AMENDMENTS TO AND RESTATEMENT OF ARTICLE III, CHAPTER 14, OF THE CASWELL COUNTY, NORTH CAROLINA CODE OF ORDINANCES

WHEREAS, Caswell County's original Environmental Impact Ordinance was adopted in 2003 (the "EIO"); and

WHEREAS, the EIO is currently codified in Article III, Chapter 14, of the Caswell County, North Carolina Code of Ordinances, and

WHEREAS, sufficient time has elapsed to make a determination as to the effectiveness of the EIO; and

WHEREAS, recent high impact development activity within the County has revealed confusion and misunderstandings over language and requirements of the EIO; and

WHEREAS, high impact development is a source of significant environmental, community, and human health impacts, the full extent of which the EIO did not fully consider; and

WHEREAS, business, jobs, and growth are necessary to the economy and continued vitality of Caswell County; and

WHEREAS, industrial land uses, by their very nature, can produce objectionable secondary effects, including aesthetic impact, traffic, noise, odors, vibrations, fumes, light, smoke, water quality and supply impacts, and/or other impacts, upon the lands adjacent to them; and

WHEREAS, the existing EIO did not adequately address the unique nature of Caswell County, and was not achieving its intended goal of allowing for the placement and growth of industrial land uses, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Caswell County; and

WHEREAS, the Caswell County Board of County Commissioners hereby repeal the existing EIO and replace it with a more comprehensive Hight Impact Development Ordinance as more specifically set forth herein (the "HIDO") which is intended to balance the needs of all the residents of Caswell County; and

WHEREAS, the Caswell County Board of County Commissioners finds that this HIDO is consistent with the needs of Caswell County and the Caswell County Comprehensive Plan.

NOW THEREFORE THE BOARD OF COMMISSIONERS OF THE COUNTY OF CASWELL HEREBY ORDAINS AS FOLLOWS:

1. The EIO is hereby repealed in its entirety and replaced as provided herein. The EIO shall have no further force or effect within Caswell County as of the date hereof and shall not be applied to any project.

2. Article III, Chapter 14, of the Caswell County, North Carolina Code of Ordinances is hereby amended as follows.

ARTICLE III. HIGH IMPACT DEVELOPMENT ORDINANCE

Sec. 14-66. Authority.

The Caswell County Board of Commissioners enacts this High Impact Development Ordinance pursuant to its police powers, as set forth in and authorized by Section 153A-121 (a) of the North Carolina General Statutes; pursuant to its power to regulate businesses as set forth and authorized by Section 153A-134 of the North Carolina General Statutes; pursuant to its power to regulate noise as set forth and authorized by Section 153A-133 of the North Carolina General Statutes; pursuant to its power to regulate solid waste as set forth and authorized by Section 153A-134 of the North Carolina General Statutes; pursuant to its power to regulate explosive, corrosive, inflammable, or radioactive substances as set forth and authorized by Section 153A-128 of the North Carolina General Statutes and pursuant to its planning and zoning powers, as set forth in and authorized by Chapters 153A and 160D of the North Carolina General Statutes.

Sec. 14-67. Purpose.

The following regulations of high impact development are adopted for the purpose of promoting the health, safety, and general welfare of the residents of Caswell County, and to promote the peace and dignity of the County. The Caswell County Commissioners hereby establish certain criteria relating to high impact development and associated land uses. These uses by their very nature may produce objectionable levels of aesthetic impact, traffic, noise, odors, vibrations, fumes, light, smoke, water quality and supply impacts, and/or other impacts upon the lands adjacent to them. These standards shall allow for the placement and growth of such uses, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Caswell County.

Sec. 14-68. Territorial Coverage.

This ordinance shall apply to all unincorporated areas of Caswell County in which no town or city is exercising extraterritorial jurisdiction as permitted by law.

Sec. 14-68. Regulated Land Uses and Exceptions.

High impact development industries and uses covered by this ordinance are listed in the Table of Classifications set forth in this Section 14-68. Each Class has unique requirements for minimum Lot Spacing, Building Height, Land Use Spacing, Operations Setbacks and Stream Setbacks as provided herein. Refer to the Land Use Table in Sec 14-71 for specific required regulations and standards.

(a) *Table of Classifications.*

Class I
Inert Debris Landfills Renewable Energy Generating Facilities
Class II
Metal Recycling & Salvage Facilities Saw Mills Tub Grinding Fuel Bulk Storage

Ready-Mix Concrete Suppliers
Class III
Asphalt Plants Biomass Facilities Chemical Manufacturing Chip Mills Electric Generating Facilities Explosives Manufacturing Explosives Storage Facilities Landfills -except inert debris Medical Waste Incinerators Paper Mills Race Tracks Stone Crushing Waste Processing Facilities
Class IV
Mining/Quarrying Resource Extraction Cement Manufacturing Coal Ash Storage Nuclear Waste Storage

(b) *Exceptions to Applicability.* The following uses are exempt from the provisions of this ordinance and not subject to the provisions hereof:

1) Property used for Agricultural Farming Operations;
2) Property used for residential purposes; and
3) Municipal or Community Drinking Water or Wastewater Treatment Facilities.
4) Uses that exempt from the provisions of this ordinance shall comply with all other applicable County ordinances, including, but not limited, to, the Caswell County Noise Ordinance, Watershed Protection Ordinance, Flood Hazard Protection Ordinance, etc.

(c) *General Applicability.*

1) Proposed non-residential uses not explicitly listed in the table above which, as an integral part of the operation, involve more than 10,000 gallons per day of water usage, exclusive of domestic water (25 gallons per day, per employee), and water used for climate control (air conditioning and heating), shall conform to the standards of a Class II use.
2) Proposed non-residential uses not explicitly listed in the table above which qualify as a generator of hazardous waste as defined by the NC Department of Environmental Quality (Hazardous Waste Section of Waste Management Division) shall conform to the standards of a Class III use.
3) Proposed non-residential uses not explicitly listed in the table above which meet any of the criteria listed below shall conform to the standards of a Class IV use.

a. Requires a state NPDES (National Pollutant Discharge Elimination System) permit, as administered by the state division of environmental management.
b. Requires a non-discharge permit for a land Application waste disposal system.
c. Requires a permit for a sludge disposal site.
d. Is located within the water quality critical area of the water supply watershed, as defined in the county's most recent geographic information systems map.
e. Requires an interbasin transfer certificate for more than 1,000,000 gallons per day.

Sec. 14-70. Definitions.

