6.1.** Proposals for any on-site water and sewer facilities, dumping stations, and common toilets and restrooms, laundries, and baths shall have the approval and be subject to the requirements of the Caswell County Health Department. All community water facility proposals shall be approved and be subject to the requirements of the Caswell County Health Department.

**9.41.6.2.** All water supply facilities shall have the approval of the Caswell County Health Department and/or NC Division of Health Services. All sewer facilities improvements shall have the approval of the Caswell County Health Department and the NC Division of Environmental Management.

**9.41.6.3.** All water and sewer improvements within the campground/RV park shall comply with the NC Building Code for Plumbing.

### **9.41.7. Landscaping Requirements.**

Where campgrounds/RV parks abut a residential area, a permanent buffer yard of at least 50 feet shall be established with adequate restrictive covenants to prohibit development within the buffer yard. A natural year-round screen shall be planted, which at maturity, shall reach a minimum height of at least 8 feet. Such screening shall complement the adjacent environment.

## **ARTICLE 9. PERFORMANCE STANDARDS**

### ***9.41.8. Recreational Space Requirements.***

A minimum of eight (8) percent of the gross site area of the campground/RV park shall be set aside and developed as common use areas for open or enclosed recreation facilities.

### ***9.41.9. Nonconforming Recreational Vehicle Parks.***

Any park that was established before the adoption of this Ordinance shall be grandfathered and must comply with Article 7, Nonconforming Situations. If in the future any pre-existing Recreational Vehicle Park chooses to increase the current size of their park they will no longer be grandfathered and will have to conform to all requirements in this Ordinance.

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### **SECTION 9.42 INDIVIDUAL RESIDENTIAL USES.**

**9.42.1.** Recreational vehicles on residential lots shall:

**9.42.1.1.** Only be allowed on a parcel of land for up to 180 consecutive days. A temporary placement permit must be permitted once every 365 days for a single parcel of land. If an RV remains occupied on a parcel of land for more than 180 consecutive days, or is situated to be used as a permanent residence, then the temporary placement permit shall be revoked and not issued again for a period of 365 days.

**9.42.1.2.** Be fully licensed and ready for highway use.

**9.42.2.** A recreational vehicle is ready for highway use if it is on wheels or a jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions.

**9.42.3.** Recreational vehicles not connected to a power source shall not conform to the requirements of this Ordinance.

**9.42.4. Utility Requirements.** Recreational vehicles allowed pursuant to this section shall have approval of the Caswell County Environmental Health Department.



# ARTICLE 9. PERFORMANCE STANDARDS

## PART VI. SUBDIVISION REGULATIONS

### **SECTION 9.43 PURPOSE.**

The purpose of this section is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of Caswell County. It is further designed to provide for the orderly growth and development of Caswell County; for the coordination of roads and highways within proposed subdivisions with existing or planned roads and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for road and utility purposes; and for the distribution of population and traffic in a manner that will create conditions essential to public health, safety, and the general welfare. These regulations are designed to further facilitate adequate provision for water, sewerage, parks, schools, and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

### **SECTION 9.44 APPLICATION OF REGULATIONS.**

**9.44.1.** These regulations are applicable to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions, for the purpose, whether immediate or future, of sale, transfer or building development, and shall include all divisions of land involving the dedication of a new road or a change in existing roads.

**9.44.2.** No lot or plat (except as provided by Section 9.45 below) within Caswell County's subdivision jurisdiction shall be transferred, nor shall a plat or record thereof be recorded by the county Register of Deeds until a final plat of the subdivision has been submitted to and approved by the Planning Board or UDO Administrator (see Article 8). Such approval shall be indicated on the face of the plat and signed by the Chairman of the Planning Board, his authorized representative, or the UDO Administrator (Section 9.62.1, 9.62.2, or 9.62.7, whichever applies).

**9.44.3.** The Register of Deeds shall not file a plat or record of subdivision of land within the county's jurisdiction that has not been approved as required above, or that is not a certified exemption as noted in Section 9.45 following.

### **SECTION 9.45 EXCEPTIONS.**

**9.45.1.** The following shall not be included nor be subject to the regulations prescribed by this section.

**9.45.1.1.** The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as described herein;

## **ARTICLE 9. PERFORMANCE STANDARDS**

**9.45.1.2.** The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;

**9.45.1.3.** The public acquisition by purchase of strips of land for the widening or opening of roads;

**9.45.1.4.** 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, where no road right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of this section.

**9.45.1.5.** The division of property among heirs for the sole purpose of settling an estate. A copy of the recorded last will and testament or attorney certification as to estate property ownership must be provided to the UDO Administrator prior to approval of any family heir subdivision. Subsequent subdivisions of a parcel which was subdivided as estate property must fully comply with this Ordinance.

**9.45.1.6.** The division of a parcel into a cemetery and grave sites.

**9.45.1.7.** A parcel of land, which was platted or deeded prior to the adoption of this Ordinance, recorded in Clerk's Office or Register of Deeds, provided no change is made to the existing parcel.

**9.45.2.** Survey plats of subdivisions not subject to the provisions of this Ordinance may be recorded provided that the plats meet the standards set forth in Section 9.55, Final plat requirements, and the UDO Administrator shall sign a Certificate of Exemption (Section 9.62.1). The owner shall present such certificate to the register of deeds as proof that one of the conditions of exception noted above is present.

### **SECTION 9.46 PLAT APPROVAL NOT TO CONSTITUTE ACCEPTANCE OF PUBLIC UTILITY.**

The approval of a plat pursuant to this Ordinance shall not be deemed to constitute or affect the acceptance by the County or the public of the dedication of ground, public utility line or other public facility shown on the plat.

### **SECTION 9.47 APPROVAL REQUIRED FOR BUILDING PERMIT.**

No building permit shall be issued for the erection of any building on any lot within a subdivision unless a final plat of such subdivision has been approved as required by this Ordinance or a subdivision is exempted by this Ordinance.

## **ARTICLE 9. PERFORMANCE STANDARDS**

### **SECTION 9.48 SUBDIVISION VARIANCE.**

**9.48.1.** The Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance.

**9.48.2.** In granting any variance, the Board shall hold a quasi-judicial public hearing. The Board shall take into account the nature of the proposed subdivision, the existing use of land in the vicinity, the existing environmental conditions, 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.

**9.48.3.** When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

**9.48.3.1.** Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

**9.48.3.2.** 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.

**9.48.3.3.** The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

**9.48.3.4.** The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

**9.48.4.** Any variance authorized by this section is required to be entered in writing in the minutes of the meeting of the Board of Adjustment and recorded on the final plat in the Office of the Register of Deeds of Caswell County.

**9.48.5.** Board of Adjustment decisions pertaining to subdivision variances may be appealed to Superior Court per NCGS 160D, Article 14.

## **ARTICLE 9. PERFORMANCE STANDARDS**

### **SECTION 9.49 APPEALS.**

Appeals from decisions of the UDO Administrator shall be taken to the Board of Adjustment in accordance with Section 4.2. Appeals from the administrative decisions of the Planning Board shall be taken to the Board of Adjustment in accordance with Section 4.2. Appeals from the quasi-judicial decisions of the Planning Board shall be taken to the Court of Record as provided by Law (see subsection 4.2.12.2.). Appeals shall be filed within thirty (30) days from the date of the respective order or decision is issued.

### **SECTION 9.50 AGGREGATION.**

Two or more subdivisions shall be aggregated and treated as a single subdivision under this Article when (1) they are determined to be part of a unified plan of development, (2) they are physically proximate to one another and (3) there is a reasonable closeness in time between the completion of some or all of one subdivision and the submission of an application for authorization of another subdivision which is indicative of a common developmental effect. Each of the criteria listed below is indicative of a unified plan of development. Whenever one or more are found to exist, the reviewing authority may, but is not required to, determine that two or more projects are part of a unified plan of development.

**9.50.1.** The same person has control of the developments;

**9.50.2.** The same person has ownership or a significant legal or equitable interest in the developments;

**9.50.3.** There is common management controlling the form of physical development or disposition of parcels of the development;

**9.50.4.** A master plan or series of plans or drawings exists covering the developments sought to be aggregated;

**9.50.5.** There is a voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments sought to be aggregated;

**9.50.6.** There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.

## **ARTICLE 9. PERFORMANCE STANDARDS**

### **SECTION 9.51 PRESALE OF LOTS.**

Pre-sale and pre-lease contracts are allowed only after a preliminary plat has been approved. The closing and final conveyance of lots subject to pre-sale and pre-lease contracts may not occur until after the final plat is approved and recorded. The buyer shall:

**9.51.1.** Be provided a copy of the preliminary plat at the time the contract is executed;

**9.51.2.** Be notified that no final plat has been approved;

**9.51.3.** Be advised that there is no guarantee that changes will not be made to the plat before final approval;

**9.51.4.** Be provided a copy of the final plat before final approval by the county; and

**9.51.5.** Be informed that the contract or lease may be terminated by the buyer/lessee if the final plat differs in any material way from the preliminary plat.

### **SECTION 9.52 VIOLATION OF SUBDIVISION REGULATIONS.**

**9.52.1.** It shall be a violation of this Ordinance, for any person who being the owner or the agent of the owner of any land located within the territorial jurisdiction of this Ordinance, to subdivide his land in violation of these regulations 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 the terms of these regulations and recorded in the Office of the Caswell County Register of Deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The County, through its attorney or other official designated by the Caswell County Board of Commissioners, may enjoin illegal subdivision, transfer or sale of land by action for injunction. Violators of these regulations shall not be guilty of a Class III misdemeanor nor subject to fine and/or imprisonment as provided by NCGS 14-4.

**9.52.2.** The violation of any provision of this Ordinance shall subject the offender to a civil penalty in accordance with Section 1.12.8.3. Violators shall be issued a written citation which shall be paid within ten (10) days. Each day's continuing violation of this Ordinance shall be a separate and distinct offense.

**9.52.3.** This section may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

## ARTICLE 9. PERFORMANCE STANDARDS

**9.52.4.** Nothing in this section shall be construed to limit the use of remedies available to the County. The County may seek to enforce this section by using any one, all, or a combination of remedies (see Section 1.12 of this Ordinance).

**9.52.5.** For the purpose of this section, a Deed of Trust shall not be considered a transfer or conveyance of real property.

### **SECTION 9.53 STATE PLATTING AND DISCLOSURE STATEMENT REQUIREMENT.**

All subdividers planning to sell lots not platted and recorded prior to October 1, 1975, are advised to consult NC General Statute 136-102.6, "Compliance of Subdivision Streets with Minimum Standards of the Board of Transportation," which requires that all new streets, whether public or private, and all changes in streets be platted. NC General Statute 136-102.6 also requires the subdivider to furnish to each lot purchaser a subdivision streets disclosure statement revealing the status of new streets, whether they are constructed to NC Department of Transportation standards, and who will bear maintenance responsibility for the streets.

### **SECTION 9.54 OTHER PLANS AND ORDINANCES.**

Proposed subdivisions must comply in all respects with the requirements of any ordinance in effect in the area to be subdivided, and any officially adopted plans. Where conflicts exist between this and any other plan or ordinance, the more restrictive regulation shall govern.

### **SECTION 9.55 INFORMATION TO BE PROVIDED ON SKETCH PLANS, PRELIMINARY PLATS, AND FINAL PLATS.**

The sketch plan, preliminary plat, and final plats shall depict or contain the information indicated in the following table. An X indicates that the information is required.

<i><b>Information</b></i>	<i><b>Sketch Plan</b></i>	<i><b>Preliminary Plat</b></i>	<i><b>Final Plat</b></i>
Proposed name of subdivision	X	X	X
Boundary of the tract or portion of the tract to be subdivided	X	X	X
Total acreage of the tract or the portion to be subdivided	X	X	X
Existing uses of the land within the tract to be subdivided	X		
Proposed lot and road layout	X	X	X
Remaining acreage in the parent tract, if any	X	X	X
Total acreage of each lot including easements		X	X
Total acreage of each lot included in the right-of-way roads and access easements		X	X
Total net acreage of each lot		X	X

## ARTICLE 9. PERFORMANCE STANDARDS

<i><b>Information</b></i>	<i><b>Sketch Plan</b></i>	<i><b>Preliminary Plat</b></i>	<i><b>Final Plat</b></i>
Total acreage in parks, common areas, open spaces, trails, etc., and other nonresidential areas		X	X
Total number of lots each having been numbered consecutively		X	X
Name, address, and telephone number of the owner of the tract to be subdivided	X	X	X
Name, address, and telephone number of the developer if different from the owner	X		
Names of any proposed roads	X		
Vicinity map showing the relationship between the proposed subdivision and the surrounding area		X	X
North arrow		X	X
Scale denoted both graphically and numerically		X	X
Date of plat preparation		X	X
Tax map/parcel number of the parent tract and the name of the township, county, and state in which the subdivision is located		X	X
Name, address, and telephone number of the registered surveyor(s), land planner(s), architect(s), landscape architect(s), and professional engineer(s) who contributed to the development of the subdivision plan		X	X
The name, location, and designation (private or public) of any proposed or existing roads, easements, and/or right-of-ways. All lots fronting on private roads shall be surveyed to the centerline of the road. All lots fronting on public roads shall be surveyed to the right-of-way		X	X
The approximate location, size, and description of any existing natural or manmade features such as but not limited to: lakes, ponds, streams, wetland areas, flood zones, utility or natural gas pipelines, bridges, rail facilities, communication towers, airport overlay zones, historic sites, grave sites, etc.		X	X
The approximate location, size, and description of any proposed features such as but not limited to: trails (equestrian, pedestrian, or bicycle), parks, recreation areas, designated open space areas, drainage easements, erosion control devices, culverts, storm drains, utility easements, etc.		X	X
All required setbacks and buffers delineated and labeled on the plat or described in notes or tables conspicuously placed on the plat		X	X
Names, Deed Book, and Map Book references of adjoining properties and any adjoining divisions of record (or proposed and under review)		X	X
Name and location of any property within the proposed subdivision that is listed on the National Register of Historic Places		X	X
Name and location of any property designated by local ordinance as a "Historic Property" or as a "Historic District" pursuant to NCGS 160D, Article 9, Part 4		X	X

## ARTICLE 9. PERFORMANCE STANDARDS

<i>Information</i>	<i>Sketch Plan</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Name and location of any property identified in the publication on Historic Architecture of Caswell County, NC, published by the NC Division of Archives and History		X	X
Any other information required by Article 10, Part II of this Ordinance (watershed protection regulations)		X	X
Any other information considered by the UDO Administrator, Developer, or the Planning Board to be pertinent to the review of the preliminary plat		X	X
All engineering data for road construction design including but not limited to vertical and horizontal curves, corners, grade, typical cross-section, etc.			X
All engineered data for soil erosion control design and a copy of approval from NCDENR			X

### **SECTION 9.56 GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN.**

#### ***9.56.1. Suitability of Land.***

Land subject to flooding, improper drainage, erosion or that is for topographical or other reasons unsuitable for residential use shall be identified and shown on the plat.

#### ***9.56.2. Prevention of Flood Damage.***

***9.56.2.1.*** All lands located within flood hazard areas as shown on the most recent Flood Insurance Rate Maps (FIRMs) or Flood Hazard Boundary Maps (FHBM) as published by the Federal Emergency Management Agency (FEMA) and adopted into the Caswell County Flood Damage Prevention Regulations (Article 10, Part I) shall be delineated and labeled on all preliminary and final subdivision plats if such areas exist within or adjoining the proposed subdivision.

***9.56.2.2.*** No subdivision plat of land drawn after the effective date of adoption of this Ordinance shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this section. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this section.

***9.56.2.3.*** All subdivision plats that show flood hazard areas as required in subsection 9.56.2.1 above shall have affixed to them a certificate of compliance to the Flood Damage Prevention Regulations (Section 9.62.10).



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**9.56.2.4.** No building permit or other permits shall be issued for the erection, demolition, alteration or expansion of a structure located within a designated flood hazard zone until a certificate of compliance with the Caswell County Flood Damage Prevention Regulations (Article 10, Part I) has been issued by the UDO Administrator.

**9.56.3. Fill Areas.**

Areas that have been used for the commercial disposal of solid waste shall not be subdivided into commercial or residential building sites. This shall include those areas that have been used for the disposal of trash, and other waste materials.

**9.56.4. Name of Subdivision.**

The name of a subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Caswell County.

**9.56.5. Historic Properties and Natural Assets.**

**9.56.5.1.** In any subdivision, due consideration will be given to safeguard the heritage of Caswell County by preserving any archaeological site or any property therein that embodies important elements of its cultural, social, economic, political or architectural history and likewise all due consideration should be given to promoting the use and conservation of such property for the education, pleasure and enrichment of the residents of Caswell County and the State of North Carolina as a whole.

**9.56.5.2.** It is a requirement of this Ordinance that the name and location of all historic properties, located within the proposed subdivision be clearly identified on both the preliminary and final plats. If any such historic property that is listed on the US Department of Interior's National Register of Historic Places; likewise any property that has been designated by local ordinances as "Historic Property" pursuant to NC General Statute Chapter 160D, Article 9, Part 4, likewise any property that has been designated by local ordinance as a "Historic District", pursuant to N. C. General Statute Chapter 160D-944; the Planning Board may provide that the following agencies be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved.

**9.56.5.2.1.** The NC Department of Cultural Resources, Division of Archives and History; or

**9.56.5.2.2.** Any local Historic Preservation Commission appointed under the provisions of NC General Statute 160D-941.

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Furthermore, in any subdivision, due consideration will be given to preserving natural features such as trees, ponds, streams, rivers, lakes which are of value not only to the subdivision, but to Caswell County as a whole.

### ***9.56.6. Sedimentation and Pollution Control.***

In order to prevent soil erosion and sedimentation pollution of streams, springs, flat-water bodies, or other drainage networks, the subdivider shall comply with all requirements of the "North Carolina Soil Erosion and Sedimentation Control Act." Developers disturbing more than one acre of land shall file with the Regional Engineer of the Land Quality Section, NC Department of Environment and Natural Resources, a Sedimentation and Erosion Control Plan. The approved plan shall be filed before any grading occurs in the proposed subdivision.

### ***9.56.7. Storm Water Drainage.***

***9.56.7.1.*** The subdivider shall provide an adequate drainage system for the drainage of all surface water. The design of such a system shall be subject to the approval of the Planning Board and/or the UDO Administrator.

***9.56.7.2.*** No surface water shall be channeled or directed into a sanitary sewer.

***9.56.7.3.*** Surface drainage courses shall have side slopes of 3:1 (3 horizontal, 1 vertical).

***9.56.7.4.*** The minimum grade along the bottom of the longitudinal grade or slope of a surface drainage course shall be a vertical fall of at least one (1) foot in each three hundred (300) feet of horizontal distance.

### ***9.56.8. Buffer Strips - Perennial Waters (Not Within a Watershed).***

A subdivision, including within its boundaries perennial lakes, ponds and streams, shall provide for a fifty (50) foot wide buffer of vegetation surrounding lakes and ponds and on both sides of the stream as required by State regulations to retard rapid water runoff and soil erosion. Perennial lakes, ponds and streams are identified as the solid blue lines on United States Geological Survey Maps. Where a perennial stream is piped on site (with all required approvals from any federal, state or local agencies), then the buffer will not be required.

Roads, roadways, railroads, and driveways are permitted in the buffer, but shall be constructed to cross the buffer as near to perpendicular as possible. Utility lines, greenways and greenway type recreation facilities are permitted within the buffer but shall be designed to have minimal impact. If the vegetative cover must be removed or disturbed, it shall be restored as soon as possible.

The buffer shall be measured on a horizontal plane from the bank of the stream. All buffer zones shall be indicated on all plats.

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### **9.56.9. Watershed Buffer Areas.**

A minimum thirty (30) foot undisturbed buffer, and an additional fifty (50) foot vegetative buffer for development activities is required along perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps. The buffer shall be measured from the edge of the bank on each side of the perennial streams or rivers. Agriculture and forestry activities are exempt from these requirements. Golf courses do not have to have a thirty (30) foot undisturbed buffer, but the fifty (50) foot vegetative buffer requirement shall apply to them.

The following disturbances of vegetation, and no other, is permitted in undisturbed buffers:

**9.56.9.1.** Running approved utility lines (e.g., gas, electric, cable) under basically perpendicular to streams; and

**9.56.9.2.** Cutting or removing diseased or damaged trees.

**9.56.9.3.** No other disturbances, including the application of fertilizer or chemical, shall be allowed in this area.

The following restrictions shall apply in the fifty (50) foot vegetative buffer: No fertilizers or chemicals shall be applied, except to encourage re-growth in areas that may have been disturbed.

### **9.56.10. Coordination and Continuation of Roads.**

The proposed layout within a subdivision shall be coordinated with the existing road system of the surrounding area and where possible, existing principal roads shall be extended. Where, in the opinion of the Planning Board it is necessary to provide for access to an adjoining property, proposed roads shall be extended by dedication to the boundary of such property and a temporary turn-around shall be provided.

### **9.56.11. Public and Private Roads and Nuisance Strips.**

**9.56.11.1.** In subdivisions where new gravel roads provide access to nine (9) or fewer lots, Class III Minor Subdivisions and Major Subdivisions, Private Roads will be allowed provided that:

**9.56.11.1.1.** The new road connects directly to a public road currently accepted for maintenance by the North Carolina Division of Highways.

**9.56.11.1.2.** The right-of-way for the new road is a minimum of fifty (50) feet.

**9.56.11.1.3.** The new road must conform with the current minimum North Carolina Division of Highway Minimum Construction Standards for Subdivision

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Roads, except that pavement surfacing may be omitted and the depth of the gravel surface may be reduced to six (6) inches of compacted gravel. Developers who wish to voluntarily pave said private roads may do so provided that they follow the requirements for private paved roads set forth in Section 9.56.11.3.

**9.56.11.1.4.** Developers who wish to voluntarily pave said private roads may do so provided that they follow the requirements for private paved roads and be certified as to meeting the minimum standards by a North Carolina licensed Surveyor or Civil Engineer set forth in Section 9.56.11.3.

**9.56.11.1.5.** In subdivisions containing nine (9) lots, no new lots shall be created until all roads in it are upgraded to conform with the standards of Section 9.56.11.3.

**9.56.11.1.6.** The UDO Administrator and/or his representative shall inspect all private gravel road construction for compliance with the minimum standards for private road construction. The UDO Administrator may recommend and the Caswell County Board of Commissioners may employ a consulting engineer to assist with the inspection of roads. Private paved roads shall be certified by a North Carolina licensed Civil Engineer as to meeting the minimum standards for Private Paved roads (see Section 9.56.11.3).

**9.56.11.1.7. Maintenance.** The subdivider shall be responsible for the maintenance of said Private roads until such time as all approved lots have been sold.

**9.56.11.1.7.1.** The subdivider shall present a plan for the formation of a non-profit corporation or association of lot owners which includes proper agreements and covenants running with the land for the maintenance and repair of proposed roads to become effective after all of the approved lots are sold and the subdivider transfers the ownership maintenance responsibility to the non-profit corporation or association or to the NC Department of Transportation.

**9.56.11.1.7.1.1.** Covenants shall provide that charges and costs for maintenance and repair shall constitute a pro rata lien upon individual lots of the subdivision, second only to taxes and any bona fide, duly recorded first trust lien on each lot.

**9.56.11.1.7.1.2.** Recordation of said plan with the final plat is a mandatory condition for approval under this paragraph.