The following definitions shall be used for the purposes of interpreting this Ordinance. For terms not defined below, the common usage of the term shall prevail. In the event a particular use may meet the criteria of more than one definition, and the definitions are in different Classes, the definition that is in the Class with more stringent regulations shall be determinative. In the event multiple uses are co-located, and the uses are in different Classes, the Applicant must comply with the stricter standard of the more stringently regulated Class.

Applicant means any person or his/her duly authorized representative who submits an Application as defined herein.

Application means any Application for approval of any permit required by this ordinance.

Agricultural Farming Operations means a bona fide farming operation whose primary purpose is the production of agricultural products including but not limited to crops, fruits, Christmas trees, forestry, vegetables, ornamental or flowering plants, dairy, livestock, poultry, swine, and all other forms of agricultural products having a domestic or foreign market. When performed on the farm, "agriculture' "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm. Included with this definition is the operation, equipment operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.

Area of Operations means the portion of a tract of land on which an industry is situated that is actually under use, or may actually be put to use in the future, for operations by the industry, including the area occupied by buildings, structures, parking, equipment, storage, storm water control measures, and other uses necessary for the business of the industry. Area of operations shall not include required setbacks or those areas required by this Ordinance, or any other regulations, to be kept in a vegetative state.

Asphalt Plant includes establishments, with all related equipment, for the manufacture and production of asphalt and tar paving mixtures and blocks from purchased asphaltic materials (NAICS 324121). Also included in this definition are establishments engaged in manufacturing asphalt and tar paving mixtures and blocks and roofing cements and coatings from purchased asphaltic materials and/or saturating purchased mats and felts with asphalt or tar (NAICS 32412 and 324122).

Assisted Living Facility includes any group housing and services program for two or more unrelated adults however named, which makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more North Carolina licensed home care or hospice agencies.

Biomass Facility includes establishments primarily engaged in energy production from plant or animal material, including but not limited to material such as purposely grown energy crops, wood or forest residues, waste from food crops, horticulture, food processing, animal farming, or human waste from sewage plants.

Board of Adjustment means the Caswell County Board of Adjustment.

Board of Commissioners means the Caswell County Board of Commissioners.

Building Height has the meaning given in Section 14-71(c).

Cement Manufacturing includes establishments primarily engaged in manufacturing portland, natural, masonry, pozzolanic, and other hydraulic cements. Cement manufacturing establishments may calcine earths or quarry, manufacture, mine or purchase lime (NAICS 327310).

Chapter 160D and related references to the statutory provisions contained herein means Chapter 160D of the North Carolina General Statutes. If Chapter 160D is not effective at the time of the application of the relevant provision of this ordinance, then the reference shall be deemed to include any substantially similar statute found in Chapter 153A or Chapter 160A of the North Carolina General Statutes.

Chemical Manufacturing includes establishments primarily involved in the production, synthesis, formation, processing, refining, manufacturing, and/or distribution of chemical products in bulk, for other than retail sales on-site (including all chemical manufacturing in NAICS subsector 325).

Childcare Facility means a childcare facility as defined in G.S. § 1 10-86 or any successor statute thereto.

Chip Mill means any non-portable wood-chipping facility that stands alone and apart from a sawmill or pulp mill, and whose purpose is to provide wood chips to an off-site fabrication facility including but not limited to paper mills, particle board and other products and is capable of producing at least 250,000 tons annually.

Church means any building used on a regular basis for the primary purpose of serving as a place of public worship.

Coal Ash Storage Facility includes any establishment primarily intended for the storage of coal ash, also referred to as coal combustion residuals or CCRs, which are by-products produced from burning coal.

Commercial Use means the use of land for the purpose of operating a business intended to profit, whether or not a profit is actually realized, through the exchange of monies for goods and/or services.

Construction Activities includes any studies, investigations, operations, improvements, or other activities undertaken at the site of a proposed regulated industry pertaining to the construction, placement, erection, or establishment of the same, including but not limited to surveys, soil and other environmental tests, clearing and grading, pouring footers or pads, placing building materials or equipment at the site, locating or constructing buildings, structures, or other improvements, or any other similar activities.

County means the County of Caswell.

Dwelling Unit (single and multi-family) means any building, manufactured home, or modular home providing complete independent living facilities for a single or multi-family, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Two or more manufactured homes which are combined on one lot or parcel shall be considered as a single dwelling unit if they are joined together in one living unit for the use of a single family and meet all of the requirements for a "dwelling unit" under the amended Caswell County Watershed Protection Ordinance. A dwelling unit which has been condemned by a Government agency (County or State) at the request of the property owner and remains in a condemned state shall no longer be considered a "Dwelling Unit".

Educational Facility means any elementary school, secondary school, charter school, private school, community college, college, university, or any other similar institution or facility for the education of persons, including any property owned by such facility used for educational purposes.

Electricity Generating Facility includes any stand-alone plant not ancillary to another land use which is intended for the commercial generation of electric power from any source other than solar, hydroelectric, and wind, including but not limited to fossil fuels, nuclear, or waste products, to be primarily distributed to the public for compensation. This definition shall not apply to an agricultural farm, residence, business, or other facility where the sale of the electricity so produced is secondary to on-site consumption.

Explosives Manufacturer means commercial facility used for manufacturing of a chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, and shall include, but is not limited to: dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniting cord, igniters, and display fireworks. Facilities not included in this category are those producing only hand-loaded small arms ammunition.

Explosives Storage Facility A commercial facility used for the storage of products created by an explosives manufacturer.

Fuel Bulk Storage Facilities includes any establishment whose primary purpose is the wholesale or retail distribution, storage, distribution, mixing, or transfer of flammable or combustible liquids, gases, or solids, received or transferred by truck, train, tank vessel, pipelines, tank car, piping, portable tank or containers, or other method, including propane, methane, ethanol, gasoline, kerosene, oil, coal, and other fuels. This definition shall not include filling stations used

solely for distribution to individual consumers; nor shall it include fuel stored at or on an agricultural farm, residence, business, or other facility where use of the fuel stored is limited primarily to on-site consumption (NAICS 424710 and 424720).

Hospital means any facility as defined in G.S. § 13 1 E-76(3) or any successor statute thereto.

Inert Debris means solid waste which consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.

Intent To Construct Application has the meaning given in Section 14-74(a).

Intent to Construct Permit has the meaning given in Section 14-74.

Landfill means a disposal facility or part of a disposal facility where waste is placed in the land with the intent of permanent disposal thereby, and not otherwise regulated by this Ordinance.

Land Use Spacing has the meaning given in Section 14-71(d).