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**9.56.11.1.7.1.3.** The plan, through its agreements and covenants, shall provide for assessments against property owners for the costs of maintenance and repair of the roads, with the assessments constituting a lien upon individual lots of the subdivision on a pro rata basis. Such a lien hereunder will be a valid lien on the property so affected from time of recordation of a notice of the lien in the office of the Register of Deeds, indexed in the Grantor index under the name of the owner(s) of the property to which the lien attaches, and in the Grantee index under the name of the non-profit corporation or landowner's association, as appropriate.

**9.56.11.1.7.1.4.** The notice of lien shall (1) indicate the owner(s) of the property affected thereby; (2) indicate the name of the non-profit corporation or landowner's association; (3) describe the property to which the lien attaches; (4) state that the lien is pursuant to this section of the Subdivision Regulations for Caswell County, North Carolina; and (5) include other information as may be necessary for clarity and compliance hereunder.

**9.56.11.1.7.1.5.** The notice of lien shall be canceled by a marginal entry on the face thereof, when satisfaction of the amount due under the lien has been made.

**9.56.11.7.1.6.** This cancellation shall be made by the President, or other officer, of the non-profit corporation or landowner's association so designated and authorized by the governing instrument of the organization.

**9.56.11.1.7.1.7.** The Register of Deeds is authorized to note such cancellation by a marginal entry upon exhibition of the original notice of lien properly canceled by the appropriate officer as above stated, or by other proper documentation presented by the non-profit corporation or landowners association.

**9.56.11.1.7.** Nuisance strips shall be prohibited.

**9.56.11.1.8.** Private roads are permitted to be built across pond and lake dams provided a duly licensed North Carolina Civil Engineer certifies that said roads meet the minimum design criteria set forth in this Ordinance for Private Roads and that said dam crossing meets all applicable safety standards for dam crossings.

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**9.56.11.2.** In Minor Subdivisions utilizing the Family Option, Class II Minor Subdivision, and serving six (6) lots or less, private roads will be allowed only under the following conditions:

**9.56.11.2.1.** The new road connects directly to a public road currently accepted for maintenance by the North Carolina Division of Highways.

**9.56.11.2.2.** The right-of-way for the new road is a minimum of thirty (30) feet and shall include a typical 10' x 70' sight triangle design at the intersection of the State Road if possible.

**9.56.11.2.3.** The travel surface be a minimum of sixteen (16) feet wide and be comprised of a minimum of four (4) inches of compacted gravel upon a compacted base of some suitable material such as sand rock, clay, gravel, synthetic fabric or other material approved by the Administrator and/or his agent. The UDO Administrator may require that turnouts be provided to facilitate access for Emergency Service Vehicles.

**9.56.11.2.4.** The road shall end with a cul-de-sac turn around having a travel surface radius of no less than fifty (50) feet or a T shaped turn around having a travel surface width of sixteen (16) feet and a minimum length of fifty (50) feet on each side of the centerline of the intersecting road.

**9.56.11.2.5.** The road shall contain adequate drainage to assure that the travel surface, base and drainage ditches are not compromised by storm waters.

**9.56.11.2.6.** The UDO Administrator and/or his representative shall inspect said roads for compliance with these standards. The UDO Administrator may recommend and the Caswell County Board of Commissioners may employ a consulting engineer to assist with the inspection of roads.

**9.56.11.2.7.** Private roads are permitted to be built across pond and lake dams provided a duly licensed North Carolina Civil Engineer certifies that said roads meet the minimum design criteria set forth in this Ordinance for Private Roads and that said dam crossing meets all applicable safety standards for dam crossings.

**9.56.11.3.** In subdivisions where new roads provide access to ten (10) or more lots, paved Public or Private Roads shall be required as follows:

**9.56.11.3.1.** A certificate shall be provided by a duly certified professional Civil Engineer stating that all private paved roads meet the minimum standards of design as established by the North Carolina Department of Transportation Division of Highways (hereinafter "state standards"); or that all Public paved roads be

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certified by the North Carolina Department of Transportation Division of Highways stating that such roads meet the minimum standards of design for being maintained by the North Carolina Department of Transportation Division of Highways ("state standards").

**9.56.11.3.2.** Paving requirements may be postponed until 51% of the approved lots are sold or until such time as the road is presented to NCDOT for acceptance into the State Maintenance System provided a bond or other form of approved guarantee is posted by the developer for road paving costs before final approval is granted to the plans (see Section 8.7.4.7, Performance Guarantees).

**9.56.11.3.3.** Nuisance strips shall be prohibited.

**9.56.11.3.4.** All roads in the subdivision shall have at least fifty (50) foot right-of-way.

**9.56.11.3.5.** Subdivisions for which plats had been recorded or preliminary plats had been approved prior to the date of adoption of this amendment may continue to observe requirements in place prior to such date in lieu of these requirements, if the intent for future of phased development was clearly set forth on such plats.

**9.56.11.4.** In Class I subdivisions, subdivisions containing up to two lots, the following road standards shall apply:

**9.56.11.4.1.** Subdivisions under this regulation may be accessed by an easement(s). Said easement(s) shall give the lot(s) direct access to a state maintained road, shall be not less than twenty (20) feet in width, and shall serve no more than two lots.

**9.56.11.4.2.** Should any additional divisions be requested during a twelve (12) month period following the two lot subdivision the subdivision regulations for a Class III Minor Subdivision shall apply.

**9.56.12. Subdivision Road Disclosure Statement - Public or Private Road Designation.**

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 Road Disclosure Statement (hereinafter referred to as Disclosure Statement).

Said Disclosure Statement shall fully and completely disclose the status (whether public or private) of the street upon which the house or lot fronts.

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If the road is designated by the developer and seller as a public road, 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 road has been or will be constructed by the developer and seller in accordance with the standards for subdivision streets adopted by the Secondary Roads Council for acceptance on the Highway System.

If the road is designated by the developer and seller as a private road, 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 such 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.

### ***9.56.13. Marginal Access Roads.***

Where a tract of land to be subdivided adjoins a principal arterial road, the subdivider may be required to provide a marginal access road parallel to the arterial road or reverse frontage of a minor road 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 expressway.

### ***9.56.14. Road Names.***

Proposed roads that are obviously in alignment with existing roads shall be given the same name. 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, etc. road names shall be subject to the approval of the E-911 director.

### ***9.56.15. Collector and Minor Road.***

Collector and minor roads shall be so laid out that their use by through traffic will be discouraged. Roads shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, and other places of public assembly.

### ***9.56.16. Large Tracts or Parcels.***

Where land is subdivided into parcels greater than ten (10) acres or more in area, such parcels shall be arranged to allow for the opening of future roads and logical further re-subdivision.

### ***9.56.17. Design Standards for Roads.***



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### ***9.56.17.1. Public Roads.***

***9.56.17.1.1.*** The design of all public roads within Caswell County shall conform to the minimum standards set forth in the most recent edition of Minimum Construction Standard of Subdivision Roads as published by the NC Department of Transportation, Division of Highways.

***9.56.17.1.2.*** A certificate of approval from the District Engineer, NCDOT, shall be received prior to final plat approval.

***9.56.17.1.3.*** All property lines on lots served by public roads shall be surveyed to the edge of the right-of-way.

***9.56.17.2. Private Roads.*** Gravel Private Roads in Minor Subdivisions must conform to the same design standards as Public Roads, except that pavement surfacing may be omitted and the depth of the gravel surface may be reduced to six (6) inches of compacted gravel and;

***9.56.17.2.1.*** Gravel Private Roads shall be approved by the UDO Administrator and/or representative for compliance. The UDO Administrator may recommend and the Caswell County Board of Commissioners may employ a consulting engineer to assist with the inspection of roads.

***9.56.17.2.2.*** Gravel Private Roads in Minor Subdivisions created under the Family Option shall comply with standards for Class II Minor Subdivisions (refer to definition in Appendix A, page A-34). Gravel Private Roads shall be approved by the UDO Administrator for compliance. The UDO Administrator may recommend and the Caswell County Board of Commissioners may employ a consulting engineer to assist with the inspection of roads.

***9.56.17.2.3.*** Paved Private Roads must conform to the same design standards as Public Roads. A certificate shall be provided by a duly certified professional Civil Engineer stating that all Private Paved roads meet the minimum standards of design as established by the North Carolina Department of Transportation Division of Highways.

***9.56.17.2.4.*** Where the number of lots in a subdivision is to be increased, developers and property owners must comply with the applicable provisions of Section 9.56.11, as amended.

***9.56.17.2.5.*** Property lines of all lots served by a Private Road shall be surveyed to the center of the road.

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**9.56.17.3. Watershed Areas.** In addition to the requirements set forth in Section 9.56.11, roads located in watershed areas must conform to the standards set forth in Section 9.58 of this Ordinance.

**9.56.17.4. Cluster Subdivisions.** In addition to the requirements set forth in this section, roads located in cluster subdivisions must conform to the standards set forth in Section 9.56.24 of this Ordinance.

**9.56.18. Design Standards for Blocks.**

The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the types of use contemplated; needs for vehicular and pedestrian circulation, control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

**9.56.18.1. Block Length.** Blocks shall not be less than four hundred (400) feet nor more than thirteen hundred twenty (1,320) feet in length.

**9.56.18.2. Block Width.** Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use, or when abutting a water area or the edge of the subdivision.

**9.56.18.3. Pedestrian Crosswalks.** Where deemed necessary by the Planning Board, a pedestrian crosswalk at least fifteen (15) feet in width may be required to provide convenient public access to a public area such as a park or school or to a water area such as a stream, river, or lake.

**9.56.19. Design Standards for Lots.**

**9.56.19.1.** The lot size, width, depth, shape and orientation, and the minimum housing setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

**9.56.19.2.** Lots laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated as determined by the Planning Board.

**9.56.19.3.** Lots for residential and commercial use shall comply with all of the following requirements, except where these lots are located within a designated watershed. Lots located within watersheds must conform to all of the following standards except those listed in Section 9.56.19.3.1 (Lot Area). The minimum requirements for lot size or area

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for subdivisions within watersheds shall conform to the minimum size standards established by the Watershed Protection Regulations (Article 10, Part II) for Caswell County. Such lots are also subject to the provisions of Section 9.58 of this Ordinance.

### ***9.56.19.3.1. Lot Area.***

***9.56.19.3.1.1.*** Lots served by both public water and public sewer shall have an area of at least eight thousand (8,000) square feet.

***9.56.19.3.1.2.*** Lots served by public sewer but not public water shall have an area of at least ten thousand (10,000) square feet.

***9.56.19.3.1.3.*** Lots served either by a public water system or an off-site septic system outside of watershed areas (defined in item 9.56.19.3.1.4 below) shall have an area of at least thirty-thousand (30,000) sq. ft. of usable land as (defined by Title 15A subchapter 18A.1901-.1968 of the North Carolina Administrative Code) for a single-family dwelling. Lots serving multi-family dwellings shall have an additional twenty-thousand (20,000) square feet of usable land (defined by Title 15A subchapter 18A.1901-.1968 of the North Carolina Administrative Code) for the second dwelling unit and for each dwelling unit thereafter. Each Subdivision proposal that includes lots less than 1 acre must be submitted to Environmental Health for approval. For Major Subdivisions with lots less than 1 acre a licensed engineer shall design all off-site septic systems. This requirement shall be increased on the recommendation of the Health Department based on soil and site evaluations. Signature of approval must be included on all survey plats using this option.

***9.56.19.3.1.4.*** Lots served by a septic tank system and located on a watershed of a Class I or II reservoir or on the watershed of a portion of a Class A-II stream extended from a Class I reservoir to a downstream intake to a water purification plant shall contain at least one (1) acre of area and be suitable for a septic tank system location and operation. The location and extent of these watersheds is determined by the NC Department of Environment, Health and Natural Resources.

***9.56.19.3.1.5.*** Lots served by neither public water nor public sewer shall have an area of at least 1 acre (43,560 square feet) of usable land (defined by Title 15A Subchapter 18A .1901-.1968) for a single family dwelling; lots serving multifamily dwellings shall have an additional thirty-thousand (30,000) square feet of usable land (defined by Title 15A Subchapter 18A .1901-.1968) for the second dwelling unit and for each dwelling unit

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thereafter. These requirements shall be increased on the recommendations of the Health Department based on soil and site evaluations.

**9.56.19.3.1.6.** Lots serving businesses shall meet the same minimum area requirements as residential lots. These requirements shall be increased on the recommendation of the Health Department based on soil and site evaluations.

**9.56.19.3.2. Lot Width.** All lots shall have a minimum width at the building line of one hundred and twenty-five (125) feet and minimum width at the road line of fifty (50) feet, unless located on a cul-de-sac, in which case the minimum width at the road line shall be thirty-five (35) feet measured on the chord. Corner lots shall have an extra width of ten (10) feet to permit adequate setback from side roads.

**9.56.19.3.3. Lot Depth.** All lots served by public utilities shall have an average depth of at least one hundred (100) feet. Single-tier lots shall have an average depth of at least one-hundred twenty-five (125) feet. Greater lot depth is required as follows:

**9.56.19.3.3.1.** Lots served by neither public water or sewer shall have an average depth of at least one hundred fifty (150) feet.

**9.56.19.3.3.2.** Where an exclusive use easement is granted to the owner of a residential lot to allow road access from that lot, such easement must be at least twenty (20) feet in width, and may serve not more than one (1) lot.

**9.56.19.3.4. Building Setback Lines.** For zoned areas, refer to Section 5.5. For unzoned areas, the minimum building setback distance from property lines shall be as follows:

**9.56.19.3.4.1. Front Yard Setback.** Except in the Hyco Lake Zoning District, and as specified in Section 9.56.24, for state maintained roads, the setback shall be fifty (50) feet from right-of-way line of the access road or front property line, whichever is furthest from the street centerline. For private roads, the setback shall be sixty (60) feet from the centerline of the private street.

**9.56.19.3.4.2. Side Yard Setback.** Fifteen (15) feet.

**9.56.19.3.4.3. Side Yard Setback Corner Lot.** Twenty (20) feet.

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**9.56.19.3.4.4. Rear Yard Setback.** Twenty-five (25) feet.

**9.56.19.3.4.5.** Distance (horizontal) from the ordinary high water line of a stream, river or lake - fifty (50) feet except when within the boundaries of a watershed protection area, then the buffer setback shall conform to the minimum standards set forth in Article 10, Part II.

**9.56.19.3.5.** Only one (1) principle dwelling may be located on each defined lot area. A survey may be required to identify site area.

**9.56.19.3.6.** The maximum height of any structure shall be 45 feet.

### **9.56.20. Design Standards for Easements**

**9.56.20.1.** Utility easements for underground or above ground utilities shall be provided where necessary across lots or preferable, centered on rear or side lot lines and shall be at least ten (10) feet in width.

**9.56.20.2.** Drainage easements shall be provided where a subdivision is traversed by a stream or drainage way, such easement shall conform with the lines of the stream and be of sufficient width as will be adequate for the purpose.

### **9.56.21. Buffer Strips.**

A buffer strip at least ten (10) feet in width may be required by the Planning Board adjacent to a major road or a commercial or industrial development. This strip shall be in addition to the normally required lot dimension, shall be part of the platted lot, and shall be reserved for the planting of trees and shrubs by the owners.

### **9.56.22. Private Driveways.**

**9.56.22.1.** Private driveways connecting to public or private roads must drain away from the roadway. Drainage pipes, if necessary, shall be installed under any driveway that crosses a roadway ditch, and shall have a minimum inside dimension as required by NCDOT.

**9.56.22.2.** The Building Inspector shall inspect all properties for which a building permit is sought to ensure compliance with the requirement. No building permit shall be issued until this requirement has been complied with.

### **9.56.23. Clear Cutting.**

This section shall not apply to two-lot or family subdivisions. Refer to Section 2.12 for clear-cutting prior to development of a non-agricultural/forestry use.

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**9.56.23.1. Standard.** Properties shall not be clear-cut during the conduct of forestry activities. To maintain the visual character of the site from adjoining properties and right-of-way, a vegetated perimeter buffer shall be maintained while tree harvesting for forestry occurs.

**9.56.23.2. Penalties.** Site plans proposing development of properties that failed to maintain such a buffer during forestry activities may be denied for a period of three (3) years from the date of clearing or five (5) years, if the harvest was a willful violation of this Ordinance.

### **9.56.24. Cluster Development.**

**9.56.24.1. General Intent.** Clustering of residential lots is intended to encourage subdivision design that is more efficient and better suited to the natural features of the land than a conventional subdivision, by regulating lots based on lot density standards rather than minimum lot size standards and by requiring that part of the subdivision not devoted to lots and roads be set aside as usable open space. This allows smaller lots to be concentrated on those parts of the subdivision best suited to accommodate development with the least adverse impact. Clustering also allows smaller and less costly networks of roads and utilities and reduces the amount of impervious surface and storm water runoff. The open space provided by clustering can be used to conserve and protect significant natural areas and environmentally sensitive areas, and to preserve important historic resources.

**9.56.24.2. Minimum Subdivision Site Size.** Clustering of lots shall not be allowed on any tract of land less than ten (10) acres in size.

**9.56.24.3. Minimum Lot Size.** All lots shall be a minimum of 6,000 square feet of usable land (not to include any right-of-way or easements). For single-family or multi-family attached structures, there shall be no minimum lot area.

**9.56.24.4. Setback Requirements.** The minimum building setbacks for single-family detached dwellings area as follows:

- Front Yard on Subdivision Main Artery: 25 feet.
- Front Yard on Cul-De-Sac or Parking Lots: 10 feet.
- Rear Yard: 15 feet.
- Side Yard: 8 feet.

The minimum building setback for single-family attached dwellings or multi-family structures are as follows:

## ARTICLE 9. PERFORMANCE STANDARDS

- Front Yard: 25-foot minimum for single-family attached. Multi-family; 25-foot minimum for first story and 10 additional feet for each additional story.
- Rear Yard: 10 feet.
- Side Yard: Can be reduced to zero (0).
- All setbacks shall be shown on the plat.

**9.56.24.5. Accessory Structures.** Accessory structures are allowed only on lots of 20,000 square feet or more and only one structure per lot. All setbacks for accessory structures must be in compliance with Section 9.56.24.4.

**9.56.24.6. Minimum Road Design.** Roads may be designed to meet NCDOT specifications for subdivisions, Traditional Neighborhood Development Guidelines (TND) or to a lesser design approved by the County Commissioners. All roads are to be paved. The width of all travel ways, parking areas, and road base will be approved within the subdivision process and is required on the plat. All Cluster Development shall have access off a NCDOT Secondary Road, State or Federal Highway.

**9.56.24.7. Open Space.** Land within the subdivision site not contained in lots, streets, or utility easements, shall be in one or more parcels dedicated or reserved as permanent open space. The total area of parcels dedicated or reserved as permanent open space shall make up at least thirty (30) percent of the subdivision.

**9.56.24.7.1.** The open space shall be subject to a Conservation Easement conveyed to the homeowners= association setting aside the said open space from future development and, in areas subject to Watershed Protection Regulations, the said conservation easement shall limit use as it relates to water quality regulations. The title to the open space shall be conveyed to a property owner=s association, homeowners= association, or other legal entity (public agency or nonprofit organization) that is capable of and willing to accept responsibility for managing open space for its intended purpose.

**9.56.24.7.2.** Ownership of the Open Space is not restricted but any transfer of ownership of this property is subject to the conservation easement and any other conditions of the special use permit which created the Open Space.

**9.56.24.7.3.** The design of the open space shall consider protecting water quality, conserving farm and forest land, providing wildlife habitat and preserving the natural aesthetics of the area.

## **ARTICLE 9. PERFORMANCE STANDARDS**

**9.56.24.8. Utility Requirements.** All Cluster Developments shall have the approval of the Caswell County Environmental Health Department before any permits are obtained.

### **SECTION 9.57 INSTALLATION OF PERMANENT REFERENCE POINTS AND IMPROVEMENTS.**

#### ***9.57.1. Survey Procedures.***

Unless otherwise specified by this Ordinance, the Manual of Practice for Land Surveying as adopted by the NC State Board of Registration for Professional Engineers and Land Surveyors, under provisions of Section 16, Chapter 89 of the NC General Statute, shall apply when conducting surveys for subdivision; control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions. The Suburban Land Survey (Class B) criteria shall apply to all subdivisions in Caswell County except for commercial and industrial surveys.

#### ***9.57.2. Construction Procedures.***

**9.57.2.1.** No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been reviewed by the staff and all appropriate agencies and approved by the Planning Board.

**9.57.2.2.** No building, or other permits shall be issued for erection of a structure on any lot not on record at the time of adoption of this Ordinance until all the requirements of this Ordinance have been met.

**9.57.2.3.** The UDO Administrator shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Ordinance.

**9.57.2.4.** The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the UDO Administrator to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

#### ***9.57.3. Erosion Control.***

The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected to minimize erosion in compliance with the provisions of Section 9.56.6.

### **SECTION 9.58 PROPERTY SUBDIVIDED ALONG PREVIOUSLY EXISTING ROADS.**

#### ***9.58.1. Plat Required.***



## **ARTICLE 9. PERFORMANCE STANDARDS**

All lots will require a plat in accordance with this Ordinance.

### ***9.58.2. Ordinance Requirements.***

The tract to be divided or lots to be rearranged must meet lot size, building line set back, and all other requirements of this Ordinance.

### ***9.58.3. Road Maintenance Requirements.***

These roads will be maintained to provide year round access. A written disclosure including road status, maintenance requirements, and road width shall be recorded on the plat and with the deed so that the buyer will be fully aware that the road does not meet the subdivision requirements for the road.

### ***9.58.4. Notice of Failure to Comply with State Width Requirements.***

Previously existing roads that do not meet the State right-of-way width require the approval of the County Commissioners and the plat will require the signature of the Chairman of the Board. All efforts should be used by the developer to secure the state width right-of-way requirements as this will prevent this road from being accepted by the state at a later date.

## **SECTION 9.59 APPROVALS REQUIRED FOR WATER AND SEWER.**

### ***9.59.1. Water.***

Water supply systems with fifteen (15) or more connections serving twenty-five (25) or more residents are classified as public water supplies by State law, and plans and specifications must be approved by the Groundwater Section, Division of Environmental Management, NC Department of Environment and Natural Resources. For Cluster Development, refer to Section 9.56.24.8.

Water supply systems with up to fourteen (14) connections serving less than twenty-five (25) residents may be regulated by the County Board of Health, and plans shall be approved by the County Health Department. Individual private water supplies shall be located, constructed, and operated in accordance with ARules Governing Protection of Private Water Supplies, Bulletin No. 476, Section .1700 NC Administrative Code, Title 10, Chapter 10, Subchapter 10A, Sanitation.

### ***9.59.2. Sewer.***

Sewage treatment systems discharging into surface waters (rivers, streams) or onto the ground are permitted by the Water Quality Section, Division of Environmental Management, NC Department of Environment and Natural Resources. For Cluster Development, refer to Section 9.56.24.8.

## **ARTICLE 9. PERFORMANCE STANDARDS**

Subsurface sewage treatment systems may be either public or private. Public systems (approved by the NC Utilities Commission) are permitted by the Division of Environmental Management, NC DENR. Private systems (e.g., septic tanks) are permitted by the Environmental Health Services Section, Division of Environmental Health, NC DENR in accordance with "Laws and Regulations for Sanitary Sewage Collection Treatment and Disposal," Section 1900, NC Administrative Code, Title 10, Chapter 10, Subchapter 10A, Sanitation.

### **SECTION 9.60 WATERSHED REQUIREMENTS.**

#### ***9.60.1. General Provisions.***

No subdivision plat of land drawn after the effective date of this Ordinance which is located within a designated Public Water Supply Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this section. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this section.