Metal Recycling & Salvage Facilities includes establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. Included in this industry are auto wreckers primarily engaged in dismantling motor vehicles for the purpose of wholesaling scrap (NAICS 423930).

Mining/Quarrying includes the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, sand, soils, and other solid matter from their original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

Mining/Quarrying does not include excavation or grading when conducted solely in aid of on-site farming or of onsite construction for purposes other than mining; removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area; excavation or grading where all of the following apply:

a) The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion and sedimentation control plan has been approved in accordance with Article 4 of Chapter 1 13A of the General Statutes.
b) The affected land, including nonpublic access roads, does not exceed five acres.
c) The excavation or grading is completed within one year.
d) The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.

NAICS references correspond to the most recent applicable North American Industry Classification System used by Federal statistical agencies in classifying business establishments.

NC DEQ means the North Carolina Department of Environmental Quality and its agency divisions.

NC DOT means the North Carolina Department of Transportation.

Nonconformance Permit has the meaning given in Section 14-72(a)(1).

Nonconforming Use has the meaning given in Section 14-72.

Nuclear Waste Storage Facility includes establishments primarily engaged in the storage of radioactive waste materials or radioactive materials that result from the processing or reprocessing of nuclear fuel.

Nursing Home means a facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the operator.

Operations Permit has the meaning given in Section 14-75.

Operations Setback has the meaning given in Section 14-71(e).

Operator means any Person on the premises of a use of land regulated under this ordinance who puts or keeps the business in operation or who is authorized to manage the business or exercise overall operational control of the business premises. A Person may be found to be an operator of a use of land regulated under this ordinance regardless of whether that Person is an owner, part owner, or licensee of the business.

Owner means any Person with an ownership interest in either the real property upon which any use of land regulated under this ordinance is located and any Person with an ownership interest in any business regulated under this ordinance.

Paper Mill comprises establishments primarily engaged in manufacturing paper from pulp. These establishments may manufacture or purchase pulp. In addition, the establishments may convert the paper they make. The activity of making paper classifies an establishment into this industry regardless of the output.

Permit means any of the several permits issued pursuant to this ordinance.

Person means a firm, corporation, general partnership, limited partnership, Limited Liability Company, sole proprietor, individual, individual acting on behalf of another, or any other entity of any type whatsoever.

Planning Board means the Caswell County Planning Board

Planning Department means the Caswell County Planning Department, acting by and through the Planning Director, or other appropriate official(s) as directed by the County Manager.

Protected Facility has the meaning given in Section 14-71(d).

Quarrying includes open excavations where the works are visible at the surface and intended for the extraction of stone, slate, marble, or other mineral from a mass of surrounding rock.

Race Track includes any commercial facility containing a track or path (regardless of surface type and regardless of configuration - oval, course, strip, or otherwise) primarily used for the purpose of racing any type of motorized vehicle, equipment, or device. This includes but is not limited to cars, trucks, lawnmowers, tractors, campers, dune buggies, go-karts, dirt bikes, ATVs, and motorcycles.

Ready-Mix Concrete Suppliers includes establishments, such as batch plants or mix plants, primarily engaged in manufacturing concrete delivered to a purchaser in a plastic and unhardened state, where such establishments are not engaged in mining or quarrying sand and gravel (NAICS 327320).

Renewable Energy Facility includes any stand-alone plant not ancillary to another land use which is intended for the commercial generation of electric power from solar, hydroelectric, and wind to be primarily distributed to the public for compensation. This shall not include an agricultural farm, residence, business, or other facility where the sale of the electricity so produced is secondary to on-site consumption.

Replacement Value means the cost to restore a structure to its previously existing condition as computed by an appraisal which has been conducted by an appraiser holding a North Carolina State Certified General Real Estate Appraisal License and conducted in compliance with generally accepted practices within the appraisal community.

Residential means the use of land for the purpose of housing or living accommodations for human occupants. Residential land uses shall also include any accessory uses of the land that is not commercial in nature, as defined by this Ordinance, and incidental to the residential use.

Resource Extraction means the commercial removal of any naturally occurring substance from the land not otherwise covered by the definition of mining and quarrying. Such substances include, but not limited to topsoil or fill dirt, sand, and subsurface water. Such substances shall also include oil and gas exploration, development, and production activities, including horizontal drilling and hydraulic fracturing, as defined or governed by the Oil and Gas Conservation Act, N.C. Gen. Stat. section 113-381 et seq., as amended. Such substances do not include timber.

Rural Medical Center means a facility staffed on a regular basis by one (l) or more physicians licensed to practice medicine in the State of North Carolina, which facility is located outside the boundaries of a municipality and is established and maintained for the purpose of providing medical care to members of the community in which it is situated.

Stone Crushing means a facility engaged in the use of mechanized equipment or machinery to reduce the size of stone material or material having the qualities of stone. Facilities not included in this category are portable stone crushing machines which are temporarily setup on a parcel of land or site for a period not to exceed a single 120 period.

Streams means an intermittent or perennial stream, pond, lake, or reservoir whose presence and location has been determined by the North Carolina Division of Water Resources, or if it appears on any of the following types of maps: the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture; the most recent version of the I scales (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS); OR a map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission.

Stream Setback has the meaning given in Section 14-71(h).

Saw Mill means any permanent commercial establishments primarily engaged in sawing dimension lumber, boards, beams, timbers, poles, ties, shingles, shakes, siding, and mulch and wood chips from logs or bolts. Saw Mills may plane the rough lumber that they make with a planning machine to achieve smoothness and uniformity of size. Facilities not included in this category are portable sawmills without permanent structures and those employing not more than three full-time employees, and not in operation for a duration exceeding a single 180 day period on a parcel of land or site.

Tub Grinding means a commercial facility engaged in the use of mechanized equipment to produce organic mulch from natural inert or organic material such as tree stumps, tree branches, brush and other type of natural forestry waste material. Equipment with a grinding tub or tubs less than four (4) feet in diameter are excluded from this definition.

Waste Processing Facility includes incinerators, composting facilities, household hazardous waste facilities, waste-to-energy facilities, transfer stations, reclamation facilities or any other location where wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being released into the air or transported to a final disposal site. Specifically included in this definition are medical waste facilities as defined by G.S. § 130A-309.26a.

Sec. 14-71. Regulations and Standards.

Prior to the issuance of any Permit under this Ordinance the Applicant must demonstrate compliance with the regulations and standards imposed by this section. Notwithstanding the foregoing to the contrary, Applicants for Nonconforming Permits for Nonconforming Uses need only comply with the standards required for Nonconforming Permits set forth in Section 14-72.