#### ***9.60.2. Subdivision Application and Review Procedures.***

***9.60.2.1.*** All proposed subdivisions shall be reviewed by the Watershed Administrator before they are recorded with the Register of Deeds. Upon receipt of a subdivision application, the UDO Administrator shall forward a copy of the application and all supporting materials to the Watershed Administrator. If the Watershed Administrator determines that the subdivision is not located within a designated Public Water Supply Watershed, the subdivision shall not be subject to the provisions of this section and the Watershed Administrator shall sign the vicinity map so indicating. Subdivisions within designated watersheds shall comply with all of the provisions of this section and all other state and local requirements that may apply.

***9.60.2.2.*** The Watershed Administrator shall, within fifteen (15) days, review the completed application for conformance to the provision of this section. The Watershed Administrator may provide public agencies an opportunity to review and make recommendations. However, the failure of any agency to submit their comments and recommendations shall not delay the Watershed Administrator's action within the prescribed time limit. Said public agencies may include, but are not limited to, the following:

- The District Highway Engineer
- The Director of the Health Department
- The State Division of Environmental Management
- Any other agency or official designated by the Watershed Administrator

## **ARTICLE 9. PERFORMANCE STANDARDS**

**9.60.2.3.** If the Watershed Administrator determines that the subdivision application conforms to the requirements of this article, such determination shall be indicated on all copies of the plat using the certificate provided in Section 9.62.8 and signed by the Watershed Administrator.

**9.60.2.4.** If the Watershed Administrator certifies that the subdivision application conforms to the requirements of this article, the plat(s) along with the required certificate shall be forwarded to the UDO Administrator for final review and approval of the proposed subdivision, as outlined in this Ordinance.

**9.60.2.5.** If the Watershed Administrator determines that the subdivision application does not conform to the requirements of this article, the reasons for the determination shall be stated in writing for the applicant. The subdivider may make changes and submit a revised plan, which shall constitute a separate request for the purpose of review.

### ***9.60.3. Watershed Standards and Required Improvements.***

**9.60.3.1.** All lots shall provide adequate building space in accordance with the development standards contained in the Water Supply Watershed Protection Regulations (Article 10, Part II) for Caswell County. Lots that are smaller than the minimum required for residential lots shall be identified on the plat.

**9.60.3.2.** Roads constructed within watershed critical areas shall be designed and constructed so as to minimize their impact on water quality.

**9.60.3.3.** A minimum thirty (30) foot undisturbed buffer, and an additional fifty (50) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps. The buffer shall be measured from the edge of the bank on each side of perennial streams or rivers and along the bank of ponds and lakes. Agriculture and forestry activities are exempt from the requirements. Golf courses do not have to have thirty (30) foot undisturbed buffer, but the fifty (50) foot vegetative buffer requirement shall apply. The following disturbances of vegetation, and no other, is permitted in undisturbed buffers:

- Running approved utility lines (e.g., gas, electric, cable) under basically perpendicular to streams; and
- Cutting or removing diseased or damaged trees upon approval from the Watershed Administrator.

No other disturbances, including the application of fertilizer or chemical, shall be allowed in this area. The following restrictions shall apply in the 50-foot vegetative buffer: No

# ARTICLE 9. PERFORMANCE STANDARDS

fertilizers or chemicals shall be applied, except to encourage re-growth in areas that may have been disturbed.

## ***9.60.4. Construction Procedures.***

***9.60.4.1.*** No construction or installation of improvements shall commence in a proposed subdivision located within a designated Public Water Supply Watershed until a subdivision plat has been certified by the Watershed Administrator and approved by the UDO Administrator or Planning Board in accordance with this Ordinance.

***9.60.4.2.*** No building permit or other permits shall be issued for the erection of a structure on any lot not of record at the time of adoption of this Ordinance located within a designated Public Water Supply Watershed until all requirements of this article have been met.

## **SECTION 9.61 PERFORMANCE GUARANTEES.**

Refer to Section 8.7.4.7 for required performance guarantees.

## **SECTION 9.62 REQUIRED CERTIFICATIONS.**

### ***9.62.1. Certificate of Exemption.***

The subdivision of the property shown on this plat is an exception to Article 9, Part VI of the Unified Development Ordinance of Caswell County, North Carolina, under Section 9.45.1 as indicated below and the resultant lot(s) meet the minimum standards of the Ordinance.

9.45.1.1 Recombination            9.45.1.2 Greater Than 10 Ac.            9.45.1.3 Public ROW

9.45.1.4 Division of single tract/<2Ac/<3 lots            9.45.1.5 Estate            9.45.1.6 Cemetery

9.45.1.7 Existing Parcel

\_\_\_\_\_  
UDO Administrator

\_\_\_\_\_  
Date

## ARTICLE 9. PERFORMANCE STANDARDS

### **9.62.2. Certificate of Approval for Recording Minor Subdivision**

I hereby certify that the subdivision plat shown hereon has been found to comply with Article 9, Part VI of the Unified Development Ordinance of Caswell County, North Carolina, and that such plat has been approved according to the procedures for approval of Minor Subdivisions, Section 8.3.

\_\_\_\_\_  
UDO Administrator

\_\_\_\_\_  
Date

### **9.62.3. Certificate of Approval of Public Roads**

I hereby certify that the roads and related improvements including seeding of banks have been installed according to plans approved by the Division of Highways, except as noted hereon; or proper provisions have been made for their installation.

\_\_\_\_\_  
District Engineer, NC Department of Transportation

\_\_\_\_\_  
Date

### **9.62.4. Certificate of Disclosure, Private Roads.**

I (we), the developer(s) of \_\_\_\_\_ subdivision hereby state that the subdivision roads, in \_\_\_\_\_ subdivision are private roads. Ownership and maintenance of the private roads are the responsibility of \_\_\_\_\_. Right of access to private roads within said subdivision is guaranteed to all lots served by such roads. All buyers of lots should receive a road disclosure statement. I (we), as the developer(s) further state that all ownership and maintenance agreements for the private roads have been approved by the UDO Administrator and the Caswell County Planning Board and that the provisions of NCGS 136-102.6 relative to private roads have been complied with.

\_\_\_\_\_  
Developer (SEAL)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Developer (SEAL)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Date

\_\_\_\_\_  
UDO Administrator

\_\_\_\_\_  
Date

**ARTICLE 9. PERFORMANCE STANDARDS**

**9.62.5. Certificate of Survey and Accuracy (Final Plat).**

I, \_\_\_\_\_, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (other); that the error of closure as calculated by latitudes and departures is 1: \_\_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that this map was prepared in accordance with NCGS 47-30 as amended. Witness by hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Surveyor or Engineer

\_\_\_\_\_  
License or Registration Number

**9.62.6. Certificate of Ownership and Dedication (Final Plat).**

I hereby certify that I (we) am (are) the owner(s) of the property shown and described hereon, which is located in the subdivision jurisdiction of Caswell County and that I hereby adopt this plan of subdivision with my (our) free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.

\_\_\_\_\_  
Owner(s)

\_\_\_\_\_  
Date

Notary Public  
State of North Carolina

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, North Carolina, hereby certify that the execution of the foregoing instrument was duly acknowledged before me this day by \_\_\_\_\_, for the purpose therein expressed. This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires

**9.62.7. Certificate of Approval for Recording, Major Subdivision.**

I hereby certify that the subdivision plat shown hereon has been found to comply with Article 9, Part VI, of the Unified Development Ordinance of Caswell County, NC, and that this plat has been approved by the Caswell County Planning Board and/or the UDO Administrator for recording in the office of the Register of Deeds of Caswell County according to the procedures for approval of Major Subdivisions, Section 8.4.

\_\_\_\_\_  
UDO Administrator/Chairman Planning Board

\_\_\_\_\_  
Date

## ARTICLE 9. PERFORMANCE STANDARDS

**9.62.8. Certificate of Conformance to Watershed Protection Regulations (if applicable).**

The subdivision of the property shown on this plat is located within the boundaries of:

\_\_\_\_\_  
Name of Watershed

\_\_\_\_\_  
Critical Area/Balance of Watershed

I certify that the plat shown hereon complies with the Watershed Protection Regulations as established under Article 10, Part II of the Unified Development Ordinance for Caswell County, NC.

\_\_\_\_\_  
Watershed Administrator

\_\_\_\_\_  
Date

**9.62.9. Certificate of Proximity to an Agricultural Preservation District (if applicable).**

The subdivision of the property shown on this plat is located within 1/2 aerial mile of Farmland Preservation District # \_\_\_\_\_. All interested parties are encouraged to review the Agricultural Preservation District Maps located at the Caswell County offices of the Tax Department, Planning Department, and Agriculture Extension.

\_\_\_\_\_  
UDO Administrator

\_\_\_\_\_  
Date

**9.62.10. Certificate of Disclosure, Flood Damage Prevention Regulations (if applicable).**

The subdivision of the property shown on this plat is located within the boundaries of Flood Hazard Area as identified on the most recent Flood Insurance Rate Maps (FIRMs) or Flood Hazard Boundary Maps (FHBMs) as published by the Federal Emergency Management Agency (FEMA) said Flood Hazard Areas have been designated on this plat. No development within said Flood Hazard Areas shall take place without first obtaining a Certificate of Compliance from the Floodplain Administrator.

\_\_\_\_\_  
Floodplain Administrator

\_\_\_\_\_  
Date

**9.62.11. Certificate of Family Exemption, Watershed Protection Regulations (if applicable).**

The subdivision shown herein has been created pursuant to Rule 15A NCAC 2B.0104(q), as a Family Exemption to the Watershed Rules.

\_\_\_\_\_  
Watershed Administrator

\_\_\_\_\_  
Date

## ARTICLE 9. PERFORMANCE STANDARDS

**9.62.12. Review Officers Certificate Caswell County, North Carolina.**

I, \_\_\_\_\_, Review Officer of Caswell County, certify that the map or plat to which this certificate is affixed meets all statutory requirements for recording.

\_\_\_\_\_  
Review Officer

\_\_\_\_\_  
Date



# ARTICLE 9. PERFORMANCE STANDARDS

## PART VII. SHOOTING RANGE FACILITIES

### **Section 9.63 Purpose**

This Ordinance is intended to regulate the establishment and operation of outdoor shooting range facilities. Such recreational and training complexes, due to their potential noise impacts and safety concerns, merit careful review to minimize adverse effects on adjoining properties.

### **Section 9.64 Intent**

It is the intent of this Ordinance to accomplish the following:

***9.64.1 Permitting, registration, and compliance.*** New shooting range facilities shall only be established and operated in accordance with a valid permit issued by Caswell County. In addition, existing ranges shall be registered within thirty (30) days from the adoption of this ordinance, and shall comply with all provisions of this Ordinance (Article 8, Development Review Process) within one hundred eighty (180) days of the adoption of this ordinance.

***9.64.2 Shot containment.*** Each shooting range facility shall be designed to manage the bullets, shot, arrows and minimize ricochets of same discharged on or within the range facility.

***9.64.3 Noise mitigation.*** Each shooting range facility shall be designed to minimize off-site noise impacts generated by the activities conducted on the range facility.

### **9.65 Applicability**

Subject to the provisions of N.C. Gen. Stat. § 14-409.46, this section is applicable to all existing and future shooting ranges in Caswell County. Article 7 "Nonconforming Situations" does not apply to Shooting Range Facilities.

### **9.66 Application**

Refer to Article 8, Development Review Process

### **9.67 Fees**

Application and permit fees, including yearly permit fees, shall be paid as specified in Section 1.13.

### **9.68 Site Plan**

A site plan is required in accordance with Article 8, Development Review Process.

### **9.69 Operation Standards**

The following performance standards shall apply to all shooting range facilities:

***9.69.1 Shot containment.*** Shooting range facilities shall be designed to contain all of the bullets, shot, arrows or other projectiles or any other debris on the range facility.

## **ARTICLE 9. PERFORMANCE STANDARDS**

**9.69.2 Noise mitigation.** Noise levels measured at the nearest occupied dwelling shall not exceed 90 dba. Range owners are responsible for providing hearing protection to all range users.

### **9.70 Development Standards**

**9.70.1 Minimum design requirements.** Each shooting range shall have a main berm and side berms. Main berms and side berms shall be constructed at heights, widths, and depths so to restrict bullets within a shooting range. Main berms and side berms shall be a natural hill or man-made earthwork, free of rocks and debris to a depth of 24 inches. The main berm shall be at least 10 feet in height. Side berms shall be at least 8 feet in height. The UDO Administrator can increase heights in cases where the contour of the land slopes downward from the shooting station towards the impact area.

**9.70.1.1** No Shooting range facility shall be located on a parcel of land less than 20 acres in size.

**9.70.1.2** Each Shooting Range facility shall be screened from view of any residential dwelling and public right of way.

### **9.71 Table of Dimensions**

**9.71.1 Setbacks.** Each shooting station within a shooting range facility shall have the following setbacks from any property line

**9.71.1.1** The side setbacks from each shooting station in an outdoor range facility shall have a minimum of 100 feet from any property line and public or private right of way.

**9.71.1.2** The rear setback from each shooting station in an outdoor range facility shall have a minimum of 50 feet from any property line or right of way.

**9.71.1.3** The front setback from each shooting station in an outdoor range facility shall have a minimum of 200 feet from any property line or private or public right of way.

**9.71.1.4** No Shooting Range can be within 100 feet of a perennial stream or pond.

**9.71.1.5** The surface danger zone shall be contained within the leased boundary line of the range facility on leased land or the property boundary line for non-leased land.

## **ARTICLE 9. PERFORMANCE STANDARDS**

### ***9.71.2 Distance from occupied dwelling.***

**9.71.2.1** All outdoor shooting stations, targets, and firing lines shall be located at least four hundred feet (400) from any existing, occupied dwelling. This will be measured using a 360 degree radius from each of those points.

**9.71.2.2** The designated impact area adjacent from all shooting range shooting stations cannot be located within one quarter (1/4) mile (one thousand three hundred and twenty (1,320) feet) of any existing, occupied dwelling. This will be measured from each shooting station downward into the impact area only.

**9.71.2.3** This shall exclude the range owner's dwellings that are on site.

### **9.72 Operational Requirements**

**9.72.1 Maintenance.** Where not otherwise specified, all shooting range facilities shall be operated and maintained in a manner that continues to meet the minimum designs requirements of section 9.70.

**9.72.2 Best Management Practices.** Outdoor Shooting Ranges shall provide a plan outlining its Best Management Practices (BMPs) program relating to lead management.

**9.72.3 Hours of operation.** Shooting ranges shall be allowed to operate between sunrise and sunset Monday through Saturday, 1 p.m. until sunset on Sundays, except that the hours may be extended after sunset for purposes of subdued-lighting certification of law enforcement officers, or may be extended for other purposes only when a permit allowing such activity is issued in advance by the Sheriff's Office.

**9.72.4 Liability insurance.** The permittee shall be required to carry a minimum of one million dollars (\$1,000,000) per occurrence and a minimum of two million dollars (\$2,000,000) aggregate of liability insurance. Such insurance shall name Caswell County as an additional insured party and shall save and hold Caswell County, its elected and appointed officials, and employees acting within the scope of their duties harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of a person or group's members or employees or third parties on account of any property damage arising out of the acts or omissions of the permittee, his/her group, club, or its agents or representatives. The County shall be notified of any policy changes or lapses in coverage.

### **9.73 Additional Requirements**

**9.73.1 Warning signs.** Warning signs shall be at least 12 inches x 16 inches in size with 6 inch letters, and shall be posted at 100 foot intervals around the range perimeter. Colors should be

## **ARTICLE 9. PERFORMANCE STANDARDS**

highly visible and should read "A Shooting Range Area Keep Out" or Caution Firearms in Use Keep Out"

**9.73.2 Access to Facility.** Access to the facility and shooting range shall be secured and controlled, with ingress and egress permitted only during operating hours.

**9.73.3 Permit display.** Permits shall be kept and displayed in a readily visible location on the shooting range facility and at all times be available for public inspection.

**9.73.4 Permit transferability.** A permit issued pursuant to this Ordinance may not be transferred to another operator without the written approval and consent of the Caswell County Planning and Development Department.

**9.73.5 Changes or expansions.** If any shooting range facility is intended to be substantially changed or expanded to include types of ranges, operations, or activities not covered by an approved permit or otherwise cause nonconformance with this Ordinance, a new permit for the entire facility shall be secured in accordance with all of the provisions of this Ordinance.

**9.73.6 Permits Renewal.** Permits must be renewed annually. Permit renewal fee shall be paid as specified in Section 1.13.

### **9.74 Registration and Compliance of Existing Ranges**

**9.74.1 Registration.** All existing ranges shall provide a site plan, prepared in accordance with Section 9.68, within thirty (30) days after the effective date of this Ordinance.

**9.74.2 Compliance.** Any existing Shooting Range Facility determined not to be in compliance shall be made to obtain a permit and comply with all provisions of this Section within one hundred eighty (180) days of the adoption of this ordinance.

**9.74.3 Abandonment and discontinuance.** When an existing shooting range is discontinued without the intent to reinstate the range use, the property owner shall notify the County of such intent. In any event, the discontinuance of the facility or non-use of the facility for a period in excess of one hundred and eighty days (180) shall create the presumption said facility is abandoned, and any current, valid permits issued shall terminate.

### **9.75 Enforcement**

Refer to Section 1.12

<h1 style="margin: 0;">ARTICLE 10.</h1> <h2 style="margin: 0;">ENVIRONMENTAL REGULATIONS</h2>
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NOTE: Article 10 applies to the entire Caswell County planning jurisdiction.

# ARTICLE 10. ENVIRONMENTAL REGULATIONS

## PART I. FLOOD DAMAGE PREVENTION REGULATIONS

### SECTION 10.1 FINDINGS OF FACT, PURPOSE, & OBJECTIVES.

#### ***10.1.1. Findings of Fact.***

***10.1.1.1.*** The flood prone areas within the jurisdiction of Caswell County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

***10.1.1.2.*** These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

#### ***10.1.2. Statement of Purpose.***

It is the purpose of these regulations 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:

***10.1.2.1.*** Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

***10.1.2.2.*** Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

***10.1.2.3.*** Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

***10.1.2.4.*** Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

***10.1.2.5.*** Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### ***10.1.3. Objectives.***

The objectives of these regulations are to:

***10.1.3.1.*** Protect human life, safety, and health;

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**10.1.3.2.** Minimize expenditure of public money for costly flood control projects;

**10.1.3.3.** Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

**10.1.3.4.** Minimize prolonged business losses and interruptions;

**10.1.3.5.** Minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

**10.1.3.6.** Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

**10.1.3.7.** Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

### **SECTION 10.2 GENERAL PROVISIONS.**

#### ***10.2.1. Lands to Which these Regulations Apply.***

These regulations shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extraterritorial Jurisdictions (ETJs), of Caswell County and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

#### ***10.2.2. Basis for Establishing the Special Flood Hazard Areas.***

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM, for Caswell County dated September 28, 2007, which are adopted by reference and declared to be a part of this Ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Caswell County Unincorporated Area, dated February 3, 1978.

#### ***10.2.3. 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 Section 10.2.2 of this Ordinance.

#### ***10.2.4. 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.

#### ***10.2.5. Abrogation and Greater Restrictions.***

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These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### ***10.2.6. Interpretation.***

In the interpretation and application of these regulations, all provisions shall be:

***10.2.6.1.*** Considered as minimum requirements;

***10.2.6.2.*** Liberally construed in favor of the governing body; and

***10.2.6.3.*** Deemed neither to limit nor repeal any other powers granted under State statutes.

### ***10.2.7. 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 Caswell County 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.

### ***10.2.8. Penalties for Violation.***

The County may use any of the procedures outlined in Section 1.12 to enforce the provisions of the Article 10, Part I.

## **SECTION 10.3 ADMINISTRATION.**

### ***10.3.1. Designation of Floodplain Administrator.***

The UDO Administrator, hereinafter referred to as the "Floodplain Administrator," is hereby appointed to administer and implement the provisions of these regulations.

### ***10.3.2. Floodplain Development Application, Permit, and Certification Requirements.***

***10.3.2.1. 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:

***10.3.2.1.1.*** A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:



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- 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;
- The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 10.2.2, or a statement that the entire lot is within the Special Flood Hazard Area;
- Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in 10.2.2;
- The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 10.2.2;
- The Base Flood Elevation (BFE) where provided as set forth in Section 10.2.2; Section 10.3.3; or Section 10.4.3;
- The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
- The certification of the plot plan by a registered land surveyor or professional engineer.

**10.3.2.1 .2.** Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

- Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
- Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be floodproofed; and
- Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

**10.3.2.1.3.** If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

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**10.3.2.1.4.** 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:

- 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
- Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 10.4.2.4.3. when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.

**10.3.2.1.5.** Usage details of any enclosed areas below the lowest floor.

**10.3.2.1.6.** 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.

**10.3.2.1.7.** Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

**10.3.2.1.8.** Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 10.4.2.6 and Section 10.4.2.7 are met.

**10.3.2.1.9.** 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.

**10.3.2.2. Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

**10.3.2.2.1.** A description of the development to be permitted under the floodplain development permit.

**10.3.2.2.2.** The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 10.2.2.

**10.3.2.2.3.** The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.

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**10.3.2.2.4.** The Regulatory Flood Protection Elevation required for the protection of all public utilities.

**10.3.2.2.5.** All certification submittal requirements with timelines.

**10.3.2.2.6.** A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

**10.3.2.2.7.** The flood openings requirements, if in Zones A, AO, AE or A1-30.

### **10.3.2.3. Certification Requirements.**

#### **10.3.2.3.1. Elevation Certificates.**

- An Elevation Certificate (FEMA Form 81-31) 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 mean sea level. 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.
- An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
- A final as-built Elevation Certificate (FEMA Form 81-31) 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

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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.

**10.3.2.3.2. Floodproofing Certificate.** If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. 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.

**10.3.2.3.3.** If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 10.4.2.3.2.

**10.3.2.3.4.** 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.

**10.3.2.3.5. Certification Exemptions.** The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in subsections 10.3.2.3.1 and 10.3.2.3.2 of this section:

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- Recreational Vehicles meeting requirements of Section 10.4.2.6.1;
- Temporary Structures meeting requirements of Section 10.4.2.7; and
- Accessory Structures less than 150 square feet meeting requirements of Section 10.4.2.8.

### ***10.3.3. Duties and Responsibilities of the Floodplain Administrator.***

The Floodplain Administrator shall perform, but not be limited to, the following duties:

***10.3.3.1.*** Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Ordinance have been satisfied.

***10.3.3.2.*** Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.

***10.3.3.3.*** Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

***10.3.3.4.*** Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

***10.3.3.5.*** Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 10.4.5 are met.

***10.3.3.6.*** Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 10.3.2.3.

***10.3.3.7.*** Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 10.3.2.3.

***10.3.3.8.*** Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 10.3.2.3.

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**10.3.3.9.** When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 10.3.2.3 and Section 10.4.2.2.

**10.3.3.10.** Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

**10.3.3.11.** When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Section 10.2.2, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 10.4.3.2.2, in order to administer the provisions of this Ordinance.

**10.3.3.12.** When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 10.2.2, 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.

**10.3.3.13.** When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

**10.3.3.14.** Permanently maintain all records that pertain to the administration of this Ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

**10.3.3.15.** Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

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**10.3.3.16.** Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The 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.

**10.3.3.17.** Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

**10.3.3.18.** Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

**10.3.3.19.** Follow through with corrective procedures of Section 10.3.4.

**10.3.3.20.** Review, provide input, and make recommendations for variance requests.

**10.3.3.21.** Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 10.2.2 of this Ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

**10.3.3.22.** Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

### **10.3.4. Corrective Procedures.**

**10.3.4.1. Violations to Be Corrected.** When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

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**10.3.4.2. Actions in Event of Failure to Take Corrective Action.** If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

**10.3.4.2.1.** That the building or property is in violation of the floodplain management regulations;

**10.3.4.2.2.** 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

**10.3.4.2.3.** That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

**10.3.4.3. 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 Regulations, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

**10.3.4.4. 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.

**10.3.4.5. Failure to Comply with Order.** If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the County may use any of the procedures outlined in Section 1.12.

### **10.3.5. Variance Procedures.**

**10.3.5.1.** The Board of Adjustment as established by Caswell County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of these regulations.



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**10.3.5.2.** Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

**10.3.5.3.** Variances may be issued for:

**10.3.5.3.1.** 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;

**10.3.5.3.2.** Functionally dependent facilities if determined to meet the definition as stated in Appendix A of this Ordinance, provided provisions of Sections 10.3.5.9.2, 10.3.5.9.3, and 10.3.5.9.5 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

**10.3.5.3.3.** Any other type of development, provided it meets the requirements of this section.

**10.3.5.4.** 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:

**10.3.5.4.1.** The danger that materials may be swept onto other lands to the injury of others;

**10.3.5.4.2.** The danger to life and property due to flooding or erosion damage;

**10.3.5.4.3.** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

**10.3.5.4.4.** The importance of the services provided by the proposed facility to the community;

**10.3.5.4.5.** The necessity to the facility of a waterfront location as defined under Appendix A of this Ordinance as a functionally dependent facility, where applicable;

**10.3.5.4.6.** The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

**10.3.5.4.7.** The compatibility of the proposed use with existing and anticipated development;

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**10.3.5.4.8.** The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

**10.3.5.4.9.** The safety of access to the property in times of flood for ordinary and emergency vehicles;

**10.3.5.4.10.** 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

**10.3.5.4.11.** 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.

**10.3.5.5.** A written report addressing each of the above factors shall be submitted with the application for a variance.

**10.3.5.6.** 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.

**10.3.5.7.** Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

**10.3.5.8.** The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

### **10.3.5.9. Conditions for Variances.**

**10.3.5.9.1.** Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

**10.3.5.9.2.** 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.

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**10.3.5.9.3.** Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**10.3.5.9.4.** Variances shall only be issued prior to development permit approval.

**10.3.5.9.5.** Variances shall only be issued upon:

- A showing of good and sufficient cause;
- A determination that failure to grant the variance would result in exceptional hardship; and
- A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**10.3.5.10.** A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

**10.3.5.10.1.** The use serves a critical need in the community.

**10.3.5.10.2.** No feasible location exists for the use outside the Special Flood Hazard Area.

**10.3.5.10.3.** The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.

**10.3.5.10.4.** The use complies with all other applicable Federal, State and local laws.

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

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## **SECTION 10.4 PROVISIONS FOR FLOOD HAZARD REDUCTION.**

### ***10.4.1. General Standards.***

In all Special Flood Hazard Areas the following provisions are required:

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

***10.4.1.2.*** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

***10.4.1.3.*** All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

***10.4.1.4.*** Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. 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.

***10.4.1.5.*** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

***10.4.1.6.*** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

***10.4.1.7.*** On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

***10.4.1.8.*** Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Ordinance, shall meet the requirements of Anew construction@ as contained in this Ordinance.

***10.4.1.9.*** 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

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such repair, reconstruction, or replacement meets all of the other requirements of this Ordinance.

**10.4.1.10.** 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 Section 10.3.5.10. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 10.3.2.3.

**10.4.1.11.** All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

**10.4.1.12.** 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.

**10.4.1.13.** All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

**10.4.1.14.** 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.

**10.4.1.15.** 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.

**10.4.1.16.** When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

### **10.4.2. Specific Standards.**

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 10.2.2, or Section 10.4.3, the following provisions, in addition to the provisions of Section 10.4.1, are required:

**10.4.2.1. Residential Construction.** New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Appendix A of this Ordinance.

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**10.4.2.2. Non-Residential Construction.** New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Appendix A of this Ordinance. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 10.4.6.2. 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 Section 10.3.2.3, along with the operational plan and the inspection and maintenance plan.

### **10.4.2.3. Manufactured Homes.**

**10.4.2.3.1.** 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 Appendix A of this Ordinance.

**10.4.2.3.2.** 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.

**10.4.2.3.3.** All enclosures or skirting below the lowest floor shall meet the requirements of Section 10.4.2.4.

**10.4.2.3.4.** 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.

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**10.4.2.4. Elevated Buildings.** Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

**10.4.2.4.1.** 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;

**10.4.2.4.2.** Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

**10.4.2.4.3.** Shall include, in Zones A, AO, AE, and A1-30, 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 minimum of two flood openings on different sides of each enclosed area subject to flooding;
- 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;
- If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- 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
- 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.

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### **10.4.2.5. Additions/Improvements.**

**10.4.2.5.1.** 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:

- 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.
- A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

**10.4.2.5.2.** Additions to post-FIRM structures with no modifications 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.

**10.4.2.5.3.** 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:

- Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
- A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

### **10.4.2.6. Recreational Vehicles.** Recreational vehicles shall either:

**10.4.2.6.1.** Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

**10.4.2.6.2.** Meet all the requirements for new construction.

**10.4.2.7. Temporary Non-Residential Structures.** Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information



## ARTICLE 10. ENVIRONMENTAL REGULATIONS

shall be submitted in writing to the Floodplain Administrator for review and written approval:

**10.4.2.7.1.** 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;

**10.4.2.7.2.** The name, address, and phone number of the individual responsible for the removal of the temporary structure;

**10.4.2.7.3.** 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);

**10.4.2.7.4.** A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

**10.4.2.7.5.** Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

**10.4.2.8. Accessory Structures.** When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

**10.4.2.8.1.** Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

**10.4.2.8.2.** Accessory structures shall not be temperature-controlled;

**10.4.2.8.3.** Accessory structures shall be designed to have low flood damage potential;

**10.4.2.8.4.** Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

**10.4.2.8.5.** Accessory structures shall be firmly anchored in accordance with the provisions of Section 10.4.1.1;

**10.4.2.8.6.** All service facilities such as electrical shall be installed in accordance with the provisions of Section 10.4.1.4; and

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**10.4.2.8.7.** Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 10.4.2.4.3.

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 10.3.2.3.

### **10.4.3. Standards for Floodplains Without Established Base Flood Elevations.**

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 10.2.2, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 10.4.1, shall apply:

**10.4.3.1.** No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five 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.

**10.4.3.2.** The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

**10.4.3.2.1.** When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Ordinance and shall be elevated or floodproofed in accordance with standards in Section 10.4.1 and 10.4.2.

**10.4.3.2.2.** When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Section 10.4.2 and 10.4.5.

**10.4.3.2.3.** All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 10.2.2 and utilized in implementing this Ordinance.

**10.4.3.2.4.** When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or

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floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Appendix A. All other applicable provisions of Section 10.4.2 shall also apply.

### **10.4.4. Standards for Riverine Floodplains With Base Flood Elevations But Without Established Floodways or Non-Encroachment Areas.**

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

**10.4.4.1.** Standards of Section 10.4.1 and 10.4.2; and

**10.4.4.2.** Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

### **10.4.5. Floodways and Non-Encroachment Areas.**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 10.2.2. 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 Section 10.4.1 and 10.4.2, shall apply to all development within such areas:

**10.4.5.1.** No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

**10.4.5.1.1.** It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, 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

**10.4.5.1.2.** A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

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**10.4.5.2.** If Section 10.4.5.1 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Ordinance.

**10.4.5.3.** No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

**10.4.5.3.1.** The anchoring and the elevation standards of Section 10.4.2.3; and

**10.4.5.3.2.** The no encroachment standard of Section 10.4.5.1.

### **10.4.6. Standards for Areas of Shallow Flooding (Zone AO).**

Located within the Special Flood Hazard Areas established in Section 10.2.2, 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 Section 10.4.1 and 10.4.2, all new construction and substantial improvements shall meet the following requirements:

**10.4.6.1.** 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 four (4) feet above the highest adjacent grade if no depth number is specified.

**10.4.6.2.** Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 10.4.6.1 so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 10.3.2.3 and Section 10.4.2.2.

**10.4.6.3.** Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

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## **SECTION 10.5 LEGAL STATUS PROVISIONS.**

### ***10.5.1. Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance.***

These regulations in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted June 17, 2002, 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 Caswell County enacted on June 17, 2002, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for each municipal jurisdiction within Caswell County is as follows:

Town of Yanceyville, NC - October 14, 2004

### ***10.5.2. 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 Ordinance.

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## PART II. WATERSHED PROTECTION REGULATIONS

### SECTION 10.6 INTENT.

The intent of the Water Supply Watershed Protection Regulations is to protect surface water supplies whose watersheds are located wholly or partially within the jurisdiction of Caswell County.

### SECTION 10.7 JURISDICTION AND APPLICABILITY.

#### ***10.7.1. Jurisdiction***

The provisions of this part shall apply to all of those unincorporated areas of Caswell County beyond the corporate limits of the Town of Yanceyville which are designated as water supply watersheds by the NC Division of Environmental Management as shown on the map entitled, Caswell County Public Water Supply Watersheds, which is adopted simultaneously herewith. The Watershed Map and all explanatory matters contained therein are by express reference thereto incorporated herein as an integral part of this Ordinance. The following Public Water Supply Watersheds, designated by the NC Division of Environmental Management and adopted by the NC Environmental Management Commission, are located within Caswell County:

<u>Watershed</u>	<u>Classification</u>	<u>River Basin</u>
Fullers Creek	WS-II	Roanoke
Country Line Creek	WS-II	Roanoke
South Hyco Creek	WS-II	Roanoke
Stony Creek	WS-II	Cape Fear
Hostler Branch	WS-II	Roanoke
Haw River	WS-IV	Cape Fear
Dan River	WS-IV	Roanoke

#### ***10.7.2. Exceptions to Applicability***

***10.7.2.1.*** Nothing contained herein shall repeal, modify, or amend any federal or state law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the County at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.

***10.7.2.2.*** It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

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**10.7.2.3.** Existing development, as defined in this Ordinance, is not subject to the requirements of this Ordinance. Expansions to structures classified as existing development or new development are permitted as follows:

**10.7.2.3.1.** Expansions to single family residences built before the adoption of this Ordinance are permitted without any restrictions from this Ordinance;

**10.7.2.3.2.** Expansions to all other structures classified as existing development must meet the requirements of this Ordinance, except the built-upon area of the existing development is not required to be included in the density calculations; and

**10.7.2.3.3.** Expansions to structures other than existing development must meet the density requirements for the entire project. For example, if the structure to be expanded is not grandfathered as "existing development" but was built after the adoption of this Ordinance, then the total project, including the existing built-upon areas and expanded built-upon areas, must meet the requirements of this Ordinance.

**10.7.2.4.** A deeded pre-existing lot owned by an individual prior to the effective date of this Ordinance, regardless of whether or not a vested right has been established, may be developed for single-family residential purposes without being subject to the restrictions of this Ordinance. Nothing in this Ordinance shall be construed to require the recombination of nonconforming lots of record.

**10.7.2.5.** Pursuant to Rule 15A NCAC 2B.0104(q), any lot or parcel created as part of a family subdivision after the effective date of these Rules shall be exempt from these Rules if it is developed for one single-family detached residence and it is exempt from a local Subdivision Regulation.

### **10.7.3. Penalties**

The County may use any of the procedures outlined in Section 1.12 to enforce the provisions of this Ordinance.

## **SECTION 10.8 DEVELOPMENT REGULATIONS.**

### **10.8.1. Establishment of Watershed Districts.**

To provide protection for drinking water supply watersheds, the following watershed districts are established. Within each watershed shall be two tiers of control. The area nearest the water supply critical area shall have the higher level of regulation because proximity to the intake creates higher risk of contamination. The balance of the watershed shall have less restrictions because the greater distance from the point of intake lowers the risk of contamination.

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The following districts shall apply to the watersheds in Caswell County:

### WS-II-CA

Country Line Creek WS-II-CA (Critical Area)  
Fullers Creek WS-II-CA (Critical Area)

### WS-II-BW

Country Line Creek WS-II-BW (Balance of Watershed)  
Fullers Creek WS-II-BW (Balance of Watershed)  
South Hyco Creek WS-II-BW (Balance of Watershed)  
Stoney Creek WS-II-BW (Balance of Watershed)  
Hostlers Branch (Balance of Watershed)

### WS-IV WCA

Haw River WS-IV-CA (Critical Area)  
Dan River WS-IV-CA (Critical Area)

### WS-IV PA

Haw River WS-IV-PA (Protected Area)  
Dan River WS-IV-PA (Protected Area)

### **10.8.2. WS-II-CA.**

Country Line Creek Watershed (Critical Area)  
Fullers Creek Watershed (Critical Area)

**10.8.2.1. Intent.** In order to maintain a predominately undeveloped land use intensity pattern, single-family residential development shall be allowed at a maximum of one dwelling unit per 3 acres in Country Line Creek WS-II, CA and one dwelling unit per 2 acres in all other WS-II, CA areas except as noted in Section 10.7.2.5, exceptions. Multi-family residential development shall be allowed at a maximum density of six percent (6%) built-upon area, on a project-by-project basis. Non-residential development shall be allowed at a maximum density of six percent (6%) built-upon area, on a project-by-project basis.

### **10.8.2.2. Allowed Uses.**

**10.8.2.2.1.** Single-family residential, multi-family residential, and non-residential uses.

**10.8.2.2.2.** Agricultural operations are encouraged to participate in the agricultural Cost Share Program and are subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of



## ARTICLE 10. ENVIRONMENTAL REGULATIONS

1990. Agricultural activities conducted after January 1, 1993, shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices (BMPs) by July 1, 1994, recommended by the Soil and Water Conservation Commission.

**10.8.2.2.3.** Silvicultural operations are subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II .0101-.0209).

### **10.8.2.3. Prohibited Uses.**

**10.8.2.3.1.** Storage of toxic and hazardous materials unless a spill containment plan is implemented.

**10.8.2.3.2.** Landfills.

**10.8.2.3.3.** Sites for land application of sludge/residuals or petroleum contaminated soils.

### **10.8.2.4. Density and Built-Upon Limits.**

**10.8.2.4.1.** Single-Family Residential Development shall not exceed one dwelling unit per 3 acres in Country Line Creek WS-II, CA and one dwelling unit per 2 acres in Fullers Creek WS-II, CA, except as noted in Section 10.8.6 (Cluster Development).

**10.8.2.4.2.** Multi-family Residential Development shall not exceed six percent (6%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

**10.8.2.4.3.** Non-Residential Development shall not exceed six percent (6%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

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### **10.8.3. WS-II-BW.**

Country Line Creek - Balance of Watershed

Fullers Creek - Balance of Watershed

South Hyco Creek - Balance of Watershed

Stoney Creek - Balance of Watershed

**10.8.3.1. Intent.** In order to maintain a predominately undeveloped land use intensity pattern, single-family residential development shall be allowed at a maximum of one dwelling unit per 2-acre lot in Country Line Creek WS-II, BW area and one dwelling unit per 1-acre lot in all other WS-II, BW areas except as noted in Section 10.7.2.5, exceptions. Multi-family residential development shall be allowed at a maximum density of twelve percent (12%) built-upon area, on a project-by-project basis. Non-residential development shall be allowed at a maximum density of twelve percent (12%) built-upon area, on a project-by-project basis. In addition, five percent (5%) of the Balance of the Watershed within each of the four (4) watersheds may be developed for non-residential purposes to a maximum of seventy percent (70%) built-upon area, after review and issuance of a Special Non-residential Intensity Allocation (SNIA) Permit, as outlined in this section.

### **10.8.3.2. Allowed Uses.**

**10.8.3.2.1.** Single-family residential, multi-family residential, and non-residential uses.

**10.8.3.2.2.** Agricultural operations are encouraged to participate in the agricultural Cost Share Program and are subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990.

**10.8.3.2.3.** Silvicultural operations are subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II .0101-.0209).

### **10.8.3.3. Prohibited Uses.**

**10.8.3.3.1.** Discharging landfills.

**10.8.3.3.2.** Storage of toxic and hazardous materials unless a spill containment plan approved by the County is implemented.

### **10.8.3.4. Density and Built-Upon Limits.**

**10.8.3.4.1.** Single-Family Residential Development shall not exceed one dwelling unit per 2 acres in Country Line Creek WS-II, BW and one dwelling unit per 1 acre in all other WS-II, BW, except as noted in Section 10.8.6 (Cluster Development).

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**10.8.3.4.2.** Multi-family Residential Development shall not exceed twelve percent (12%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

**10.8.3.4.3.** Non-Residential Development shall not exceed twelve percent (12%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

### ***10.8.3.5. Special Non-Residential Intensity Allocation (SNIA) Permits.***

**10.8.3.5.1.** Any landowner or his authorized agent may petition for higher density allocation by submitting an application to the Watershed Administrator for a Special Non-residential Intensity Allocation (SNIA) Permit.

**10.8.3.5.2.** Applications for SNIA permits shall be accepted and reviewed on a first-come, first-served basis by the Watershed Administrator. At a minimum, the following information about the proposed project shall be submitted:

**10.8.3.5.2.1.** Type and name (when appropriate) of project.

**10.8.3.5.2.2.** Name, address, and phone number of landowner.

**10.8.3.5.2.3.** Total tract acreage.

**10.8.3.5.2.4.** Total acreage of built-upon area.

**10.8.3.5.2.5.** Blue-prints (3 copies) depicting the built-upon area.

**10.8.3.5.2.6.** Evidence that the development has, to the extent practicable, been so designed as to minimize stormwater runoff offsite.

**10.8.3.5.3.** After verifying that the application is complete, the Watershed Administrator shall stamp the application and each copy of the blueprint, signifying the date accepted, and return one copy to the petitioner. Another stamped copy shall be forwarded to the Watershed Review Board as an information item at their next regular meeting, and the third copy shall be retained in the files of the Watershed Administrator.

**10.8.3.5.4.** Upon receipt of the application, the Watershed Administrator shall have not more than fifteen (15) days to review and decide upon the issuance of a

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SNIA Permit. This permit shall be valid for a two year period. At the end of two years, the project must have been completed or a valid building permit must be in effect or the SNIA Permit will expire. If the permit expires, the petitioner may apply for a new SNIA Permit following the procedures as outlined above.

**10.8.3.5.5.** The Watershed Administrator shall keep records of the County's issuance of SNIA Permits. Records shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres in all developments issued an SNIA Permit, and individual records for each project with the following information:

**10.8.3.5.5.1.** The approved and complete SNIA Permit application.

**10.8.3.5.5.2.** A stormwater management plan, if applicable.

**10.8.3.5.5.3.** An inventory of hazardous materials, if applicable.

### **10.8.4. WS-IV-CA.**

Haw River - Critical Area

Dan River – Critical Area

**10.8.4.1.** Only new development activities that require an erosion/sedimentation control plan under State Law or approved local programs are required to meet the provisions of this Ordinance when located in a WS-IV watershed. In order to address a moderate or low land use density pattern, single-family residential uses are allowed at a maximum of one (1) dwelling unit per acre. All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. New residual application sites and landfills are specifically prohibited.

### **10.8.4.2. Allowed Uses.**

**10.8.4.2.1.** Single-family residential, multi-family residential, and non-residential uses.

**10.8.4.2.2.** Agricultural operations are encouraged to participate in the agricultural Cost Share Program and are subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993, shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater

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than 100 animal units shall employ Best Management Practices (BMPs) by July 1, 1994, recommended by the Soil and Water Conservation Commission.

**10.8.4.2.3.** Silvicultural operations are subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II .0101-.0209).

### **10.8.4.3. Prohibited Uses.**

**10.8.4.3.1.** Storage of toxic and hazardous materials unless a spill containment plan is implemented.

**10.8.4.3.2.** Landfills.

**10.8.4.3.3.** Sites for land application of sludge/residuals or petroleum contaminated soils.

### **10.8.4.4. Density and Built-Upon Limits.**

**10.8.4.4.1.** Single-Family Residential Development shall not exceed one (1) dwelling unit per acre. No residential lot shall measure less than 43,560 square feet, except within an approved cluster development.

**10.8.4.4.2.** Multi-Family Residential Development shall not exceed twenty-four percent (24%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

**10.8.4.4.3.** Non-Residential Development shall not exceed twenty-four percent (24%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

### **10.8.5. WS-IV-PA.**

Haw River - Protected Area

Dan River – Protected Area

**10.8.5.1.** Only new development activities that require an erosion/sedimentation control plan under State Law or approved local programs are required to meet the provisions of this Ordinance when located in a WS-IV watershed. In order to address a moderate or low land use density pattern, single-family residential uses are allowed at a maximum of one (1) dwelling unit per acre. All other residential and non-residential development shall

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be allowed at a maximum of twenty-four percent (24%) built-upon area. New residual application sites and landfills are specifically prohibited.

### ***10.8.5.2. Allowed Uses.***

***10.8.5.2.1.*** Single-family residential, multi-family residential, and non-residential uses.

***10.8.5.2.2.*** Agricultural operations are encouraged to participate in the agricultural Cost Share Program and are subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993, shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices (BMPs) by July 1, 1994, recommended by the Soil and Water Conservation Commission.

***10.8.5.2.3.*** Silvicultural operations are subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II .0101-.0209).

### ***10.8.5.3. Prohibited Uses.***

***10.8.5.3.1.*** Storage of toxic and hazardous materials unless a spill containment plan is implemented.

***10.8.5.3.2.*** Landfills.

***10.8.5.3.3.*** Sites for land application of sludge/residuals or petroleum contaminated soils.

### ***10.8.5.4. Density and Built-Upon Limits.***

***10.8.5.4.1.*** Single-Family Residential Development shall not exceed one dwelling unit per acre. No residential lot shall measure less than 43,560 square feet, except within an approved cluster development.

***10.8.5.4.2.*** Multi-Family Residential Development shall not exceed twenty-four percent (24%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

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**10.8.5.4.3.** Non-Residential Development shall not exceed twenty-four percent (24%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

### **10.8.5.5. Special Non-Residential Intensity Allocation (SNIA) Permits.**

**10.8.5.5.1.** Any landowner or his authorized agent may petition for higher density allocation by submitting an application to the Watershed Administrator for a Special Non-residential Intensity Allocation (SNIA) Permit.

**10.8.5.5.2.** Applications for SNIA permits shall be accepted and reviewed on a first-come, first-served basis by the Watershed Administrator. At a minimum, the following information about the proposed project shall be submitted:

**10.8.5.5.2.1.** Type and name (when appropriate) of project.

**10.8.5.5.2.2.** Name, address, and phone number of landowner.

**10.8.5.5.2.3.** Total tract acreage.

**10.8.5.5.2.4.** Total acreage of built-upon area.

**10.8.5.5.2.5.** Blue-prints (3 copies) depicting the built-upon area.

**10.8.5.5.2.6.** Evidence that the development has, to the extent practicable, been so designed as to minimize storm water runoff offsite.

**10.8.5.5.3.** After verifying that the application is complete, the Watershed Administrator shall stamp the application and each copy of the blueprint, signifying the date accepted, and return one copy to the petitioner. Another stamped copy shall be forwarded to the Watershed Review Board as an information item at their next regular meeting, and the third copy shall be retained in the files of the Watershed Administrator.