(a) *Land Use Table*

Classification	Min. Lot Size	Building Height	Land Use Spacing (X)	Operations Setback (Y)	Stream Setback
Class I	10 acres	40 feet	---	150 feet	100 feet

Class II	10 acres	40 feet	500 feet	150 feet	100 feet
Class III	50 acres	40 feet	1500 feet	500 feet	150 feet
Class IV	100 acres	40 feet	1500 feet	500 feet	150 feet

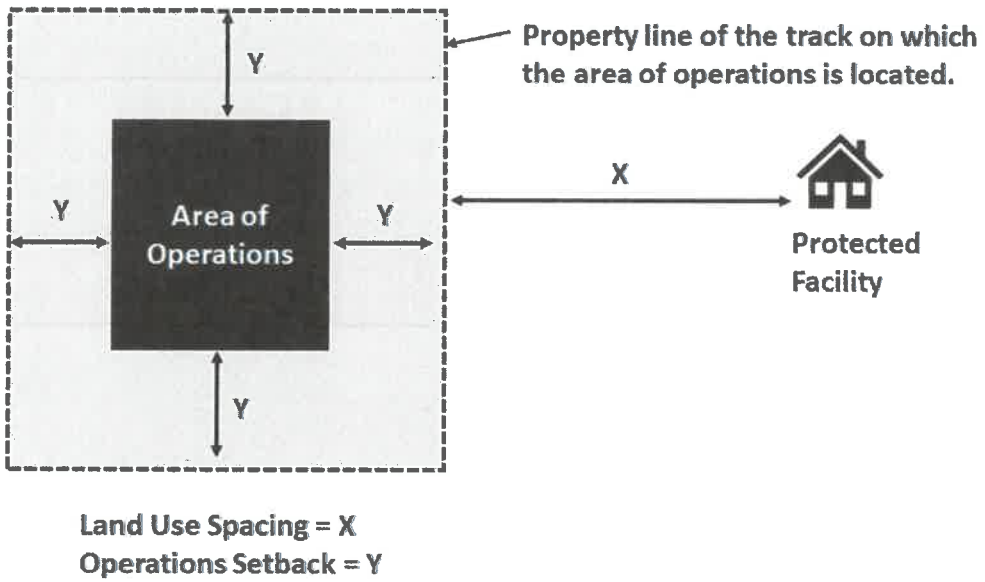

Illustration 1: Land Use Diagram

(b) *Minimum Lot Size.* No Class I or Class II land use regulated by this ordinance shall be situated on a single contiguous tract of land less than ten (10) acres in size. Class III land uses shall be located on a single contiguous tract of land no less than fifty (50) acres in size. Class IV land uses shall be located on a single contiguous tract of land no less than one hundred (100) acres in size.

(c) *Building Height Limits.* In order to allow for adequate fire protection, no building which is intended or used for human occupancy shall exceed a vertical height of forty (40) feet, measured from the top of the foundation (entrance grade) to the highest point of the roof assembly as specified in the Land Use Table in Section 14-71(a)(the "Building Height") . No more than one (l) occupancy story may be below the foundation (entrance grade). Provided, however, the following uses shall be excluded from the building height limitations in this section:

1. Water, radio, telephone (including cellular), or television towers or any equipment for the transmission of electricity or communications, or both; and
2. Structures which are slender in nature and minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas,

antennas, poles, wires, or windmills, provided no part of the structure which is higher than (forty) 40 feet is intended or used for human occupancy.

(d) *Land Use Spacing & Protected Facilities.* All uses and industries regulated by this ordinance shall be required at the time of the issuance of an Intent to Construct permit to meet a minimum Land Use Spacing requirement from any Protected Facility as specified in the Land Use Table in Section 14-71(a)(the "Land Use Spacing"). Land use spacing shall be measured in a straight line without regard for intervening structures or objects from the closest edge of the property line of the tract on which the Area of Operations is located to the nearest improvement currently in use as a Protected Facility. The purpose of this requirement is to minimize the potential negative impacts of conflicting uses of land.

For the purpose of this ordinance, the following shall be considered "Protected Facilities":

1. An Educational Facility;
2. A North Carolina licensed Child Care Facility;
3. A North Carolina licensed Assisted Living Facility;
4. A North Carolina licensed Nursing Home;
5. A public or privately owned Hospital;
6. A Rural Medical Center;
7. A Church;
8. A Dwelling Unit; and
9. Historic landmarks recognized by NC Dept of Natural and Cultural Resources.

(e) *Operations Setback.* All uses and industries regulated by this ordinance shall be required to designate and maintain the minimum applicable Operations Setback as specified in the Land Use Table in Section 14-71(a) (the "Operations Setback"). Operations Setbacks shall be measured from the edge of the designated Area of Operations to the property line of the tract on which the Area of Operations is located. No Area of Operations or roads (other than ingress and egress) may be located within the Operations Setback area. Vegetative screening and fencing are required.

(f) *Traffic Impact Analysis.* Access to all regulated uses and industries regulated by this ordinance shall be directly from a state-maintained road. Except as otherwise provided in the preceding sentence, and except for those private roads owned solely by the Owner or Operator, no access from a private road shall be allowed. All uses and industries regulated by this ordinance shall be required to demonstrate that the proposed use will not create an amount of traffic (in terms of vehicle trips per day) that would push the roads by which the industry is gaining access over its practical carrying capacity as defined by the N. C. Department of Transportation (NC DOT). The most updated version of the Institute of Transportation Engineers "Trip Generation Manual" shall be used to determine the average number of daily trips generated by the proposed use or industry. The regulated use or industry shall add these projected daily vehicle trips to the most recent traffic counts performed by NC DOT for the surrounding road network.

If the regulated use or industry will exceed the carrying capacity of the roads which provide access to the property proposed to be developed over the practical carrying capacity, then the Applicant shall provide a traffic impact analysis (TIA) performed by a

N.C. licensed engineer or transportation planner. The TIA shall provide specific recommendations for the mitigation of impacts from the proposed traffic, acceleration and deceleration lanes, road design standards, shoulder width, stoplights and outlying intersection improvements.

(g) *Operations Area.* Operation of the regulated land use or industry outside of the designated Area of Operations is prohibited. Co-location of other land uses regulated by this ordinance within the Area of Operations of the regulated use or industry is prohibited. Each land use or industry required by this Ordinance to designate an Area of Operation must maintain a separate and distinct operations area for each industry or use. The following sensitive areas shall not be allowed in the designated Area of Operation of the regulated use or industry:

1. Any area of land located within a special Flood Hazard Area as defined by the current Caswell County Flood Damage Prevention Ordinance.
2. Any area of land classified as wetlands or woody swamp by the U.S. Army Corp of Engineers.
3. Any area of land designated by the North Carolina Wildlife Resources Commission as habitat for an identified Species of Greatest Conservation Need (SGCN).