**10.8.5.5.4.** Upon receipt of the application, the Watershed Administrator shall have not more than fifteen (15) days to review and decide upon the issuance of a SNIA Permit. This permit shall be valid for a two year period. At the end of two years, the project must have been completed or a valid building permit must be in effect or the SNIA Permit will expire. If the permit expires, the petitioner may apply for a new SNIA Permit following the procedures as outlined above.

## **ARTICLE 10. ENVIRONMENTAL REGULATIONS**

**10.8.5.5.5.** The Watershed Administrator shall keep records of the County's issuance of SNIA Permits. Records shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres in all developments issued an SNIA Permit, and individual records for each project with the following information:

**10.8.5.5.5.1.** The approved and complete SNIA Permit application.

**10.8.5.5.5.2.** A storm water management plan, if applicable.

**10.8.5.5.5.3.** An inventory of hazardous materials, if applicable.

### **10.8.6. Cluster Development.**

Clustering of development is allowed in all WS-II and WS-IV watershed areas under the following conditions:

**10.8.6.1.** All residential and non-residential development shall not exceed the maximum dwelling units per square footage or the maximum built-upon area as averaged for the entire project, allowed within the watershed district in which it is located (either WS-II-CA, WS-II-BW, WS-IV-CA, or WS-IV-PA), whichever is applicable.

**10.8.6.2.** All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and to minimize concentrated stormwater flow.

**10.8.6.3.** The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

### **10.8.7. Stream Buffer Areas Required.**

**10.8.7.1.** A minimum thirty foot (30') undisturbed buffer, and an additional fifty foot (50') vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of the USGS 1:24,000 (7.5 minute) scale topographic maps. The buffer shall be measured from the edge of the bank shown on the survey of the property or on the most recent United States Department of Housing and Urban Development maps. Agriculture and forestry activities are exempt from these requirements. Golf courses do not have to have a 30 foot undisturbed buffer, but the 50 feet vegetative buffer requirement shall apply to them.



## **ARTICLE 10. ENVIRONMENTAL REGULATIONS**

The following disturbances of vegetation, and other, is permitted in undisturbed buffers:

**10.8.7.1.1.** Running approved utility lines (e.g., gas, electric, cable) under, and basically perpendicular to, streams; and

**10.8.7.1.2.** Cutting or removing diseased or damaged trees.

No other disturbance, including the application of fertilizer or chemical, shall be allowed in this area.

The following restrictions shall apply in the fifty-foot vegetative buffer:

**10.8.7.1.3.** No fertilizer or chemicals shall be applied, except to encourage regrowth in areas that may have been disturbed.

**10.8.7.2.** No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practicable alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

**10.8.7.3.** Agricultural activities are required to maintain stream buffers in the critical areas of water supply watersheds. See Section 10.8.2.2.2 for specific requirements.

### ***10.8.8. Rules Governing the Interpretation of Watershed Area Boundaries.***

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

**10.8.8.1.** Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.

**10.8.8.2.** Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the county as evidence that one or more properties along these boundaries do not lie within the watershed area.

**10.8.8.3.** Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.

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**10.8.8.4.** Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.

**10.8.8.5.** Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

**10.8.8.6.** In addition, the Watershed Administrator shall adjust the exterior boundary of the Watershed when he finds, based upon topographic evidence that all or part of a piece of property actually lies outside the drainage area of the Watershed. In performing this function, the Watershed Administrator may require the owner to produce such information as deemed necessary to make such finding.

### **10.8.9. Application of Regulations.**

**10.8.9.1.** No building or land shall hereafter be used and no development shall take place except in conformity with the regulations specified herein for the watershed area in which it is located.

**10.8.9.2.** No area required for the purpose of complying with the provisions of this Ordinance shall be included in the area required for another building.

**10.8.9.3.** Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section 10.8.10.

### **10.8.10. Existing Development.**

Any existing development as defined in Appendix A of this Ordinance may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this Ordinance, however, the built-upon area of the existing development is not required to be included in the density calculations.

**10.8.10.1. Vacant Lots.** This category consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds. Lots may be used for any of the uses allowed in the watershed area in which it is located.

**10.8.10.2. Occupied Lots.** This category consists of lots, occupied for residential or non-residential purposes at the time of the adoption of this Ordinance. These lots may continue to be used as they are currently being used.

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**10.8.10.3. Reconstruction of Buildings or Built-Upon Areas.** Any existing building or built-upon area not in conformance with the restrictions of this Ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single-family residential development, provided:

**10.8.10.3.1.** Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.

**10.8.10.3.2.** The total amount of space devoted to built-upon area may not be increased.

### **10.8.11. Watershed Protection Permit.**

**10.8.11.1.** Except where a single-family residence is constructed on a lot deeded prior to the effective date of this Ordinance, no building shall be erected, moved, enlarged or structurally altered, nor shall any built-upon area be enlarged, nor shall any building permit be issued, nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this Ordinance.

**10.8.11.2.** Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include the items listed according to the specifications in the County Subdivision Regulations (Article 9, Part VI) and supporting documentation deemed necessary by the Watershed Administrator.

**10.8.11.3.** Before issuance of a Watershed Protection Permit, the Watershed Administrator may consult with other qualified personnel for assistance to determine if the application meets the requirements of this Ordinance.

**10.8.11.4.** A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for the use is not obtained by the applicant within twelve (12) months from the date of issuance.

### **10.8.12. Building Permit Required.**

After receiving a Watershed Protection Permit, a Building Permit shall be obtained, when required, from the Caswell County Inspections Department for construction or alteration of any building or structure. No permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until the Watershed Protection Permit has been issued.

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### ***10.8.13. Watershed Protection Occupancy Permit.***

***10.8.13.1.*** The Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this Ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.

***10.8.13.2.*** A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after the erection or structural alteration of the building.

***10.8.13.3.*** When only a change in use of land or existing building occurs which meets the minimum requirements of this Ordinance, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this Ordinance have been met coincident with the Watershed Protection Permit.

***10.8.13.4.*** If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for denial.

***10.8.13.5.*** No building or structure which has been erected, moved, or structurally altered may be occupied until the Watershed Administrator has approved and issued a Watershed Protection Occupancy Permit.

### **SECTION 10.9 PUBLIC HEALTH REGULATIONS.**

#### ***10.9.1. Public Health, In General.***

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

#### ***10.9.2. Abatement.***

***10.9.2.1.*** The Watershed Administrator should monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

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**10.9.2.2.** The Watershed Administrator shall report findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.

**10.9.2.3.** Where the Watershed Review Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

### **SECTION 10.10 ADMINISTRATION, ENFORCEMENT, AND APPEALS.**

#### ***10.10.1. Watershed Administrator and Duties of the Administrator.***

The UDO Administrator, hereinafter referred to as the "Watershed Administrator," is hereby appointed, and it shall be the duty of the Watershed Administrator to administer and enforce the provisions of these regulations as follows:

**10.10.1.1.** The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Watershed Administrator.

**10.10.1.2.** The Watershed Administrator shall keep records of all amendments to the County's Water Supply Watershed Protection Regulations and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management, the NC Division of Environmental Health, and the NC Division of Community Assistance.

**10.10.1.3.** The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Regulations. A record of all variances granted by the Watershed Review Board during the previous calendar year shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management on or before January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

#### ***10.10.2. Appeals from Decisions of the Watershed Administrator.***

**10.10.2.1.** Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board as specified in Section 10.10.6.

**10.10.2.2.** An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) days from the date the order,

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interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

**10.10.2.3.** An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

**10.10.2.4.** The Board shall fix a reasonable time for hearing each appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

### ***10.10.3. Changes and Amendments to the Watershed Protection Regulations.***

**10.10.3.1.** The Caswell County Board of Commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

**10.10.3.2.** No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty-five (45) days after submission of the proposal, the Board of Commissioners may proceed as though a favorable report had been received.

**10.10.3.3.** Under no circumstances shall the Board of Commissioners adopt such amendments, supplements, or changes that would cause these regulations to violate the watershed protection rules as adopted by the NC Environmental Management Commission. All amendments must be filed with the NC Division of Environmental Management, NC Division of Environmental Health, and the NC Division of Community Assistance.

### ***10.10.4. Public Notice and Hearing Required.***

Before adopting or amending these regulations, the Board of Commissioners shall hold a public hearing on the proposed changes. A notice of the public 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 for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.

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### ***10.10.5. Establishment of the Watershed Review Board.***

The Caswell County Planning Board shall serve as the Watershed Review Board for all applications and appeals filed prior to June 7, 2021. The Caswell County Board of Adjustment shall serve as the Watershed Review Board for all purposes after June 7, 2021. The same rules of procedure adopted by the Board of Adjustment (or the Planning Board for applications and appeals filed prior to June 7, 2021) shall apply.

### ***10.10.6. Powers and Duties of the Watershed Review Board.***

***10.10.6.1. Administrative Review.*** The Watershed Review Board, which is comprised of the same individuals as the Board of Adjustment (or Planning Board for applications and appeals filed prior to June 7, 2021), shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of these regulations.

***10.10.6.2. Minor Variances.*** The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of these regulations as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of these regulations will result in practical difficulties or unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done.

***10.10.6.2.1.*** Applications for a minor variance shall be made on the proper form obtainable from the Watershed Administrator and shall include information required by the Watershed Administrator, at a minimum:

***10.10.6.2.1.1.*** A site plan, drawn to scale, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage.

***10.10.6.2.1.2.*** A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.

***10.10.6.2.2.*** The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the

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Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

**10.10.6.2.3.** Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

**10.10.6.2.3.1.** That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of these regulations. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

- (1) If he complies with the provisions of these regulations, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of these regulations that will make possible the reasonable use of his property.
- (2) The hardship results from the application of these regulations to the property rather than from other factors such as deed restrictions or other hardship.
- (3) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
- (4) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates these regulations, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.
- (5) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

**10.10.6.2.3.2.** That the variance is in harmony with the general purpose and intent of these regulations and preserves its spirit.



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**10.10.6.2.3.3.** That in granting the variance, the project will ensure equal or better protection of waters of the State than the requirements of Rule 15A NCAC 02B .0621-.0624 and that the stormwater controls will function in perpetuity.

**10.10.6.2.4.** In granting the variance, the Board may attach such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this Ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

**10.10.6.2.5.** The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

**10.10.6.2.6.** A variance issued in accordance with this section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.

### **10.10.6.3. Major Variances.**

**10.10.6.3.1.** If the application calls for the granting of a major variance, the Watershed Review Board shall follow the procedures required for hearing a minor variance. Upon reviewing the application for a major variance and the record of the case including all findings, the Watershed Review Board shall act to: 1) recommend approval, 2) recommend conditional approval, or 3) deny the application as submitted. If the Watershed Review Board acts to recommend approval or conditional approval, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

**10.10.6.3.1.1.** The variance application.

**10.10.6.3.1.2.** The hearing notices.

**10.10.6.3.1.3.** The evidence presented.

**10.10.6.3.1.4.** Motions, offers of proof, objections to evidence, and rulings on them.

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**10.10.6.3.1.5.** Proposed findings and exceptions.

**10.10.6.3.1.6.** The proposed decision, including all conditions proposed to be added to the permit.

**10.10.6.3.2.** The preliminary record shall be sent to the Environmental Management Commission for its review and approval as follows:

**10.10.6.3.2.1.** If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

**10.10.6.3.2.2.** If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

**10.10.7. Appeals from the Watershed Review Board.**

Appeals from the Watershed Review Board must be filed with the Superior Court within 30 days from the date of the decision rendered by the Watershed Review Board.

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## **PART III. RIPARIAN BUFFER PROTECTION REGULATIONS FOR LANDS WITHIN THE JORDAN WATERSHED**

### **SECTION 10.11 PURPOSE AND INTENT.**

The purposes of Caswell County in adopting the following regulations is to protect and preserve existing riparian buffers throughout the Jordan Watershed as generally described in Rule 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope), in order to maintain their nutrient removal and stream protection functions. Additionally, these regulations will help protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed.

Buffers adjacent to streams provide multiple environmental protection and resource management benefits. Forested buffers enhance and protect the natural ecology of stream systems, as well as water quality through bank stabilization, shading, and nutrient removal. They also help to minimize flood damage in flood prone areas. Well-vegetated streamside riparian areas help to remove nitrogen and prevent sediment and sediment-bound pollutants such as phosphorous from reaching the streams.

### **SECTION 10.12 APPLICABILITY.**

Part III applies to all landowners and other persons conducting activities in the planning jurisdiction of Caswell County that is located within the Jordan Reservoir Watershed, with the exception of activities conducted under the authority of the State, the United States, multiple jurisdictions, or local units of government, and forest harvesting and agricultural activities. The NC Division of Water Quality shall administer the requirements of Rule 15A NCAC 02B .0267 and .0268 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers and Mitigation of Existing Riparian Buffers, respectively) for these activities.

### **SECTION 10.13 RELATION TO OTHER ORDINANCES.**

The requirements of these regulations shall supersede all locally implemented buffer requirements and other sections of this UDO stated in Rules 15A NCAC 02B .0214 through .0216 as applied to WS-II, WS-III, and WS-IV waters in the Jordan Watershed.

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## **SECTION 10.14 RIPARIAN AREA PROTECTION WITHIN THE JORDAN RESERVOIR WATERSHED.**

### ***10.14.1. Buffers Protected.***

The following minimum criteria shall be used for identifying regulated buffers:

***10.14.1.1.*** These regulations shall apply to activities conducted within, or outside of with hydrologic impacts in violation of the diffuse flow requirements set out in Section 10.14.5 upon, 50-foot wide riparian buffers directly adjacent to surface waters in the Jordan watershed (intermittent streams, perennial streams, lakes, reservoirs and ponds), excluding wetlands.

***10.14.1.2.*** Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

***10.14.1.3.*** For the purpose of this Ordinance, only one of the following types of maps shall be used for purposes of identifying a water body subject to the requirements of this Ordinance:

***10.14.1.3.1.*** The most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.

***10.14.1.3.2.*** The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).

***10.14.1.3.3.*** A map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission. Prior to approving a map under this Item, the Commission shall provide a 30-day public notice and opportunity for comment. Alternative maps approved by the Commission shall not be used for buffer delineation on projects that are existing and ongoing within the meaning of Section 10.14.3.

***10.14.1.3.4.*** Where the specific origination point of a stream regulated under this Item is in question, upon request of the NC Division of Water Quality or another party, Caswell County shall make an on-site determination. A Caswell County representative who has successfully completed the Division's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division, shall establish that point using the latest version of the Division publication, Identification Methods for the Origins of

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Intermittent and Perennial Streams, available at [http://h2o.enr.state.nc.us/ncwetlands/documents/NC\\_Stream\\_ID\\_Manual.pdf](http://h2o.enr.state.nc.us/ncwetlands/documents/NC_Stream_ID_Manual.pdf) or from the NC Division of Water Quality - 401 Oversight Express Permitting Unit, or its successor. Caswell County may accept the results of a site assessment made by another party who meets these criteria. Any disputes over on-site determinations made according to this Item shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. The Director's determination is subject to review as provided in Articles 3 and 4 of GS 150B.

**10.14.1.3.5.** Riparian buffers protected by this Ordinance shall be measured pursuant to Section 10.14.4.

**10.14.1.3.6.** Parties subject to this Ordinance shall abide by all State rules and laws regarding waters of the state including but not limited to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

**10.14.1.3.7.** No new clearing, grading, or development shall take place nor shall any new building permits be issued in violation of this Ordinance.

### **10.14.2. Exemption Based on On-Site Determination.**

When a landowner or other affected party including the Division believes that the maps have inaccurately depicted surface waters, he or she shall consult Caswell County. Upon request, a Caswell County representative who has successfully completed the Division of Water Quality's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division, shall make an on-site determination. Caswell County may also accept the results of site assessments made by other parties who have successfully completed such training. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. A determination of the Director as to the accuracy or application of the maps is subject to review as provided in Articles 3 and 4 of GS 150B. Surface waters that appear on the maps shall not be subject to these buffer requirements if a site evaluation reveals any of the following cases:

**10.14.2.1.** Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. (A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.)

**10.14.2.2.** Ephemeral streams.

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**10.14.2.3.** The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond.

**10.14.2.4.** Ditches or other man-made water conveyances, other than modified natural streams.

### **10.14.3. Exemption When Existing Uses are Present and Ongoing.**

These regulations shall not apply to uses that are existing and ongoing; however, these regulations shall apply at the time an existing, ongoing use is changed to another use. Change of use shall involve the initiation of any activity that does not meet either of the following criteria for existing, ongoing activity:

**10.14.3.1.** It was present within the riparian buffer as of the effective date of this Ordinance and has continued to exist since that time. Existing uses shall include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems, any of which involve either specific, periodic management of vegetation or displacement of vegetation by structures or regular activity. Only the portion of the riparian buffer occupied by the footprint of the existing use is exempt from this Ordinance. Change of ownership through purchase or inheritance is not a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within 50 feet of the surface water where it did not previously exist as of the effective date of this Ordinance, and existing diffuse flow is maintained. Grading and revegetating Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised, the ground is stabilized and existing diffuse flow is maintained.

**10.14.3.2.** Projects or proposed development that are determined by Caswell County to meet at least one of the following criteria:

**10.14.3.2.1.** Project requires a 401 Certification/404 Permit and these were issued prior to the effective date of this Ordinance.

**10.14.3.2.2.** Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, have begun construction or are under contract to begin construction and had received all required state permits and certifications prior to the effective date of this Ordinance.

**10.14.3.2.3.** Projects that are being reviewed through the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its

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immediate successor and that have reached agreement with DENR on avoidance and minimization by the effective date of this Ordinance.

**10.14.3.2.4.** Projects that are not required to be reviewed by the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor if a Finding of No Significant Impact has been issued for the project and the project has the written approval of Caswell County prior to the effective date of this Ordinance.

### **10.14.4. Zones of the Riparian Buffer.**

The protected riparian buffer shall have two zones as follows:

**10.14.4.1.** Zone One shall consist of a vegetated area that is undisturbed except for uses provided for in the Table of Uses, Section 10.15.2. The location of Zone One shall be as follows:

**10.14.4.1.1.** For intermittent and perennial streams, Zone One shall begin at the top of the bank and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank.

**10.14.4.1.2.** For ponds, lakes and reservoirs located within a natural drainage way, Zone One shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the normal water level.

**10.14.4.2.** Zone Two shall consist of a stable, vegetated area that is undisturbed except for uses provided for in the Table of Uses, Section 10.15.2. Grading and revegetating in Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised. Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones One and Two shall be 50 feet on all sides of the surface water.

### **10.14.5. Diffuse Flow Requirements.**

Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:

**10.14.5.1.** Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone Two of the riparian buffer;

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**10.14.5.2.** Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and

**10.14.5.3.** As set out in Sections 10.14.4 and 10.15.2, the Zones of the Riparian Buffer and Table of Uses respectively, no new stormwater conveyances are allowed through the buffers except for those specified in the Table of Uses, Section 10.15.2, addressing stormwater management ponds, drainage ditches, roadside ditches, and stormwater conveyances.

### **SECTION 10.15 POTENTIAL USES AND ASSOCIATED REQUIREMENTS.**

#### ***10.15.1. Approval for New Development.***

Caswell County shall issue an approval for new development only if the development application proposes to avoid impacts to riparian buffers defined in Section 10.14.1, or where the application proposes to impact such buffers, it demonstrates that the applicant has done the following, as applicable:

**10.15.1.1.** Determined the activity is exempt from requirements of this Ordinance;

**10.15.1.2.** Received an Authorization Certificate from Caswell County pursuant to Section 10.16.1;

**10.15.1.3.** For uses designated as Allowable with Mitigation in the Table of Uses in Section 10.15.2, received approval of mitigation plan pursuant to Section 10.16.3; and

**10.15.1.4.** Received a variance pursuant to Section 10.16.2.

#### ***10.15.2. Table of Uses.***

The following chart sets out potential new uses within the buffer, or outside the buffer with impacts on the buffer, and categorizes them as exempt, allowable, or allowable with mitigation. All uses not categorized as exempt, allowable, or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer, unless a variance is granted pursuant to Section 10.16.2, Variances. The requirements for each category are given in Section 10.15.3 following the Table of Uses.



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Use	Exempt*	Allowable*	Allowable w/ Mitigation*
<p>Access trails: Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities:</p> <ul style="list-style-type: none"> <li>• Pedestrian access trails that are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the riparian buffer.</li> <li>• Pedestrian access trails that exceed 4 feet in width of buffer disturbance, the installation or use results in removal of trees as defined in this Ordinance or impervious surface is added to the riparian buffer.</li> </ul>	X	X	
<p>Airport facilities:</p> <ul style="list-style-type: none"> <li>• Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer.</li> <li>• Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer.</li> <li>• Activities necessary to comply with FAA requirements (e.g., radar uses or landing strips)<sup>1</sup>.</li> </ul>		X	X
Archaeological activities	X		
Bridges		X	
Canoe access provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the buffer.	X		
<p>Dam maintenance activities:</p> <ul style="list-style-type: none"> <li>• Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the US Army Corps of Engineers Nationwide Permit No. 3.</li> <li>• Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the US Army Corps of Engineers Nationwide Permit No.3.</li> </ul>	X	X	
<p>*To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 10.16.3.</p>			

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Use	Exempt*	Allowable*	Allowable w/ Mitigation*
<p>Drainage ditches, roadside ditches and stormwater conveyances through riparian buffers:</p> <ul style="list-style-type: none"> <li>• New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients, and other pollution that convey to waterbodies.</li> <li>• Realignment of existing roadside drainage ditches retaining the design dimensions, provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations.</li> <li>• New or altered drainage ditches, roadside ditches, and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer.</li> <li>• New drainage ditches, roadside ditches, and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topography constraints provided that other practicable BMPs are employed.</li> </ul>	X	X  X	   X
<p>Driveway crossings of streams and other surface waters subject to this Ordinance:</p> <ul style="list-style-type: none"> <li>• Driveway crossings on single-family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer.</li> <li>• Driveway crossings on single-family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer.</li> <li>• In a subdivision that cumulatively disturb equal to or less than 150 linear feet or one-third of an acre of riparian buffer.</li> <li>• In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer.</li> </ul>	X	X  X	   X
<p>Driveway impacts other than crossing of a stream or other surface waters subject to this Ordinance.</p>			X
<p>Fences:</p> <ul style="list-style-type: none"> <li>• Fences provided that disturbance is minimized and installation does not result in removal of trees as defined in this Ordinance.</li> <li>• Fences provided that disturbance is minimized and installation results in removal of trees as defined in this Ordinance.</li> </ul>	X	X	

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Use	Exempt*	Allowable*	Allowable w/ Mitigation*
*To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 10.16.3.			
Fertilizer application: one-time application to establish vegetation.	X		
Grading and revegetation in Zone Two provided that diffuse flow and the health of existing vegetation in Zone One is not compromised and disturbed areas are stabilized until they are revegetated.	X		
Greenway / hiking trails designed, constructed and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical.		X	
Historic preservation.	X		
Maintenance access on modified natural streams: a grassed travel way on one side of the water body when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading.		X	
Mining activities: <ul style="list-style-type: none"> <li>• Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of Sections 10.14.4 and 10.14.5 are established adjacent to the relocated channels.</li> <li>• Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements of Sections 10.14.4 and 10.14.5 are not established adjacent to the relocated channels.</li> <li>• Wastewater or mining dewatering wells with approved NPDES permit.</li> </ul>	X	X	X
Playground equipment: <ul style="list-style-type: none"> <li>• Playground equipment on single family lots provided that installation and use does not result in removal of vegetation.</li> <li>• Playground equipment installed on lands other than single-family lots or that requires removal of vegetation.</li> </ul>	X	X	
Ponds created by impounding streams and not used as stormwater BMPs: <ul style="list-style-type: none"> <li>• New ponds provided that a riparian buffer that meets the requirements of Sections 10.14.4 and 10.14.5 is established adjacent to the pond.</li> <li>• New ponds where a riparian buffer that meets the requirements of Sections 10.14.4 and 10.14.5 is NOT established adjacent to the pond.</li> </ul>		X	X
Protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel.		X	

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Use	Exempt*	Allowable*	Allowable w/ Mitigation*
*To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 10.16.3.			
Railroad impacts other than crossings of streams and other surface waters subject to this Ordinance.			X
Railroad crossings of streams and other surface waters subject to this Ordinance: <ul style="list-style-type: none"> <li>• Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer.</li> <li>• Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer.</li> <li>• Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer.</li> </ul>	X	X	X
Recreational and accessory structures in Zone Two: <ul style="list-style-type: none"> <li>• Sheds and gazebos in Zone Two, provided they are not prohibited under local water supply ordinance:               <ul style="list-style-type: none"> <li>▪ Total footprint less than or equal to 150 square feet per lot.</li> <li>▪ Total footprint greater than 150 square feet per lot.</li> </ul> </li> <li>• Wooden slatted decks and associated steps, provided the use meets the requirements of Sections 10.14.4 and 10.14.5:               <ul style="list-style-type: none"> <li>▪ Deck at least eight feet in height and no vegetation removed from Zone One.</li> <li>▪ Deck less than eight feet in height or vegetation removed from Zone One.</li> </ul> </li> </ul>		X	X
Removal of previous fill or debris provided that diffuse flow is maintained and vegetation is restored.	X		
Road impacts other than crossings of streams and other surface waters subject to this Ordinance.			X
Road crossings of streams and other surface waters subject to this Ordinance: <ul style="list-style-type: none"> <li>• Road crossings that impact equal to or less than 40 linear feet of riparian buffer.</li> <li>• Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer.</li> <li>• Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer.</li> </ul>	X	X	X
*To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 10.16.3.			