(h) *Stream Setbacks.* All uses and industries regulated by this ordinance shall be required to maintain a minimum "Stream Setbacks" from any perennial or intermittent stream as specified in the Land Use Table in Section 14-71(a) (the "Stream Setback"). Stream Setbacks shall be measured from the Area of Operations to the bank of the Stream.

(i) *Landscaping & Screening.* All uses and industries regulated by this ordinance shall be required to provide a landscaping/screening plan. The purpose of this requirement is to minimize/mitigate the visual impacts of the land use on adjacent properties as well as to maximize the buffering of noise and particulate matter. Screening shall be installed and maintained at a minimum of fifty (50) feet in width for Class I and Class Il uses, one hundred (100) feet for Class Ill uses and two hundred (200) feet for Class IV uses. For Class I and Il uses, the screening shall consist of a minimum of two staggered rows of plantings. For Class Ill and Class IV uses, the screening shall consist of a minimum of three staggered rows of plantings. As part of the review process, the Planning Department may, at its discretion, consider existing screening and vegetation on the property. Suggestions for screening plans may be found in Appendix A of this ordinance. The County Planning Department staff shall inspect the landscaping/screening on an annual basis to assure that it is adequate and in compliance with this Ordinance, and to require specific remedial actions as may be needed for that purpose.

In the event that an Applicant is unable to plant or to maintain in existence required screening and/or landscaping; the Applicant may post a bond or certified check in the amount of 1.5 times the engineer's estimate for the completion of the proposed landscaping plan. Should the Applicant fail to install or provide the necessary landscaping/screening within the time specified by the County, the County will be entitled to complete the landscaping plan using the proceeds of the bond or certified check.

(j) *Gating and Fencing.* At a minimum, the Area of Operations of a regulated use or industry shall be completely enclosed by a minimum six (6) foot high fence with a self-locking gate.

(k) *Lighting.* Light trespass on neighboring parcels is prohibited. The Applicant shall demonstrate what preventative measures it shall employ, including, but not limited to, placement and direction of fixtures, and by use of lighting shades, hoods, walls, or fences which control light projection. Applicants are encouraged to use light shielding and fixtures that are approved by the International Dark Sky Association (IDA) as these fixtures conserve energy, reduce monthly costs, and minimize the impact of light pollution on surrounding properties.

(l) *Compliance With Other Governmental Requirements.* Applicants under this ordinance are required to comply with all other applicable County, State, and Federal regulations. Said regulations include but are not limited to watershed protection, stormwater, erosion control, air quality, water quality, flood protection, building code, and NC DOT requirements. The Planning Department may require the Applicant to submit additional information based on the permitting requirements. Failure to submit any additional information required by the Planning Department within ten (10) days after the request for the same shall result in the denial or revocation of an Operations Permit unless the Applicant can demonstrate extenuating circumstances beyond the Applicants control resulted in the delay.

(m) *Noise.* When an adjacent property is occupied by a Protected Facility, the maximum permissible noise level as measured at the property line of the proposed industry or use shall not exceed 70 dB(A) from 7:00 a.m. to 7:00 p.m., and 65 dB(A) from 7:00 p.m. to 7:00 a.m. Measurements shall be made with an A-weighted filter within the specifications of the American National Standards Institute (ANSI). Impact noises generated by sources that do not operate more than one minute in a one hour period are permissible up to a level of 10dB(A) in excess of those limits from 7:00 a.m. to 7:00 p.m. Racetracks are exempt from the noise measurement criteria but cannot operate before 10am and after 10pm on Friday and Saturday, before 1pm and after 9pm on Sunday and before 10am and after 9pm Monday through Thursday.

Sec. 14-72. Grandfathering and Nonconforming Uses.

(a) *Grandfathering.* Any use or industry regulated by this ordinance, existing and in current operation upon the date of initial adoption of this ordinance which does not conform to the requirements hereof is a "Nonconforming Use". Such Nonconforming Use may continue at the site of said operations, subject to the limitations, provisions, and requirements of this Section 14-72. In all cases the burden shall be upon the Owner and Operator of the Nonconforming Use to show substantial, material, and competent evidence that the use qualifies as a Nonconforming Use under this ordinance.

1. Owners and Operators of Nonconforming Uses shall have a period of one (1) year from the date of adoption of this ordinance to apply, at no cost, for a Nonconformance Permit which will establish the existing use as a Nonconforming se grandfathered under this ordinance. Failure to apply for a Nonconformance Permit within the said one-year period will constitute a violation of the ordinance as set forth in Sec. 14-77.

2. As part of the Application for a Nonconformance Permit, the Applicant shall be required to submit a site plan of all existing operations on the property including, but not limited to, the distance from any Area of Operations from existing property lines. For this purpose, the Applicant shall not be required to have a site plan drawn by an engineer or surveyor; however, it is strongly recommended.

(b)*Nonconforming Uses.*

1. Alteration or Expansion. A Nonconforming Use may be altered, added to, expanded, or enlarged at the site of its operations, only upon applying for and receiving an Intent to Construct Permit and an Operations Permit under this ordinance and otherwise complying with this ordinance.
2. Reconstructing a Nonconforming Use. In cases of damage to a Nonconforming Use, repairs may be made and the Nonconforming Use may be continued without obtaining an Intent to Construct Permit or Operations Permit; provided, that said damage was not caused by the intentional or negligent conduct of the Owner or Operator; or any of their agents, employees, contractors, licenses, or invitees, provided further, that in making repairs the Owner and Operator shall ensure that the footprint(s) of the original building(s) and all other operational facilities are maintained as they were prior to the date this ordinance was adopted. All repairs to a Nonconforming Use that do not comply with the provisions in this Section 14-72(b)(2) shall require an Intent to Construct Permit and Operations Permit.
3. Discontinuance. Notwithstanding the provisions of Section 17-72(b(2) above, if a Nonconforming Use is, for any reason, discontinued for one hundred eighty (180) or more consecutive days, such use may not resume until the Owner and Operator obtains an Intent to Construct Permit and Operations Permit. For purposes of this section, a regulated use shall not be deemed to be discontinued during such time as the Operator thereof has temporarily suspended operations solely due to the seasonal nature of the business pursuant to industry custom and practice.
4. Transfer of Permits & Sales. An Intent to Construct or Nonconformance Permit issued for any use of land regulated by this ordinance runs with the land and may be transferred with the property; provided that all other permits necessary for the operation of the use are maintained as required by applicable law or regulation.

Sec. 14-73. Permitting Procedures

(a) *General.* Except for Nonconforming Uses with valid Nonconforming Permits as specifically permitted in Section 14-72, all Applicants proposing to construct a regulated land use under this ordinance shall obtain an Intent to Construct Permit from the Caswell County Planning Department prior to engaging in any construction or site development, and all Applicants proposing to operate a regulated land use under this ordinance shall obtain an Operations Permit prior to engaging in any operations. The following shall be required for all Applications:

1. Photo Identification. Applicants seeking to obtain a permit under this ordinance shall be required to provide a form of photo identification to the Caswell County Planning Department pursuant to County policy.
2. Pre-Application Meeting. The Applicant is required to meet in person with a Planning Staff member to discuss the nature of the proposed Application at least 14 days prior to making a formal Application and submitting a site plan.

At this pre-Application meeting, the Applicant shall identify in writing any additional permits which the Applicant needs in order to operate the regulated use or industry and provide a reasonable timeline for obtaining those permits. Additionally, the Applicant shall identify any components of the proposed development in which a variance may be required.

(b) *Vested Rights.* Upon the issuance of an Operations Permit, the statutory vesting granted shall be a period of one year, so long as the permit remains valid pursuant to all applicable law. Unless otherwise specified by N.C. General Statute 160D-108, said permit shall expire one year after issuance unless work authorized by the permit has substantially commenced.

Sec. 14-74. Intent to Construct Permits.

Except for Nonconforming Uses with a valid Nonconforming Permit as specifically permitted in Section 14-72, an Intent to Construct Permit shall be required before the Owner or Operator of a use or industry regulated by this ordinance commences any construction or site development activities.

(a) *Approval of Intent to Construct Permit Applications.*

1. All Applicants shall be required to submit a site plan for review as part of the permitting process along with all other information required on the Application form proscribed by the County Planning Department ("Intent To Construct Application"). All site plans shall be drawn to scale by a licensed surveyor or certified engineer pursuant to the guidelines provided in Appendix C of this ordinance.
2. Upon submission of the site plan and the accompanying Intent to Construct Application, the Applicant shall certify that the Application is complete, accurate in all material respects, and ready for review. If an Applicant requests a variance from the strict application of this ordinance, the variance decision must be fully adjudicated, including the resolution of any applicable appeals, prior to the consideration of the Application. Once the Application is complete and any variance requests have been finally resolved, if any, the Planning Department shall then schedule a public hearing date with the Planning Board as described in subsection (e) below.
3. Completed Applications shall be presented to the Planning Board for a public hearing and written recommendation to the Planning Department regarding whether or not the Application is in compliance with the requirements of this ordinance. The Planning Board shall duly consider all public comments submitted during the public hearing in making its recommendation which shall be delivered to the Planning Department within thirty (30) days following the date of the public hearing. Provided, however, the Planning Board's recommendation to approve or deny the Application may be based only upon whether the Application complies with the specific requirements set for this ordinance. Within 45 days of the conclusion of the public hearing, the Planning Department shall make a final independent written determination of approval or denial of the Application. If the Planning Department determines that the Application does not comply with the requirements of this ordinance, the Planning Department shall include the reasoning for denial in the final determination

4. Decisions on Applications may be appealed to the Board of Adjustment in the manner as provided by applicable law.
5. The Planning Department should review the Application in a reasonable time, taking into account the time necessary for proper public notice requirements and the Planning Board's meeting schedule.
6. Upon the issuance of an Intent to Construct Permit, the Caswell County Land Records System or Geographic Information System shall be changed to include a notice reasonably calculated to alert a person researching a particular parcel that the parcel is located within the spacing requirements of a use regulated by this ordinance.

(b) *Public Hearing and Notice.*

1. Upon the determination of a complete Application for an Intent to Construct Permit by the Planning Department, a public hearing on the proposed Application shall be scheduled for the next regular meeting of the Planning Board.
2. Notice of a public hearing at the Planning Board meeting shall be provided in the following manner:
   a. The Applicant shall cause notice of the public hearing to be published in a newspaper of general circulation in Caswell County not less than 10 days nor more than 25 days before the date fixed for the hearing. The notice to be published is set forth in Appendix F to this Ordinance. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
   b. The Applicant shall cause notice to be mailed, e-mailed, or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice. This list may be obtained from the Caswell County Clerk to the Board of Commissioners.
   c. The Applicant shall prominently post a notice of the public hearing on the site proposed for the issuance of the Intent to Construct Permit in the adjacent public street or highway right-of-way. When multiple parcels are included within the Application a posting on each individual parcel is not required, but the Applicant shall post sufficient notices to provide reasonable notice to interested persons. The Planning Department must approve placement.
   d. The Applicant shall cause to be mailed a notice of the public hearing by certified mail at the last addresses listed on the county tax abstracts for the owners of all parcels of land abutting that parcel of land upon which the regulated use is proposed to be located as shown on the county tax listing, and provide proof of said mailing to the Planning Department.
   e. The Applicant shall cause to be mailed a notice of the public hearing by first class mail at the last addresses listed on the county tax abstracts for:
      (i) The owners of all parcels of land abutting that parcel of land upon which the regulated use is proposed to be located as shown on the county tax listing,
      (ii) The owners of all parcels of land as shown on the county tax listing, any portion of which is located within the applicable spacing limit as described in Section 14-71 above.
      (iii) The residents of any residential structures located on the parcels listed above.
      (iv) The holder(s) of any utility or other easement on the parcel(s) upon which the regulated use is proposed to be located.

(v) The notice of the public hearing shall be mailed by the Applicant to those property owners and residents identified above at least 21 days prior to the public hearing. The notice to be mailed is set forth in Appendix G to this Ordinance.

(vi) The Applicant shall produce a list showing all names and addresses to whom a notice of public hearing was mailed and shall certify that proper notice was given to all required persons or organizations. Improper notice or certification shall be grounds to deny an Intent to Construct permit.

f. County administrative staff shall concurrently post notice of the public hearing on the county-managed social media outlet which typically receives the most resident interactions and to any electronic mail list of which residents have intentionally registered their addresses for notifications of this type. The County may also deliver the notice via an electronic mail list of more general circulation.

g. The Planning Department shall concurrently submit written notice to the Board of Commissioners when the date of the public hearing is determined.

3. The Planning Board shall hold a public hearing on the Application for the Intent to Construct Permit. At this public hearing, the regulated industry and community members may comment on the Application.