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Use	Exempt*	Allowable*	Allowable w/ Mitigation*
Road relocation: Relocation of existing private access roads associated with public road projects where necessary for public safety: <ul style="list-style-type: none"> <li>• Less than or equal to 2,500 square feet of buffer impact.</li> <li>• Greater than 2,500 square feet of buffer impact.</li> </ul>		X	X
Stormwater BMPs: <ul style="list-style-type: none"> <li>• Wet detention, bioretention, and constructed wetlands in Zone Two if diffuse flow of discharge is provided into Zone One.</li> <li>• Wet detention, bioretention, and constructed wetlands in Zone One.</li> </ul>		X	X
Scientific studies and stream gauging,	X		
Streambank or shoreline stabilization.		X	
Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation: At the end of five years the restored buffer shall comply with the restoration criteria in Section 10.16.3.7: <ul style="list-style-type: none"> <li>• Less than or equal to 2,500 square feet of buffer disturbance.</li> <li>• Greater than 2,500 square feet of buffer disturbance.</li> <li>• Associated with culvert installation or bridge construction or replacement.</li> </ul>	X	X  X	
*To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 10.16.3.			

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Use	Exempt*	Allowable*	Allowable w/ Mitigation*
<p>Temporary sediment and erosion control devices, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation. At the end of five years the restored buffer shall comply with the restoration criteria in Section 10.16.3.7:</p> <ul style="list-style-type: none"> <li>• In Zone Two provided ground cover is established within timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone One is not compromised, and runoff is released as diffuse flow in accordance with Section 10.14.5.</li> <li>• In Zones One and Two to control impacts associated with uses approved by [Municipality/County] or that have received a variance, provided that sediment and erosion control for upland areas is addressed, to the maximum extent practical, outside the buffer.</li> <li>• In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Water Pollution Control Act.</li> <li>• In-stream temporary erosion and sediment control measures for work within a stream channel.</li> </ul>	X	X	
<p>Utility, electric, aerial, perpendicular crossings of streams and other surface waters subject to this Ordinance<sup>2,3,5</sup>:</p> <ul style="list-style-type: none"> <li>• Disturb equal to or less than 150 linear feet of riparian buffer.</li> <li>• Disturb greater than 150 linear feet of riparian buffer.</li> </ul>	X	X	
<p>Utility, electric, aerial, other than perpendicular crossings<sup>5</sup>:</p> <ul style="list-style-type: none"> <li>• Impacts in Zone Two.</li> <li>• Impacts in Zone One<sup>2,3</sup>.</li> </ul>		X	X
<p>Utility, electric, underground, perpendicular crossings<sup>3,4,5</sup>:</p> <ul style="list-style-type: none"> <li>• Disturb less than or equal to 40 linear feet of riparian buffer.</li> <li>• Disturb greater than 40 linear feet of riparian buffer.</li> </ul>	X	X	
<p>Utility, electric, underground, other than perpendicular crossings<sup>4</sup>:</p> <ul style="list-style-type: none"> <li>• Impacts in Zone Two.</li> <li>• Impacts in Zone One<sup>1</sup>.</li> </ul>	X X		

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Use	Exempt*	Allowable*	Allowable w/ Mitigation*
<p>*To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 10.16.3.</p>			
<p>Utility, non-electric, perpendicular crossings of streams and other surface waters subject to this Ordinance<sup>3,5</sup>:</p> <ul style="list-style-type: none"> <li>• Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width.</li> <li>• Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width.</li> <li>• Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width.</li> <li>• Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width.</li> <li>• Disturb greater than 150 linear feet of riparian buffer.</li> </ul>	X	X  X	X   X
<p>Utility, non-electric, other than perpendicular crossings<sup>4,5</sup>:</p> <ul style="list-style-type: none"> <li>• Impacts in Zone Two.</li> <li>• Impacts in Zone One<sup>1</sup>.</li> </ul>		X	X
<p>Vegetation management:</p> <ul style="list-style-type: none"> <li>• Emergency fire control measures provided that topography is restored.</li> <li>• Mowing or harvesting of plant products in Zone Two.</li> <li>• Planting vegetation to enhance the riparian buffer.</li> <li>• Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised.</li> <li>• Removal of individual trees that are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering stability of the streambank.</li> <li>• Removal of individual trees which are dead, diseased or damaged.</li> <li>• Removal of poison ivy.</li> <li>• Removal of invasive exotic vegetation as defined in: <i>Smith, Cheri L. 1998. Exotic Plant Guidelines. Dept. of Environment and Natural Resources. Division of Parks and Recreation. Raleigh, NC. Guideline #30.</i></li> </ul>	X  X X X  X  X  X		

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Use	Exempt*	Allowable*	Allowable w/ Mitigation*
*To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 10.16.3.			
Vehicular access roads leading to water-dependent structures as defined in 15A NCAC 02B .0202, provided they do not cross the surface water and have minimum practicable width not exceeding ten feet.		X	
Water dependent structures as defined in 15A NCAC 02B .0202 where installation and use result in disturbance to riparian buffers.		X	
Water supply reservoirs: <ul style="list-style-type: none"> <li>• New reservoirs where a riparian buffer that meets the requirements of Sections 10.14.4 and 10.14.5 is established adjacent to the reservoir.</li> <li>• New reservoirs where a riparian buffer that meets the requirements of Sections 10.14.4 and 10.14.5 is not established adjacent to the reservoir.</li> </ul>		X	X
Water wells: <ul style="list-style-type: none"> <li>• Single-family residential water wells.</li> <li>• All other water wells.</li> </ul>	X	X	
Wetland, stream, and buffer restoration that results in impacts to the riparian buffers: <ul style="list-style-type: none"> <li>• Wetland, stream, and buffer restoration that requires NC Division of Water Quality approval for the use of a 401 Water Quality Certification.</li> <li>• Wetland, stream, and buffer restoration that does not require Division of Water Quality approval for the use of a 401 Water Quality Certification.</li> </ul>	X	X	
Wildlife passage structures.		X	
*To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 10.16.3			

<sup>1</sup>Provided that:

- No heavy equipment is used in Zone One.
- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.
- Zones One and Two meet the requirements of Sections 10.14.4 and 10.14.5.

<sup>2</sup>Provided that, in Zone One, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the Caswell County, as defined in Section 10.16.1.



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- A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
- Riprap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

<sup>3</sup>Provided that poles or aerial infrastructure shall not be installed within 10 feet of a water body unless Caswell County completes a no practical alternative evaluation as defined in Section 10.16.1.

<sup>4</sup>Provided that, in Zone One, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by Caswell County, as defined in Section 10.16.1.

- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut.
- Underground cables shall be installed by vibratory plow or trenching.
- The trench shall be backfilled with the excavated soil material immediately following cable installation.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

<sup>5</sup>Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

### **10.15.3. Requirements for Categories of Uses**

Uses designated in Section 10.15.2 as exempt, allowable, and allowable with mitigation within a riparian buffer shall have the following requirements:

**10.15.3.1. Exempt.** Uses designated as exempt are permissible without authorization by Caswell County provided that they adhere to the limitations of the activity as defined in Section 10.15.2, the Table of Uses. In addition, exempt uses shall be designed, constructed and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.

**10.15.3.2. Allowable.** Uses designated as allowable may proceed provided that there are no practical alternatives to the requested use pursuant to Section 10.16.1. This includes construction, monitoring, and maintenance activities. These uses require written authorization from Caswell County.

**10.15.3.3. Allowable with Mitigation.** Uses designated as allowable with mitigation may proceed provided that there are no practical alternatives to the requested use pursuant to Section 10.16.1 and an appropriate mitigation strategy has been approved

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pursuant to Section 10.16.3. These uses require written authorization from Caswell County.

### **SECTION 10.16 PERMIT PROCEDURES, REQUIREMENTS, AND APPROVALS.**

#### ***10.16.1. Determination of No Practical Alternatives/Request for Authorization Certificate.***

***10.16.1.1.*** Persons who wish to undertake uses designated as allowable or allowable with mitigation shall submit a request for a "no practical alternatives" determination to Caswell County. The applicant shall certify that the project meets all the following criteria for finding "no practical alternatives":

***10.16.1.1.1.*** The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;

***10.16.1.1.2.*** The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality; and

***10.16.1.1.3.*** Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.

***10.16.1.2.*** The applicant shall also submit at least the following information in support of their assertion of "no practical alternatives":

***10.16.1.2.1.*** The name, address and phone number of the applicant;

***10.16.1.2.2.*** The nature of the activity to be conducted by the applicant;

***10.16.1.2.3.*** The location of the activity, including the jurisdiction;

***10.16.1.2.4.*** A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;

***10.16.1.2.5.*** An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and

***10.16.1.2.6.*** Plans for any best management practices proposed to be used to control the impacts associated with the activity.

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**10.16.1.3.** Within 60 days of a submission that addresses Section 10.16.1.2, Caswell County shall review the entire project and make a finding of fact as to whether the criteria in Section 10.16.1.1 have been met. A finding of Any "practical alternatives" shall result in issuance of an Authorization Certificate. Failure to act within 60 days shall be construed as a finding of "no practical alternatives" and an Authorization Certificate shall be issued to the applicant unless one of the following occurs:

**10.16.1.3.1.** The applicant agrees, in writing, to a longer period;

**10.16.1.3.2.** Caswell County determines that the applicant has failed to furnish requested information necessary to Caswell County's decision;

**10.16.1.3.3.** The final decision is to be made pursuant to a public hearing; or

**10.16.1.3.4.** The applicant refuses access to its records or premises for the purpose of gathering information necessary to Caswell County's decision.

**10.16.1.4.** Caswell County may attach conditions to the Authorization Certificate that support the purpose, spirit and intent of this Ordinance.

**10.16.1.5.** Any appeals of determinations regarding Authorization Certificates shall be referred to the Director of the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in GS 150B Articles 3 and 4.

### **10.16.2. Variances.**

**10.16.2.1. Requirements for Variances.** Persons who wish to undertake prohibited uses may pursue a variance. The Caswell County Watershed Review Board may grant minor variances. For major variances, Caswell County shall prepare preliminary findings and submit them to the Division of Water Quality, 401 Oversight Express Permitting Unit, or its successor for approval by the Environmental Management Commission. The variance request procedure shall be as follows:

**10.16.2.1.1.** For any variance request, the Caswell County Watershed Review Board shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:

**10.16.2.1.1.1.** If the applicant complies with the provisions of this Ordinance, he/she can secure no reasonable return from, nor make reasonable use of, his/her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the Caswell County

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Watershed Review Board shall consider whether the variance is the minimum possible deviation from the terms of this Ordinance that shall make reasonable use of the property possible;

**10.16.2.1.1.2.** The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;

**10.16.2.1.1.3.** The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this Ordinance would not allow reasonable use of the property;

**10.16.2.1.1.4.** The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;

**10.16.2.1.1.5.** The applicant did not purchase the property after the effective date of this Ordinance, and then request a variance; and

**10.16.2.1.1.6.** The hardship is rare or unique to the applicant's property.

**10.16.2.1.2.** The variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and this Ordinance and preserves its spirit; and

**10.16.2.1.3.** In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

**10.16.2.2. Minor Variances.** A minor variance request pertains to activities that will impact only Zone Two of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in Section 10.16.1.1 through Section 10.16.1.3 by the Caswell County Watershed Review Board pursuant to NCGS 160D. The Caswell County Watershed Review Board may attach conditions to the variance approval that support the purpose, spirit, and intent of the riparian buffer protection program. Request for appeals to decisions made by the Caswell County Watershed Review Board shall be made in writing to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in GS 150B Articles 3 and 4.

**10.16.2.3. Major Variances.** A major variance request pertains to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer. If Caswell County has determined that a major variance request meets the requirements in Section 10.16.2.1 then it shall prepare a preliminary finding and submit it to the NC Environmental Management Commission c/o the Division of Water Quality, 401 Oversight Express Permitting Unit, or its successor, for approval. Within 90 days after

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receipt by Caswell County, the Commission shall review preliminary findings on major variance requests and take one of the following actions: approve, approve with conditions and stipulations, or deny the request. Appeals from a Commission decision on a major variance request are made on judicial review to Superior Court.

### **10.16.3. Mitigation.**

**10.16.3.1.** This item shall apply to persons who wish to impact a riparian buffer in the Jordan watershed when one of the following applies:

**10.16.3.1.1.** A person has received an Authorization Certificate pursuant to Section 10.16.1 for a proposed use that is designated as "allowable with mitigation;" or

**10.16.3.1.2.** A person has received a variance pursuant to Section 10.16.2 and is required to perform mitigation as a condition of a variance approval.

**10.16.3.2. Issuance of the Mitigation Approval.** Caswell County shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this Ordinance. The approval shall identify at a minimum the option chosen, the required and proposed areas, and either the mitigation location or the offset payment amount as applicable.

**10.16.3.3. Options for Meeting the Mitigation Requirement.** The mitigation requirement may be met through one of the following options:

**10.16.3.3.1.** Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0269 (Jordan Water Supply Nutrient Strategy: Riparian Buffer Mitigation Fees to the NC Ecosystem Enhancement Program) contingent upon acceptance of payments by the NC Ecosystem Enhancement Program, or to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, currently set out at <http://www.saw.usace.army.mil/WETLANDS/Mitigation/mitbanks.html> or from the US Army Corps of Engineers, P.O. Box 1890, Wilmington, NC, 28402-1890, and the applicable trading criteria in Rule 15A NCAC 02B .0273;

**10.16.3.3.2.** Donation of real property or of an interest in real property pursuant to Section 10.16.3.6; or

**10.16.3.3.3.** Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of Section 10.16.3.7.

**10.16.3.4. The Area of Mitigation.** Caswell County shall determine the required area of mitigation, which shall apply to all mitigation options identified in Section 10.16.3.3 and

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as further specified in the requirements for each option set out in this section, according to the following:

**10.16.3.4.1.** The impacts in square feet to each zone of the riparian buffer shall be determined by Caswell County by adding the following:

**10.16.3.4.1.1.** The area of the footprint of the use causing the impact to the riparian buffer;

**10.16.3.4.1.2.** The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and

**10.16.3.4.1.3.** The area of any ongoing maintenance corridors within the riparian buffer associated with the use.

**10.16.3.4.2.** The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in Section 10.16.3.4.1 to each zone of the riparian buffer:

**10.16.3.4.2.1.** Impacts to Zone One of the riparian buffer shall be multiplied by three;

**10.16.3.4.2.2.** Impacts to Zone Two of the riparian buffer shall be multiplied by one and one-half; and

**10.16.3.4.2.3.** Impacts to wetlands within Zones One and Two of the riparian buffer that are subject to mitigation under 15A NCAC 2H .0506 shall comply with the mitigation ratios in 15A NCAC 2H .0506.

**10.16.3.5. The Location of Mitigation.** For any option chosen, the mitigation effort shall be located within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 02B.0262, and the same distance from the Jordan Reservoir as the proposed impact, or closer to the Reservoir than the impact, and as close to the location of the impact as feasible. Alternatively, the applicant may propose mitigation anywhere within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 02B.0262, provided that the mitigation proposal accounts for differences in delivery of nutrients to the affected arm of Jordan Reservoir resulting from differences between the locations of the buffer impact and mitigation. Additional location requirements for the property donation option are enumerated in Section 10.16.3.6.3.1.

**10.16.3.6. Donation of Property.** Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:

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**10.16.3.6.1.** The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0268. The value of the property interest shall be determined by an appraisal performed in accordance with Section 10.16.3.6.4.4. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to 15A NCAC 02B .0268, the applicant shall pay the remaining balance due.

**10.16.3.6.2.** The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.

**10.16.3.6.3.** Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:

**10.16.3.6.3.1.** In addition to the location requirements of Section 10.16.3.5, the property shall be located within an area that is identified as a priority for restoration in, or is otherwise consistent with the goals of, the Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin developed by NC Division of Water Quality pursuant to GS 143-214.10;

**10.16.3.6.3.2.** The property shall contain riparian buffers not currently protected by the State's riparian buffer protection program that are in need of restoration as defined in Section 10.16.3.7.4;

**10.16.3.6.3.3.** The restorable riparian buffer on the property shall have a minimum length of 1,000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

**10.16.3.6.3.4.** The size of the restorable riparian buffer on the property to be donated shall equal or exceed the area of mitigation responsibility determined pursuant to Section 10.16.3.4;

**10.16.3.6.3.5.** Restoration shall not require removal of man-made structures or infrastructure;

**10.16.3.6.3.6.** The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation;

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**10.16.3.6.3.7.** The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and transaction costs;

**10.16.3.6.3.8.** The property shall not contain any building, structure, object, site, or district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended;

**10.16.3.6.3.9.** The property shall not contain any hazardous substance or solid waste;

**10.16.3.6.3.10.** The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations;

**10.16.3.6.3.11.** The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort; and

**10.16.3.6.3.12.** The property shall not have any encumbrances or conditions on the transfer of the property interests.

**10.16.3.6.4.** At the expense of the applicant or donor, the following information shall be submitted to Caswell County with any proposal for donations or dedications of interest in real property:

**10.16.3.6.4.1.** Documentation that the property meets the requirements laid out in Section 10.16.3.6.3;

**10.16.3.6.4.2.** US Geological Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements;

**10.16.3.6.4.3.** A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609;



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**10.16.3.6.4.4.** A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina Appraisal Practice." Copies may be obtained from the Appraisal Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734; and

**10.16.3.6.4.5.** A title certificate.

**10.16.3.7. Riparian Buffer Restoration or Enhancement.** Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:

**10.16.3.7.1.** The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:

**10.16.3.7.1.1.** The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to Section 10.16.3.4; or

**10.16.3.7.1.2.** The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to Section 10.16.3.4.

**10.16.3.7.2.** The location of the riparian buffer restoration or enhancement shall comply with the requirements in Section 10.16.3.5.

**10.16.3.7.3.** The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water.

**10.16.3.7.4.** Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements of this Item. Enhancement shall be distinguished from restoration based on existing buffer conditions. Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is absent, that is less than 100 trees per acre, a buffer may be restored.

**10.16.3.7.5.** The applicant shall first receive an Authorization Certificate for the proposed use according to the requirements of Section 10.16.1. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by the UDO Administrator. The restoration or enhancement plan shall contain the following:

**10.16.3.7.5.1.** A map of the proposed restoration or enhancement site;

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**10.16.3.7.5.2.** A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;

**10.16.3.7.5.3.** A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;

**10.16.3.7.5.4.** A fertilization plan; and

**10.16.3.7.5.5.** A schedule for implementation.

**10.16.3.7.6.** Within one year after Caswell County has approved the restoration or enhancement plan, the applicant shall present proof to Caswell County that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of both the State's and Caswell County riparian buffer protection program.

**10.16.3.7.7.** The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions.

**10.16.3.7.8.** The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

### **SECTION 10.17 COMPLIANCE AND ENFORCEMENT.**

#### ***10.17.1. Site Inspections.***

**10.17.1.1.** Agents, officials, or other qualified persons authorized by Caswell County may periodically inspect riparian buffers to ensure compliance with this Ordinance.

**10.17.1.2.** Notice of the right to inspect shall be included in the letter of approval of each variance and buffer authorization.

**10.17.1.3. Authority to Enter Property and Conduct Investigations and Inspections.** Authorized agents, officials or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any property, public or private, for the purpose of investigating and inspecting the site of any riparian buffer. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of Caswell County, while that person is inspecting or attempting to inspect a riparian buffer nor shall any person obstruct, hamper or interfere

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with any such representative while in the process of carrying out their official duties. Caswell County shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in this Ordinance.

### **10.17.1.4. Notice of Violation.**

**10.17.1.4.1.** If it is determined that a person has failed to comply with the requirements of this Ordinance, or rules, or orders adopted or issued pursuant to this Ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under GS 1A-1, rule 4. In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in rule (4j) of the North Carolina Rules of Civil Procedure.

**10.17.1.4.2.** The notice shall specify the violation and inform the person of the actions that need to be taken to comply with this Ordinance, or rules or orders adopted pursuant to this Ordinance. The notice shall direct the person to correct the violation within a specified reasonable time. The notice shall inform the person that any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance is subject to the civil and criminal penalties and other enforcement actions as provided in this Ordinance.

**10.17.1.5. Power to Require Statements.** Caswell County shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities.

### **10.17.2. Civil Penalties.**

**10.17.2.1. Assessment of Penalties.** Any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance shall be subject to a civil penalty. A civil penalty for a violation may be assessed in an amount not to exceed ten thousand dollars (\$10,000) per day. If any violation for which a penalty may be assessed is continuous, a civil penalty may be assessed for each day of the violation in an amount not to exceed twenty-five thousand dollars (\$25,000) per day for as long as the violation occurs. Each day of a continuing violation shall constitute a separate violation under Section 10.17.2.1.

**10.17.2.2. Notice of Civil Penalty Assessment.** The governing body of Caswell County shall provide written notice of the civil penalty amount and the basis for the assessment to the person assessed. The notice of civil penalty assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment, within thirty (30) days after receipt of the notice of assessment by written demand for a hearing.

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**10.17.2.3. Hearing.** A hearing on the civil penalty shall be conducted by the Caswell County Planning Board within 30 days after the date the written demand for the hearing is received by the Caswell County Planning Board. The Planning Board shall make its recommendation to the Caswell County Board of Commissioners within 30 days after the date of the hearing.

**10.17.2.4. Final Decision.** The governing body shall issue a final decision on the civil penalty within 30 days of the recommended decision. A copy of the final decision shall be served on the violator by any means authorized under G.S. 1A-1, Rule 4.