4. The Planning Board's public hearing to consider the Application must be hosted no earlier than 5:30 p.m. on any regular business day. The public hearing shall also be held at a location and/or electronic format that invites wide public input. This hearing may act as a substitute for the Planning Board's regularly scheduled monthly meeting and other customary agenda items may be considered in addition to the public hearing.

(c) *Appeal of Decision regarding an Intent to Construct Permit.*

Appeals from decisions by the Planning Department regarding an approval or denial of an Intent to Construct Permit must be made to the Board of Adjustment within 30 days of the filing of the written decision in the Planning. In the event of a timely appeal, the Board of Adjustment shall hear and decide the appeal accordance with N.C.G.S. 160D-406. The Board of Adjustment's decision shall be subject to judicial review as provided in N.C.G.S. 160D-406(k).

(d) *Groundwater/ Well Study.*

Applicants must certify whether any study or analysis of the impacts of the regulated land use on subsurface aquifers, ground water or wells is required to be undertaken by the Applicant pursuant to state or federal regulations, or for purposes of applying for any state or federal permit. If such a study is required, then the Applicant must submit a copy of the required study or analysis as part of the Application for an Intent to Construct Permit.

(e) *Decommissioning Plan.*

An Application must include a decommissioning plan signed by the party responsible for decommissioning and the Owner (if different) addressing the following:

1. Defined conditions upon which decommissioning will be initiated (i.e., end of land lease, no production for 12 months, etc.)
2. Restoration of property to condition prior to development for Class IV operations.
3. The timeframe for completion of decommissioning activities.
4. Description of any agreement (e.g., lease) with Owner regarding decommissioning.
5. The party responsible for decommissioning.

(f) *Fees.*

1. All Applicants shall be required to pay a fee at the time of filing an Application as pursuant to the guidelines listed in Appendix F of this ordinance; or as determined by the Caswell County Board of Commissioners during the establishment of the annual budget for the given fiscal year. In addition to the Application fee and renewal fees required by this section, the Board of Commissioners shall, from time to time, assess Applicants fees in such amounts as the Commissioners shall find necessary and sufficient to reimburse the County for the cost of any needed professional assistance that may be required by the County to evaluate the Application and amendments, renewal permits, verify permit Application content, and evaluate the impact of such a permit on the community, public health, and the environment; this assistance may include, but shall not be limited to, the assistance of biologists, geologists, engineers, chemists, hydrologists, other scientific experts, and professional testing laboratories. Fees established as part of the annual budget shall supersede those listed in this ordinance. All fees are non-refundable.

(g) *Duration of Intent to Construct Permits.*

1. Intent to Construct Permits authorize the permit holder to begin construction activities within one (1) year of the date of issuance. Delays due to those permitting requirements previously identified in the pre-Application meeting shall not be grounds for permit expiration. If construction activities have not been undertaken within this year, then the Permit will expire and shall require re-Application and review as a new project.
2. If an Operations Permit pursuant to this Ordinance has not been issued within one (1) year of the issuance of the last permitting requirement identified in the pre-Application meeting, then the Intent to Construct Permit will expire and shall require re-Application and review as a new project.
3. If, prior to the issuance of an Operations Permit, any changes or amendments are made to an approved site plan which impact the requirements of this ordinance, the changes or amendments must be submitted to the Planning Department for approval. In the event an Application is resubmitted with substantial impacts, the Planning Department may require an additional public hearing and re-approval of the Application.

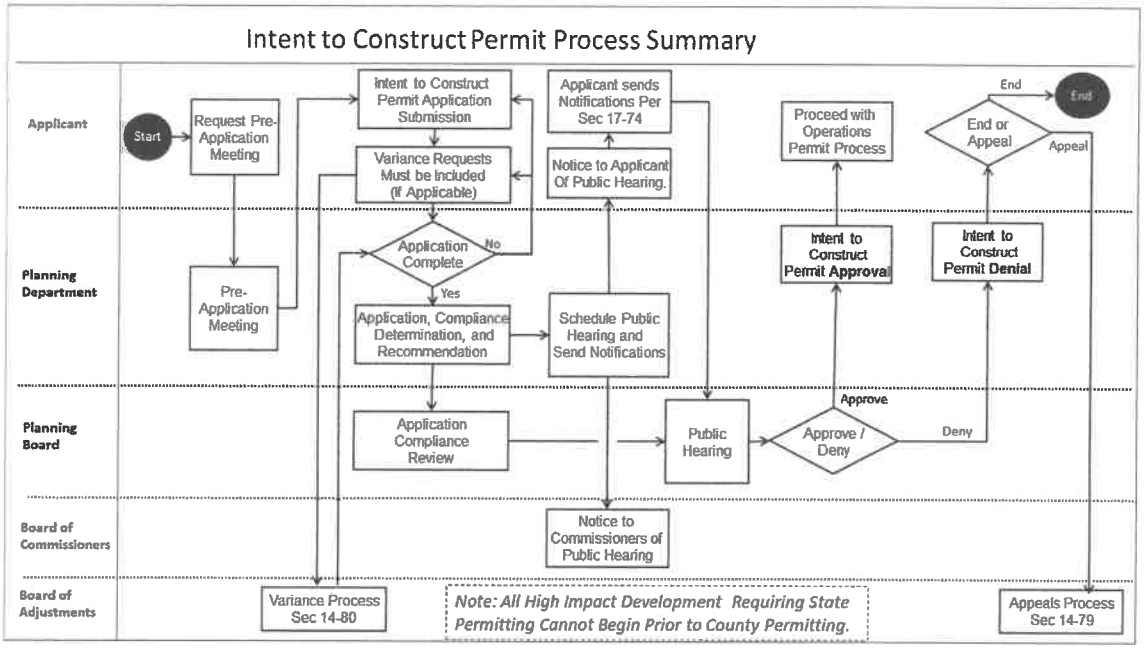

Illustration 2: Intent to Construct Permit Process

Sec. 14-75. Operations Permits.

Except for Nonconforming Uses with a valid Nonconforming Permit as specifically permitted in Section 14-72, a valid Operations Permit is required before the Owner or Operator of a land use or industry regulated by this ordinance commences operations. An Operations Permit is required for each regulated use other than a Nonconforming Use with a valid Nonconforming Permit.