**10.17.2.5. Appeal of Final Decision.** Appeal from the final decision of the governing body shall be to the Superior Court of the county in which the violation occurred. Any appeal must be filed with thirty days of receipt of the final decision. A copy of the appeal must be served on the (City manager/County board/other appropriate person) by any means authorized under G.S. 1A-1, Rule 4.

**10.17.2.6. Demand for Payment of Penalty.** An assessment that is not contested is due when the violator is served with a notice of assessment. The civil penalty must be paid within 30 days of the assessment, if not appealed, or within 30 days after the conclusion of the administrative or judicial review of the assessment. If payment is not received within 30 days after demand for payment is made, Caswell County may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three (3) years of the date the assessment was due.

**10.17.2.7. Use of Penalties.** Civil penalties collected pursuant to this Ordinance shall be credited to the general fund of Caswell County as nontax revenue.

### **10.17.3. Criminal Penalties.**

**10.17.3.1.** Any person who negligently violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed fifteen thousand dollars (\$15,000) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars (\$200,000) for each period of 30 days during which such a violation continues.

**10.17.3.2.** Any person who knowingly or willingly violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class I felony which may include a fine not to exceed one hundred thousand dollars (\$100,000) per day of violation, provided that this fine shall not exceed a cumulative total of five hundred

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thousand dollars (\$500,000) for each period of 30 days during which such a violation continues.

**10.17.3.3.** Any person who knowingly violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class C felony which may include a fine not to exceed two hundred fifty thousand dollars (\$250,000) per day of violation, provided that this fine shall not exceed a cumulative total one million dollars (\$1,000,000) for each period of 30 days during which such a violation continues.

### **10.17.4. Injunctive Relief.**

**10.17.4.1. Civil Action in Superior Court.** Whenever the governing body of Caswell County has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of Caswell County for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Caswell County.

**10.17.4.2. Order to Cease 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.

**10.17.5. Compliance with Requirements.** Any person engaged in new activities as defined by this Ordinance who fails to meet the requirements of this Ordinance shall be deemed in violation of this Ordinance.

### **SECTION 10.18 REVISIONS TO THESE REGULATIONS.**

Caswell County shall review any revisions to the Model Local Riparian Buffer Protection Ordinance made by the Environmental Management Commission and, within 60 days of receipt of the recommended revisions, submit draft amendments to the Commission for its consideration and comments. Within 90 days after receipt of the Commissions' comments, Caswell County will incorporate amendments into this Ordinance.

### **SECTION 10.19 EFFECTIVE DATE.**

The Riparian Buffer Protection Regulations will become effective upon approval by the NC Environmental Management Commission and adoption by the Caswell County Board of Commissioners

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# **APPENDIX A. DEFINITIONS**

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# **APPENDIX A. DEFINITIONS**

## **SECTION A.1 PURPOSE.**

For the purposes of this Ordinance, certain words, concept, and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

## **SECTION A.2 INTERPRETATION.**

- (A) As used in this Ordinance, words importing the masculine gender include the feminine and neuter.
- (B) Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.
- (C) Words used in the present tense include future tense.
- (D) The word "person" includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
- (E) The words "may" and "should" are permissive.
- (F) The words "shall" and "will" are always mandatory and not merely directive.
- (G) The word "used for" shall include the meaning "designed for."
- (H) The words "used" or "occupied" shall mean "intended, designed, and arranged to be used or occupied."
- (I) The word "lot" shall include the words "plot," "parcel," "site," and "premises."
- (J) The word "structure" shall include the word "building."
- (K) The word "street" includes the word "alley," "road," "cul-de-sac," "highway," or "thoroughfare," whether designated as public or private.
- (L) The word "includes" shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (M) The word "UDO Administrator" shall mean the UDO Administrator or his/her designee.
- (N) The words "Planning Board" shall mean the "Caswell County Planning Board."



## **APPENDIX A. DEFINITIONS**

- (O) The word "County" shall mean "Caswell County," a county of the State of North Carolina.
- (P) The words "map," "zoning map," and "Hyco Lake Zoning Map" shall mean the "Official Hyco Lake Zoning Map for Caswell County, North Carolina."
- (Q) The words "Board of Adjustment" shall mean the "Caswell County Board of Adjustment."

### **SECTION A.3 DEFINITIONS.**

#### **A**

#### ***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.

#### ***Access Trails***

Pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.

#### ***Addition (to an existing building)***

An extension or increase in the floor area or height of a building or structure.

#### ***Adult Arcade***

Any place to which the public is admitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the image is displayed to depict or describe specified sexual activities or specified anatomical areas.

#### ***Adult Book or Video Store***

A commercial establishment which either (1) receives the majority of its gross income during any calendar month from sale or rental of, or (2) has a preponderance of its inventory, books, magazines, periodicals, other printed matters or photographs, films, video cassettes, slides, or other visual representations that depict or describe specified sexual activities or specified anatomical areas, and or instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

## **APPENDIX A. DEFINITIONS**

### ***Adult Cabaret***

A night club, bar, restaurant or other commercial establishment that regularly features, exhibits, or displays, as one of its principal business purposes, nude or semi-nude persons, live performances characterized by the exposure of specified anatomical areas or specified sexual activities, or one or more of the following: films, video cassettes, slides, or other visual representations that expose, depict, or describe specified sexual activities or specified anatomical areas.

### ***Adult Entertainment Establishment***

A commercial establishment where, for any form of consideration, films, video cassette, slides, or other visual representations, or persons appearing in a nude or semi-nude state (as defined herein), are, as one of the establishment=s principal business activities, shown, displayed, or exhibited in a way that exposes, depicts, or describes specified anatomical areas or specified sexual activities, as defined herein. Such an establishment includes, without limitation, an adult arcade, adult book or video store, adult cabaret, adult motel, adult theater, escort agency, nude model studio, or sexual encounter center.

### ***Adult Live Entertainment***

Entertainment in which specified anatomical areas are displayed and/or specified sexual activities are performed or depicted.

### ***Adult Motel***

An inn that offers rooms or accommodations to the public for consideration and, as one of its principal business activities, either (1) provides its patrons, through closed circuit technology or otherwise, films, video cassettes, slides, or other visual representations that depict or describe specified sexual activities or specified anatomical areas; (2) offers a sleeping room for rent to patrons for a time period less than ten hours; or (3) allows patrons or another occupant of a sleeping room to sublet such room for a period of time less than ten (10) hours.

### ***Adult Theater***

Any place which, for consideration and as one of its principal business purposes, exhibits (1) films, video cassettes, slides or other visual representations that depict or describe specified sexual activities or specified anatomical areas; (2) nude or semi-nude persons; and/or (3) live performances that expose, depict, or describe specified sexual activities or specified anatomical areas.

### ***Agricultural Preservation District***

A parcel or tract of land or a group of parcels or tracts of land that have qualified for and have been accepted for inclusion into the Caswell County Voluntary Farmland Preservation Program.

### ***Agricultural Use***

The use of waters for stock watering, irrigation, and other farm purposes.

## **APPENDIX A. DEFINITIONS**

### ***Airport Facilities***

All properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases "air navigation facility," "airport," or "airport protection privileges" under G.S. 63-1; the definition of "aeronautical facilities" in G.S. 63-79(1); the phrase "airport facilities" as used in G.S. 159-48(b)(1); the phrase "aeronautical facilities" as defined in G.S. 159-81 and G.S. 159-97; and the phrase "airport facilities and improvements" as used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricting landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricting land area; easements through, or interests in, air space over land or water; interests in airport hazards outside of the boundaries of airports or restricting land areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricting land areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of "airport facilities":

- (1) Satellite parking facilities;
- (2) Retail and commercial development outside of the terminal area, such as rental car facilities; and
- (3) Other secondary development, such as hotels, industrial facilities, free-standing offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of "airport facilities."

### ***Antenna***

Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications service.

## **APPENDIX A. DEFINITIONS**

### ***Antenna Array***

One or more rods, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include herein - directional antenna (rod), directional antenna (panel), and parabolic antenna (disc). The Antenna Array does not include the Support Structure.

### ***Appeal***

A request for a review of the UDO Administrator's interpretation of any provision of this Ordinance.

### ***Applicant***

See Developer

### ***Applicant, Sexually Oriented Business***

The person who will occupy the sexually oriented business, and shall include each of the following persons associated with the business:

- (1) The owner of a sole proprietorship;
- (2) Each member of a firm, association, or general partnership;
- (3) Each general partner in a limited partnership;
- (4) Each officer or director of a corporation, or the owner of ten or more percent of the stock therein;
- (5) The manager of an establishment owned by a corporation; or
- (6) Any manager who has been empowered as an attorney-in-fact or general agent for a nonresident individual or partnership.

### ***Archery***

The art, sport, or skill of shooting with a bow and arrow.

### ***Area of Shallow Flooding***

A designated Zone AO 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).

### ***Attached Wireless Communication Facility***

## **APPENDIX A. DEFINITIONS**

An Antenna Array that is attached to an existing building or structure (Attachment Structure), which structures shall include but not be limited to utility poles, signs, water towers, rooftops, towers with any accompanying pole or device (Attachment Device) which attaches the Antenna Array to the existing building or structure and associated connection cables, and an Equipment Facility which may be located either inside or outside of the Attachment Structure.

### ***Automobile Graveyard/Salvage Yard***

Any area of land, a parcel, or tract of land which is maintained, used, or operated for the storing, keeping, buying, and selling of three or more wrecked, scrapped, ruined, dismantled, or inoperable motor vehicles or parts thereof.

## **B**

### ***Balance of Watershed***

The area adjoining and upstream of the critical area and within the WS-II or WS-IV watersheds.

### ***Base Flood***

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

### ***Base Flood Elevation (BFE)***

A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Regulatory Flood Protection Elevation.

### ***Basement***

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

### ***Base Station***

A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

### ***Berm***

An embankment used for restricting bullets within a shooting range.

### ***Best Management Practices (BMP)***

A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

## APPENDIX A. DEFINITIONS

### ***Board of Adjustment***

The body duly established by the Caswell County Board of Commissioners shall preside over all quasi-judicial matters.

### ***Board of Commissioners***

The Caswell County Board of Commissioners.

### ***Bona Fide Farm***

Land being used for farm purposes as defined in NCGS 160D-903. Proof that property functions as a farm may include one of the following: (1) a farm sales tax exemption certificate; (2) a copy of the property tax listing showing that the farm qualifies for the present-use-value property taxation that applies to agricultural, horticultural, and forestry uses; (3) a copy of the farm operator's federal income tax form that demonstrates farm activity; (4) a forestry management plan.

### ***Buffer***

Land area (measured horizontally) used to visibly separate one (1) use from another or to shield or block noise, lights, or other nuisances. The area for the buffer shall not be included in the minimal manufactured home space requirement specified in this Ordinance.

### ***Buffer Strip***

A solid fence or wall, or a planted strip at least five (5) feet in width composed of deciduous and/or evergreen trees spaced not more than ten (10) feet apart, and not less than one (1) row of dense shrubs spaced not more than five (5) feet apart, which shall be established and maintained in perpetuity by the owner of property whenever required under the terms and provisions of this Ordinance.

### ***Building***

Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals, or property.

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

A line parallel to the front property line, side property line, or rear property line of a lot, or centerline of a road or right-of-way. Buildings and structures shall not be erected within the area between said lot lines/centerlines and the building setback lines.

### ***Built-Upon Area***

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

## APPENDIX A. DEFINITIONS

### C

***Channel***

A natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

***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.

***Clerk***

The Clerk to the Board of Commissioners of Caswell County.

***Clerk, Watershed Review Board***

The Clerk to the Watershed Review Board shall be appointed by the Watershed Review Board according to their Rules of Procedure.

***Cluster Development***

The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

***Collocation***

The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.

***Composting Facility***

A facility in which only stumps, limbs, leaves, grass, and untreated wood collected from land clearing or landscaping operations is deposited.

***Comprehensive Plan***

The adopted official statement of a legislative body of a local government that sets forth (in words, maps, illustrations, and/or tables) goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within its planning jurisdiction and that includes a unified physical design for the public and private development of land and water. Comprehensive plan includes the term land use plan.

***Critical Area***

The area adjacent to a water supply intake where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either:

## **APPENDIX A. DEFINITIONS**

(1) one-half mile upstream and draining to the intake located directly in the stream or river (run-of-the-river), or to the ridge line of the watershed, whichever comes first; or (2) one-half mile from the normal pool elevation of the reservoir in which the intake is located, or to the ridge line of the watershed, whichever comes first. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

### ***Customary Home Occupations***

Any use conducted entirely within a dwelling, and carried on by the occupants thereof, which is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.

### ***Customer Vehicle***

A vehicle not belonging to the owner/operator of a storage facility which is on the premises to be repaired or restored back into service or which was used by the customer for transportation to the facility.

## **D**

### ***DBA***

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

### ***DBH***

Diameter at breast height of a tree measured at 4.5 feet above ground surface level.

### ***Dedication***

A gift, by the owner, or a right to 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.

### ***Developer***

A person, firm, or corporation who is the legal owner of the property being proposed for a manufactured home park.

### ***Development***

Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.



## **APPENDIX A. DEFINITIONS**

### ***Direct Family Member***

Any person related in direct lineage by blood, marriage or adoption (Grandparents, Parents, Grandchildren, Children, Brothers, Sisters, and their in-law counter parts, and their adopted counterparts).

### ***Discharging Landfill***

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

### ***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.

### ***Disturbed Area***

An area of land subjected to erosion due to the removal of vegetative cover and/or earthmoving activities, including filling.

### ***Ditch or Canal***

A man-made canal other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.

### ***Dwelling***

Any principal building or structure which is used for and designed for human habitation including living, sleeping, cooking and eating activities.

### ***Dwelling Unit***

A building, or portion thereof, providing complete and permanent living facilities for one family.

## **E**

### ***Easement***

A grant by the property owner of an interest in land for a specified purpose and use by the public, a corporation, or persons.

## APPENDIX A. DEFINITIONS

### ***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***

A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

### ***Employ, Employee, and Employment***

Any person who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, regardless of whether the person is referred to by the operator as an employee, an independent contractor, an agent, or by some other term. However, a person merely on the operator=s premises to perform maintenance or repair services, or to deliver goods to the premises, shall not be deemed to be an employee.

### ***Encroachment***

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

### ***Ephemeral Stream***

A feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

### ***Equipment Compound***

An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

### ***Equipment Graveyard/Salvage Yard***

Any area of land, a parcel, or tract of land which is maintained, used, or operated for the storing, keeping, buying and selling of wrecked, scrapped, ruined, dismantled, or inoperable equipment or parts thereof.

### ***Escort***

A person who, for any form of consideration (including, without limitation, wages, salaries, and tips), agrees or offers to date another person, model lingerie or other intimate items of apparel for such a person, or be or become nude or semi-nude for the other person=s viewing.

## **APPENDIX A. DEFINITIONS**

### ***Escort Agency***

Any person or business that, as one of its principal business activities, offers, advertises, furnishes, or provides the services of a person as an escort for any form of consideration (including, without limitations, wages, salaries, and tips).

### ***Existing Development***

Development, other than that associated with agricultural or forest management activities, that meets one of the following criteria:

- (1) It either is built or has established a vested right based on statutory or common law as interpreted by the courts, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under Rule 15A NCAC 2B.0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) or, for projects requiring a state permit, as of the applicable compliance date established in Rule 15A NCAC 2B.0271 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development), Items (5) and (6);
- (2) It occurs after the compliance date set out in Sub-Item (4)(d) of Rule .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) but does not result in a net increase in built-upon area;
- (3) It has an outstanding valid building permit as authorized by the General Statutes (GS 153A-344.1), or
- (4) It has expended substantial resources (time, labor, money) and has an approved site specific or phased development as authorized by the General Statutes (GS 153A-344.1).

### ***Existing Lot (Lot of Record)***

A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

### ***Existing Manufactured Home Park or Manufactured Home Subdivision***

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

## APPENDIX A. DEFINITIONS

### E

#### ***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 related by blood, adoption or marriage, or a group of not more than five (5) persons not related by blood, adoption or marriage living together as a single housekeeping group in a single dwelling unit; domestic servants living on the premises may be housed in the premises without being counted as a family.

#### ***Federal Aviation Administration***

FAA

#### ***Federal Communications Commission***

FCC

#### ***Federal Telecommunications Act of 1996***

FTA

#### ***Fence (Solid)***

A continuous, opaque, unperforated barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of wood, stone, or other metal, or any substance of a similar nature and strength and shall be weather and rot resistant.

#### ***Fence (Perforated)***

A continuous barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of galvanized, zinc or weather coated wire, steel or any substance of a similar nature and strength, no less than 14 gauge in thickness, but with perforations or openings which are no larger than sixteen (4" x 4") square inches.

NOTE: Posts set to suspend agricultural wire and solid fences shall be no farther than six (6) feet apart and shall be substantial enough to support the fence and constructed of a weather and rot resistant material. Metal posts used to suspend chain link fencing may be set twelve (12) feet apart.

#### ***Firearm***

A weapon, including but not limited to pistols, rifles, and shotguns, capable of firing a projectile using an explosive charge as a propellant.

## **APPENDIX A. DEFINITIONS**

### ***Firing line***

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

### ***Flood or Flooding***

A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

### ***Flood Boundary and Floodway Map (FBFM)***

An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

### ***Flood Hazard Boundary Map (FHBM)***

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

### ***Flood Insurance***

The insurance coverage provided under the National Flood Insurance Program.

### ***Flood Insurance Rate Map (FIRM)***

An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

### ***Flood Insurance Study (FIS)***

An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

### ***Flood Prone Area***

See Floodplain.

### ***Floodplain***

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

## **APPENDIX A. DEFINITIONS**

### ***Floodplain Administrator***

The UDO Administrator is appointed as the Floodplain Administrator to administer and implement the provisions of Article 10, Part I.

### ***Floodplain Development Permit***

Any type of permit that is required in conformance with the provisions of this Ordinance, prior to the commencement of any development activity.

### ***Floodplain Management***

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

### ***Floodplain Management Regulations***

Article 10, Part I 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***

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.

### ***Floodway***

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

### ***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.

### ***Freeboard***

The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation plus the freeboard establishes the Regulatory Flood Protection Elevation.

## APPENDIX A. DEFINITIONS

### ***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.

## **G**

### ***Gate***

A door or other device attached to a fence which, when opened, provides a means of egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

### ***General Discharge***

Occasional target practice that does not exceed 3 days in any given month where not more than 3 people are gathered at any given time firing projectiles from a firearm or bow on the same parcel of land.

### ***Governing Body***

Board of County Commissioners

### ***Grandfathered***

Describes the status accorded certain properties, uses, and activities that are legally existing prior to the date of adoption of the UDO or provisions of the UDO.

### ***Greenway/Hiking Trails***

Pedestrian trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage, and that generally run parallel to the shoreline.

## **H**

### ***Hazardous Material***

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

### ***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.

## **APPENDIX A. DEFINITIONS**

### ***Health Department***

The Caswell County Health Department

### ***Height***

When referring to a Wireless Communication Facility, height shall mean the distance measured from ground level to the highest point on the Wireless Communication Facility.

### ***High Value Tree***

A tree that meets or exceeds the following standards: for pine species, 14-inch DBH or greater or 18-inch or greater stump diameter; or for hardwoods and wetland species, 16-inch DBH or greater or 24-inch or greater stump diameter.

### ***Highest Adjacent Grade (HAG)***

The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

### ***Hillside Subdivision***

Land proposed to be subdivided which has a slope of sixteen percent (16%) or greater. That is, an average difference in elevation of at least sixteen (16) feet in a horizontal distance of one hundred (100) feet. The average shall be obtained from at least fifteen (15) measurements, each twenty (20) feet from the next.

### ***Historic Structure***

Any structure that is:

- (1) 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;
- (2) 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;
- (3) Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or
- (4) 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.



## APPENDIX A. DEFINITIONS

### I

#### ***Impact Area***

That area in a berm directly behind the target where bullets are expected to impact. The term may also refer to an area down range of an outdoor range where bullets will impact if not captured in a berm backstop.

#### ***Industrial Development***

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

#### ***Industrial Discharge***

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

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

#### ***Intermittent Stream***

A well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.

### J

#### ***Jordan Nutrient Supply or Jordan Water Supply Nutrient Strategy***

The set of Rules 15A NCAC 2B.0262 through .0273 and .0311(p).

## **APPENDIX A. DEFINITIONS**

### ***Jordan Reservoir***

The surface water impoundment operated by the US Army Corps of Engineers and named B. Everett Jordan Reservoir, as further delineated for purposes of the Jordan nutrient strategy in Rule 15A NCAC 2B.0262(4).

### ***Jordan Watershed***

All lands and waters draining to B. Everett Jordan Reservoir.

### ***Junk***

Old or scrapped copper, brass, building materials, dismantled and/or abandoned manufactured homes, rope, rags, paper, trash, rubber, tires, debris, waste, appliances, wood, dismantled or wrecked motor vehicles, equipment or parts thereof, iron, steel, and other old scrap ferrous or non-ferrous materials.

### ***Junked/Inoperable Motor Vehicle***

A motor vehicle that does not display a current license plate and registration and/or is one or more of the following (1) partially dismantled or wrecked; (2) cannot be self-propelled or moved in the manner in which it was originally intended to move; or (3) more than five (5) years old and appears to be worth less than one hundred dollars (\$100.00). A motor vehicle, which has valid title, current registration, and license plate issued by a State Department of Motor Vehicles, and is operable, shall not be considered an inoperable motor vehicle.

### ***Junkyard***

Any area of land, a parcel, or tract of land, 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. Facilities operated by the State or Federal government are exempt from this definition.

## **K**

None

## **L**

### ***Lakeside Camping Area***

Camps providing sites for the location of tents and camping trailers.

### ***Landfill***

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

## APPENDIX A. DEFINITIONS

### ***Licensee***

A person receiving a license to be the operator of a sexually oriented business.

### ***Lot***

A piece of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces. Also, a parcel of land that is part of a legally approved and recorded subdivision or described by metes and bounds on a recorded deed.

### ***Lot Area***

In calculation of lot area, lot depths and lot widths, land within any street right of way, railway right-of-way or drainage easements shall not be considered. All state street right-of-ways are assumed to be at least 60 feet.

### ***Lot of Record***

A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Caswell County prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

### ***Lot Types***

- (1) ***Access Lot.*** A lot having lake frontage and road frontage which offers lake frontage and/or lake access to those lots not having direct lake frontage within a lake-front subdivision.
- (2) ***Corner Lot.*** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.
- (3) ***Interior Lot.*** A lot other than a corner lot with only one frontage on a street.
- (4) ***Through Lot 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.
- (5) ***Reversed Frontage Lot.*** A lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

### ***Lowest Adjacent Grade (LAG)***

## **APPENDIX A. DEFINITIONS**

The 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.

## **M**

### ***Main Berm***

An embankment used for restricting bullets from the impact zone of a shooting range

### ***Manufactured Home***

A dwelling unit that: (1) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be installed on the building site; (2) is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One and Two-Family Dwellings; and (3) exceeds forty (40) feet in length and eight (8) feet in width.

### ***Manufactured Home, Class A***

A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria.

- (1) The manufactured home has a length not exceeding four (4) times its width, with length measured along the longer axis and width measured at the narrowest part of the other axis.
- (2) The manufactured home has a minimum of 1,200 square feet of enclosed heated living area.
- (3) The pitch of the roof of the manufactured home has a minimum vertical rise of two and two tenths feet for each twelve feet of horizontal run (2.2 feet and 12 feet) and the roof is finished with a type of shingle that is commonly used in standard residential construction.
- (4) All roof structures shall provide an eave projection of no less than six (6) inches, which may include a gutter.

## APPENDIX A. DEFINITIONS

- (5) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (6) The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance.
- (7) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, and attached firmly to the primary structure and anchored securely to the ground.
- (8) The moving hitch, wheels and axles, and transporting lights have been removed (NOTE: within a park, one or more of these may remain intact).
- (9) A continuous, permanent masonry curtain wall or foundation unpierced except for ventilation and access is installed under the manufactured home.

It is the intent of these criteria to ensure that a Class A manufactured home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling.

### ***Manufactured Home, Class B***

A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction, but which does not meet the definition of a Class A manufactured home. The following criteria must also be satisfied:

- (1) The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance.
- (2) A continuous, permanent masonry curtain wall or foundation unpierced except for ventilation and access is installed under the manufactured home.
- (3) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, and attached firmly to the primary structure and anchored securely to the ground.
- (4) The moving hitch, wheels and axles, and transporting lights have been removed (NOTE: within a park, one or more of these may remain intact).

## **APPENDIX A. DEFINITIONS**

### ***Manufactured Home, Class C***

A manufactured home constructed after July 1, 1976, that does not meet the definition of either a Class A or a Class B manufactured home.

### ***Manufactured Home, Class D***

A manufactured home which does not meet the definitional criteria for a Class A or a Class B manufactured home and was constructed prior to July 1, 1976. No new Class D homes may be erected, existing homes are grandfathered.

### ***Manufactured Home Park***

A parcel of land owned or controlled by the same person or persons, family, partnership, corporation, company, or similar organization which has been planned or improved for the placement (through contract sales, sale, rental or lease) of three (3) or more manufactured homes. This definition does not include manufactured homes used for farm workers and/or direct family members. The County reserves the right to review manufactured home developments to ascertain whether the emerging pattern is consistent with the definition of a manufactured home park. On a case-by-case basis, the observation of shared similar development patterns shall be viewed as that of a manufactured home park and the regulations herein shall apply.

### ***Manufactured Home Space***

A designated area within a manufactured home park designed for the exclusive use of a single manufactured home and associated structures.

### ***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.

### ***Mean Sea Level***

For purposes of this Ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

### ***Modular Home***

A dwelling unit constructed in accordance with the standards set forth in the State building code applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent

## APPENDIX A. DEFINITIONS

foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a manufactured home except that the modular home meets the North Carolina Uniform Residential Building Code for One and Two-Family Dwellings applicable to site-built homes, or a series of panels or room sections transported on a truck and erected or joined together on the site.

### ***Multi-Family Residential Development***

Two (2) or more single-family dwellings constructed as one (1) unit, such as apartment houses, motels, manufactured home parks, townhouses, or condominiums.

## **N**

### ***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.

### ***New Development***

Any development project that does not meet the definition of existing development set out in this Ordinance.

### ***Nonconforming Existing Manufactured Home Park***

Any existing park which, on the effective date of this Ordinance, does not meet the requirements herein.

### ***Non-Encroachment Area***

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

### ***Nonresidential Development***

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

### ***Nude***

A state in which specified anatomical parts are shown.

### ***Nude Model Studio***

Any place that allows, permits, or makes available a person who is or appears to be nude or semi-nude, or who displays specified anatomical areas, to be observed, sketched, drawn, painted, sculpted, photographed or depicted by persons providing money or other consideration to do so; provided, however, that a place dedicated to activities excluded from this Ordinance in the section defining "Specified Sexual Activities" shall not be within the scope of this definition.

## APPENDIX A. DEFINITIONS

### ***Nuisance Strip***

A strip of land adjoining a road right-of-way for the purpose of preventing access to adjacent property. Nuisance strips are prohibited by this Ordinance.

## **Q**

### ***Official Maps or Plans***

Any maps or plans officially adopted by the Board of Commissioners as a guide to the development of Caswell County.

### ***Off-Site Wastewater System***

A "septic system" where at least the nitrification field is located completely off the lot on which the dwelling served by that "system" is located.

### ***Open Space***

An area (land and/or water) generally lacking in manmade structures and reserved for enjoyment in its unaltered state.

### ***Open Space, Common (Article 9, Part II, Manufactured Home Siting)***

An area of land and/or water resources set aside, dedicated, or reserved for the use and enjoyment of occupants of a manufactured home park. Such land may be developed for active and/or passive recreation pursuits with various man-made improvements to accommodate such activities.

### ***Operating Permit***

A license issued by the Building Inspector to the owner or operator of a manufactured home park upon the completion of a park in accordance with the requirements of this Ordinance.

### ***Operator (of a manufactured home park)***

A person who owns or is responsible for the operation of a manufactured home park.

### ***Operator, Sexually Oriented Business***

A person who causes a sexually oriented business to function or be kept in operation, whether the person is described as an owner, part owner, a licensee, or by some other term, or a member of the control group of such a person.

### ***Outdoor Storage Facility***

Any area of land, a parcel, or tract of land, which is maintained, operated, or used for the storing, keeping, buying, selling, and/or processing of any materials described by and in any or all of the definitions contained in this Ordinance.



## APPENDIX A. DEFINITIONS

### P

#### ***Perennial Stream***

A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water

#### ***Perennial Waterbody***

A natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude growth of rooted plants. For the purpose of the State=s riparian buffer protection program, the waterbody must be part of a natural drainage way (i.e., connected by surface flow to a stream).

#### ***Person***

An individual, proprietorship, partnership, corporation, association or any other sort of entity recognized by law.

#### ***Phase***

A portion of a manufactured home park development delineated on the site plan. For the purposes of this Ordinance, the first phase of any such development shall consist of at least three (3) manufactured home spaces and a minimum of three (3) in each additional phase except where the remaining spaces to be developed are less than three (3).

#### ***Plan***

Any documented and approved program of recommended action, policy, intention, etc., which sets forth goals and objectives along with criteria, standards and implementing procedures necessary for effectively guiding and controlling decisions relative to facilitating development and growth management. The Plan is sometimes referred to as "The Land Use Development Plan."

#### ***Plan, Manufactured Home Park (Site Development Plan)***

A graphic representation or map of the tract of land to be developed indicating all proposed uses of land, improvements and other general and specific information as may be required to fully disclose the applicant=s intentions.

#### ***Planned Unit Development***

The planned unit development is a permitted use designed to provide for developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an element of the plan related to affecting the long-term value of the entire development.

## **APPENDIX A. DEFINITIONS**

### ***Planning Board***

The Planning Board of Caswell County.

### ***Plat***

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

### ***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-Existing Recreational Vehicle Park***

Any park that was established before the adoption of this Ordinance.

### ***Pre-FIRM***

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***

At least 51% of the actual cash value of the structure is above ground.

### ***Private Driveway***

A roadway serving two (2) or fewer lots, building sites or other divisions of land and not intended for public ingress or egress.

### ***Private Road***

A private right-of-way not publicly dedicated which affords access to abutting properties and requires a subdivision roads/streets disclosure statement in accordance with N. C. General Statute 136-102.6. Emergency and other public services may not be provided over such private roads and they shall be privately maintained.

### ***Professional Office***

A business that offers any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or legal authorization. By way of example, and without limiting the generality of this definition, professional offices includes services rendered by certified public accountants, public accountants, engineers, chiropractors, dentists, osteopaths, physicians and surgeons, podiatrists, chiropractists, architects, veterinarians, attorneys-at-law, physical therapists, and life insurance agents.

### ***Protected Area***

The area adjoining and upstream of the critical area of a WS-IV watersheds. The boundaries of the protected area are defined as within 5 miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

## APPENDIX A. DEFINITIONS

### ***Public Place***

Any place where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public, including but not limited to streets, sidewalks, businesses and commercial establishments whether or not for profit, and whether entrance thereto is open to the public at large or is limited by a cover charge or membership requirement, bottle clubs, hotels, motels and other inns, restaurants, nightclubs, country clubs, cabarets and meeting facilities utilized by religious, social, fraternal, or similar organizations. However, premises used as a residence, whether permanent or temporary in nature, shall not be deemed to be a public place, nor shall any of the following be deemed to be public places: public restrooms, lockers, dressing rooms or showers used by persons of the same sex; enclosed motel and hotel rooms designed or intended primarily for sleeping accommodations; doctors' offices, hospitals, or portions thereof in which nudity is expected for purposes of examination and/or treatment; a class or classroom of any accredited bona fide school, college, or university, public or private which has, as a part of its curriculum, courses in the fine arts, including painting, drawing, sketching, photography or other similar bona fide courses; and other similar places in which nudity or exposure of specified anatomical parts is customary or expected outside of the home.

### ***Public Road***

Any road or highway which is now or hereafter designated and maintained by North Carolina Department of Transportation as part of the State Highway System, whether primary or secondary, hard-surfaced or other dependable highways, and any road which is a neighborhood public road as defined in North Carolina General Statute Section 136-67, which definition is incorporated into this Ordinance by reference. The following classifications may apply:

- (1) ***Principal Arterial.*** A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of Interstate routes and other routes designed as principal arterials.
- (2) ***Minor Arterial.*** A rural link in a network joining cities and larger towns and providing intrastate and inter-county service at relatively high (55 mph) overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.
- (3) ***Major Collector.*** A road, which serves major intra-county travel corridors and traffic generators and provides access to the arterial system.
- (4) ***Minor Collector.*** A road, which provides service to small local communities and links with locally important traffic generators with their rural hinterland.

## APPENDIX A. DEFINITIONS

- (5) **Local Road.** A local road serves primarily to provide access to adjacent land and for travel over relatively short distances.
- (6) **Cul-De-Sac.** A dead-end road; a road with ingress and egress and curved space which cars can turn around at other end.
- (7) **Frontage Road.** A frontage road is a local road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.
- (8) **Alley.** A minor right-of-way publicly owned, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a road.

### **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 Water System**

A system for the provision to the public of water for human consumption through pipes or other constructed conveyances if the system serves 15 or more service connections or which regularly serves 25 or more individuals. Continued in definition G.S. 130A-313 #10 of Title 15A Subchapter 18C of the North Carolina Administrative Code.

## **Q**

None

## **R**

### **Recreation Area or Park**

An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various manmade features that accommodate such activities.

### **Recreational Vehicle (RV)**

A vehicle, which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) On properly inflated wheels and designed to be self-propelled or permanently towable by a light duty truck;
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and

## **APPENDIX A. DEFINITIONS**

- (5) 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 had no permanently attached additions).

### ***Recreational Vehicle Park***

Any site or tract of land, of contiguous ownership, upon which two (2) or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in this Ordinance.

### ***Recreational Vehicle Space***

A plot of land within a recreational vehicle park designed for the accommodation of one recreational vehicle in accordance with the requirements set forth in this Ordinance.

### ***Reference Level***

The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

### ***Regulatory Flood Protection Elevation***

The Base Flood Elevation plus the Freeboard. In Special Flood Hazard Areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In Special Flood Hazard Areas where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

### ***Remedy a Violation***

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.

### ***Reservation***

A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

### ***Residential Development***

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

## **APPENDIX A. DEFINITIONS**

### ***Riverine***

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

### ***Road, Access***

Any road which has been approved as either a private or public road.

### ***Road, Collector***

An internal road (street) which serves ten (10) or more units or spaces and serves as the most probable and convenient route between the park and an external road.

### ***Road, Local***

An internal road (street) which serves from three (3) to nine (9) units or spaces and does not meet the definition of a collector road.

### ***Road Maintenance Agreement***

A recorded contract specifying the responsibility of the property owner and the developer for the maintenance of a private road, or a proposed public road before it is accepted by the NCDOT, or a municipality if applicable.

### ***Road, Previously Existing***

A previously existing road is a road, which appears on the aerial photograph dated in 1974 on Caswell County tax maps, or deed, plats or easement recorded in the Register of Deeds' Office of Clerk of Court's Office before July 1, 1979.

## **S**

### ***Safety fan***

An area on a shooting range facility designed to contain all projectiles fired from a shooting range.

### ***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.

### ***Sanitary System of Sewage and Disposal***

A complete system of sewage collection, treatment and disposal including approved privies, septic tank systems, connection to public or community sewage systems, incinerators, mechanical toilets, composting toilets, recycling toilets, mechanical aeration systems or other such systems.

### ***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.

## APPENDIX A. DEFINITIONS

### ***Semi-Nude***

A state of dress in which no more than the genitals or pubic region of a person, or the areola of the breast of a woman, along with parts of the body covered by supporting straps or devices, are clothed.

### ***Setback***

The required distance from any structure, property line, public right-of-way, road, or public gathering place. It shall be measured from the center of the tower base and radiate out 360 degrees.

### ***Sexual Encounter Center***

Any place which, for consideration and as one of its principal business purposes, offers physical contact between nude or semi-nude persons, and/or physical contact in the form of wrestling or tumbling between persons of different sexes.

### ***Sexually Oriented Business***

Any adult arcade, adult book or video store, adult cabaret, adult entertainment establishment, adult motel, adult theater, escort agency, nude model studio, or sexual encounter center.

### ***Screen***

A method of visually shielding or obscuring an abutting or nearby structure, parcel, or use from another's use by fencing, walls, berms, or densely planted vegetation (measured vertically).

### ***Shooting range***

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

### ***Shooting range facility***

A public or private facility, including individual shooting ranges, safety fans or shotfall zones, structures, parking areas, and other associated improvements, designed for the purpose of providing a place for the discharge of various types of firearms or the practice of archery. Does not include general discharge of a firearm, hunting, "Turkey Shoots", "Dove Shoots", or "Skeet Trap and Sporting Clay Ranges" on private property.

### ***Shooting station***

A fixed point from which firearms or arrows are discharged.

### ***Shoreline Stabilization***

The in-place stabilization of an eroding shoreline. Stabilization techniques which include "soft" methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of "hard" engineering,

## APPENDIX A. DEFINITIONS

such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.

### ***Shotfall zone***

An area within which the shot or pellets contained in a shotgun shell typically fall.

### ***Side Berm***

An embankment used for restricting bullets on each side of the impact zone of a shooting range extending towards the shooting station.

### ***Single-Family Residential Development***

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

### ***Single-Tier Lot***

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

### ***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 Flood Hazard Area (SFHA)***

The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 10.2.2 of this Ordinance.

### ***Specified Anatomical Areas***

Less than completely and opaquely covered genitals, pubic regions, buttocks or the anus of any person; the less than completely and opaquely covered breasts of a woman from a point immediately above the tops of the areola; and the genitals of a man, whether covered or not, displayed in such a fashion as to draw attention to their turgid and erect state.

### ***Specified Sexual Activities***

One or more of the following: (1) actual or simulated sexual acts, between persons of different genders or of the same gender, including without limitation coitus, oral sex, or manual stimulation of the genital areas; (2) actual or simulated masturbation; (3) the fondling or erotic touching of the genitals, pubic region, or buttocks of any person, or the breasts of a woman; and/or (4) excretory functions in connection with any of the above specified activities. They shall not, however, be deemed to include, nor does this Ordinance limit or prohibit, constitutionally



## **APPENDIX A. DEFINITIONS**

protected activities which may have sexual content but which have redeeming social importance. Such constitutionally protected activities shall be deemed to include, without exclusion, the following: the reading, dissemination, or creation of literary or artistic works with sexual themes with redeeming social importance, or not offensive to contemporary community standards, the discussion or analysis of sexual matters in a manner characterized by scientific or social inquiry, or not offensive to contemporary community standards; and other acts protected and/or sanctioned by the law, including without limitation such acts which are performed by married couples or which enjoy legal protection because of their private character.

### ***Start of Construction***

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.

### ***Stream***

A body of concentrated flowing water in a natural low area or natural channel on the land surface.

### ***Stream Restoration***

The process of converting an unstable, altered, or degraded stream corridor, including adjacent riparian zone and flood-prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium. "Referenced" or "referenced reach" means a stable stream that is in dynamic equilibrium with its valley and contributing watershed. A reference reach can be used to develop natural channel design criteria for stream restoration projects.

### ***Street (Road)***

A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

## APPENDIX A. DEFINITIONS

### ***Structure***

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

### ***Structure, Flood Damage Prevention***

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

### ***Stump Diameter***

The diameter of a tree measured at six (6) inches above the ground surface level.

### ***Subdivider***

Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

### ***Subdivision***

All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when anyone or more of those divisions are created for purpose of sale or building development (whether ***immediate*** or future) and includes all divisions of land involving the dedication of a new road or a change in existing roads. Exemptions to this definition are listed in Section 9.45.

(1) ***Major Subdivision.*** Any subdivision with seven (7) or more lots (Section 8.7.4).

(2) ***Minor Subdivision.*** Any subdivision with six (6) or fewer lots (Section 8.7.3).

(a) ***Class I Minor Subdivision.*** Those Minor Subdivisions consisting of up to two (2) lots from an original tract as long as said lots conform to the minimum standards of this Ordinance and that the remainder tract meets the minimum standards of this Ordinance. The number of divisions out of an original tract is limited to two per every twelve (12) month period. Divisions under this regulation may be accessed by an easement(s). Said easement(s) shall give the lot(s) direct access to a state-maintained road, shall be not less than twenty (20) feet in width, and shall serve no more than two (2) lots. Should any additional divisions be requested during the twelve (12) month period, the subdivision regulations for a Class III Minor Subdivision shall apply.

(b) ***Class II Minor Subdivision.*** Those Minor Subdivisions consisting of up to six (6) lots created for the sole purpose of sale or transfer to a direct family member. All lots shall have a minimum required frontage on an approved Private Road or an existing State Maintained Road. Subdivisions created under this provision and any remaining portion of the original parent tract shall meet the minimum standards of this Ordinance and shall be limited to two (2) divisions out

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of an original parent tract per twelve (12) month period. Should any additional divisions be requested during the twelve (12) month period, then regulations for creating a Class III Minor Subdivision shall apply.

- (c) ***Class III Minor Subdivisions.*** All those other Minor Subdivisions not meeting the criteria of a Class I or a Class II Minor Subdivision, consisting of up to six (6) lots created for the purpose of sale or transfer. Lots in subdivisions containing six (6) or fewer lots shall have the required minimum frontage on an approved Private Road, and approved Public Road, or an existing State Maintained Road. Subdivisions created under this provision and any remaining portion of the original parent tract shall meet the minimum standards of this Ordinance. Should any additional divisions be requested in the future, then regulations for creating a Major Subdivision shall apply.

### ***Substantial***

Ample to satisfy the purpose for which an object is intended.

### ***Substantial Damage***

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

### ***Substantial 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:

- (1) 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
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

### ***Substantial Modification***

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

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the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

- (1) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- (2) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- (3) Increasing the square footage of the existing equipment compound by more than 25,000 square feet.

### ***Surface Danger Zone***

Any area that may reasonably expect projectile impact resulting from direct fire, including misdirected and accidental discharges, and ricochets from any firearm or bow, which takes into consideration all mitigation and management efforts.

### ***Surface Waters***

All waters of the state as defined in G.S. 143-212 except underground waters.

## **I**

### ***Target***

Any object or area which is used as the intended recipient of the projectiles fired from a firearm or bow.

### ***Temporary Road***

A road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes, or water dependent structures, or to maintain public traffic during construction.

### ***Temporary Wireless Communication Facility***

A Wireless Communication Facility to be placed in use for ninety (90) or fewer days.

### ***Tower and Antenna Use Application (TAA)***

A form provided to the applicant by the County for the applicant to specify the location, construction, use and compliance with the development standards of a proposed Wireless

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Communications Facility subject to an approved site plan and any special conditions determined by the Planning Director or designee appropriate under the provisions of this Ordinance.

### ***Toxic Substance***

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

### ***Transfer of Ownership or Control***

A sexually oriented business includes its sale, lease, or sublease; the association of a person not named as an applicant for a license as provided herein, with the business, except for the substitution of a manager of the establishment by filing with the Clerk as provided herein; or the establishment of a trust, gift, or other similar legal device transferring the ownership or control of the business, except for transfer by device or bequest or by operation of law upon the death of the person possessing ownership or control.

### ***Tree***

A woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.

## **U**

### ***Utility Pole***

A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

## **V**

### ***Variance***

A modification or alteration of any of the requirements of this Ordinance.

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### ***Variance, Major (Watershed Protection)***

A variance that results in any one or more of the following:

- (1) The complete waiver of a watershed management requirement;
- (2) The relaxation, by a factor of more than ten percent (10%), of any watershed management requirement that takes the form of a numerical standard;
- (3) Increase in density or built-upon area.

### ***Variance, Minor (Watershed Protection)***

A variance that does not qualify as a major variance.

### ***Vector***

An animal (especially an insect) that transmits a disease-producing organism from a host to a non-infected animal.

### ***Vegetation***

Evergreen trees, including, but not limited to, white pine and/or hemlock, evergreen shrubs or plants that will reach a minimum height of six (6) feet within three (3) years of planting, and shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow (without gaps or open spaces) will exist to a height necessary to screen an Outdoor Storage Facility from public view.

### ***Violation, Flood Damage Prevention***

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 Sections 10.3 and 10.4 is presumed to be in violation until such time as that documentation is provided.

### ***Visible***

Capable of being seen without visual aid by a person of normal visual acuity.

## **W**

### ***Water Dependent Structure***

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

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### ***Water Supply System***

An approved water supply system, which, depending upon ownership and/or number of hook-ups, may be:

- (1) Connection to a public or municipal system.
- (2) Connection to a privately owned system serving an extended geographic area (system and extensions regulated by the Department of Human Resources, Division of Health Services).
- (3) Connection to a private well serving up to fourteen (14) connections and less than 25 residents (regulated by the County Health Department; Department of Environment, Health, and Natural Resources, Division of Environmental Management; Division of Human Resources, Division of Health Services).
- (4) Connection to a public system with fifteen (15) or more connections serving twenty-five (25) or more residents (approved by the Department of Human Resources, Division of Health Services).
- (5) Connection to a non-community public water supply, e.g. a restaurant or other commercial enterprise.

### ***Water Surface Elevation (WSE)***

The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

### ***Water Tower***

A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

### ***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.

### ***Watershed***

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

### ***Watershed Administrator***

The UDO Administrator shall be appointed as the Watershed Administrator, who is responsible for administration and enforcement of Article 10, Part II.

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### ***Watershed Buffer Area***

An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the bank of each side of perennial streams or rivers. The area shall be included in the calculation of minimum lot size required by the Watershed Protection Ordinance.

### ***Watershed Map***

The official county map titled, Caswell County Public Water Supply Watersheds.

### ***Watershed Review Board***

The Caswell County Board of Adjustment shall serve as the Watershed Review Board and is given those powers pursuant to this Ordinance and applicable state law.

### ***Watershed Permit***

A permit, consistent with the Caswell County central permitting system, that indicates a specified land use is located in a watershed.

### ***Wireless Communications***

Personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist.

### ***Wireless Facility***

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

### ***Wireless Support Structure***

A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

**X**

None



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### Y

#### ***Yard***

A required open space unoccupied and unobstructed by a structure or portion of a structure; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility. Yard requirements for the Hyco Lake Zoning District are specified in Section 5.5, page 5-5 Yard requirements for unzoned areas of the County are specified in Section 9.56.24, page 9-72 to 9-74 for cluster subdivisions, and Section 9.56.19.3.4.5, page 9-70 to 9-71 for all subdivisions other than cluster.

### Z

None