(a) *Post-Development/As-Built Site Plans.*

1. Prior to receiving an Operations Permit, all Applicants shall submit a final "as built" site survey to the Caswell County Planning Department. Post-Development site survey shall be drawn by a licensed surveyor or authorized engineer pursuant to the guidelines provided in Appendix C of this ordinance. This submission shall consist of two (2) paper copies, not less than 18 inches by 24 inches in size.
2. Operations Permits may be approved prior to the completion of required traffic improvements upon the guarantee of said improvements by the Owner or Operator within an eighteen (18) month period. Caswell County may accept a surety bond issued by any company authorized to do business in this State, a letter of credit issued by any financial institution licensed to do business in this State, or another form of guarantee that provides equivalent security to a surety bond or letter of credit. All surety instruments shall be made payable to Caswell County. Surety must be in an amount equal to one and one-half times (150%) the cost of making the improvements, whereby such improvements may be made without cost to the public or subsequent purchasers of the property in the event of default on the part of the Owner or Operator. Owner or Operators are required to obtain a letter from an engineer registered in North Carolina stating the total construction and surety amounts.

(b) *Final Site Inspection.*
Prior to issuing an Operations Permit, a final site inspection shall be performed by the Planning Department to ensure that development was established in strict compliance with the approved Intent to Construct Application, Intent to Construct Permit, and site plan. Upon finding that all requirements have been met, the Planning Department shall issue the Operations Permit.

(c) *Other Requirements.*

1. Proof of an approved spill containment plan as issued by the Caswell County Fire Marshal.
2. Proof that all required permits from other federal and state governmental or regulatory agencies have been issued. Said permits shall be presented only when fully complete and arranged for efficient public disclosure in a format that is easily replicable.
3. The Operations Permit must be displayed in a conspicuous place where it may be readily observed by the public upon entering the main business structure of the regulated use if the business is open to the public.

(d) *Appeal of decision regarding an Operations Permit.*
Appeals from decisions by the Planning Department regarding the approval or denial of an Operations Permit may be made to the Board of Adjustment in the same manner as the appeals for Intent to Construct Permits as specified in Section 14-74(c).

Sec. 14-76. Operations Permit Renewal Required.

Operations Permits issued under this Ordinance are valid for a period of two (2) years and shall automatically expire, unless renewed. An Operations Permit renewal is required for each use regulated by this ordinance.

(a) *Renewal Fees.* Prior to renewing the Operations Permit, the Applicant shall be required to submit a renewal fee pursuant to the guidelines listed in Appendix E of this ordinance; or as determined by the Caswell County Board of Commissioners during the establishment of the annual budget for the given fiscal year. Fees established as part of the annual budget shall supersede those listed in this ordinance. All fees are non-refundable.

(b) *Site Visit Required.* A site visit must be conducted by the Caswell County Planning Department prior to issuing a renewed permit. It is the responsibility of the permit holder to schedule a site visit with the Caswell County Planning Department.

(c) *Other Requirements.*

1. Proof of continued compliance with all requirements of this Ordinance and maintenance of all other state, federal, and local permits required for the use.
2. Eligibility for annual renewal is prohibited if unremedied violations exist.

(d) *Appeal of decision regarding an Operations Permit Renewal.* Appeals from decisions by the Planning Department regarding the approval or denial of an Operations Permit renewal may be made to the Board of Adjustment in the same manner as the appeals for Intent to Construct Permits specified in Section 14-74(c).

Sec. 14-77. Enforcement and Violations.

(a) *Enforcement.* The Planning Department of the Caswell County Planning Department shall be responsible for the administration and enforcement of this ordinance.

1. The Planning Department shall determine whether any of the provisions of this ordinance are or have been violated. If it has been determined that a violation

exists, notification shall be sent, in writing, to the person responsible for such violation. All notices shall be sent via certified mail.

2. Those found in violation shall be given thirty (30) days to remedy the violation. At the end of the thirty (30) day period, the Planning Department may, at its discretion, grant additional time to obtain compliance provided that the violator has made a good-faith effort to bring their property into compliance. In no circumstance, shall a person in violation be given more than ninety (90) days to obtain compliance except in the event of extraordinary circumstances as demonstrated by substantial evidence presented to the Planning Department.
3. As part of enforcement, the Planning Department may take any of the following actions, either alone or in combination: order the discontinuance of illegal use of land, buildings, or structures; order the removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; issue a stop work order for any illegal work being done; require the cessation of any actions, conditions, work, or operations which are in violation of this ordinance; revoke any Permit; take any other action reasonably necessary to insure compliance with, or to prevent violations of, the provisions hereof.

(b) *Interference.*

It shall be unlawful for any person to interfere with, hinder, or harass the employees, agents, or authorized representatives of the County in the performance of their duties under this Ordinance.

(c) *Violations; Penalties.*

1. Any violation of this ordinance shall result in a penalties pursuant to Chapter 1, Section 1-11 of the Caswell County Code of Ordinances, except that the amount of the civil penalty shall be $500 per violation, such payment being due within 30 days of the notice of assessment of the penalty.
2. Each day's continuing violation of this Ordinance, where applicable, shall constitute a separate and distinct offense.

(d) *Equitable Enforcement; Order of Abatement.*

This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction, or by an order of abatement, as provided under G. S. § 153A- 123(d) and (e).

Sec. 14-78. Cumulative Remedies.

The remedies and penalties for violation of this Ordinance shall be cumulative, and the election of a remedy or enforcement of a penalty by the County hereunder shall not preclude the election of any other remedy or enforcement of any other penalty by the County which may be provided under this Ordinance or by law.

Sec. 14-79. Appeals.

(a) *Appeal of Permit Revocation, or Notice of Violation.*

1. If an Applicant, Owner, or Operator has been cited for a violation of this ordinance, or has had any permit issued hereunder revoked by the Planning Department, they may appeal the Planning Department's decision to the Board of Adjustment , within 30 days of the notice of violation or notice of denial or revocation.
2. If necessary, the Board of Adjustment's decision shall be subject to judicial review as provided in N.C.G.S. 160D-406(k).

3. In cases of appeals of violations or revocations of Permits, notice shall be provided as required by law.

(b) *Transfer of Permits & Sales of Nonconforming Uses*

An Intent to Construct or Nonconformance Permit issued for any use regulated by this ordinance runs with the land and may be transferred with the property; provided that all Operational Permits must be renewed as provided herein.

Sec. 14-80. Quorum and Vote Required for Variances.

The Caswell County Board of Adjustment, as established by N.C.G.S. § 160D-302, 160D-406, and 106D-1402, shall hear all requests for variances under this ordinance. A quorum of the Board, necessary to conduct any business of the Board, shall consist of four-fifths of the total membership of the Board. A vote to consider approval for a Variance cannot proceed until after the pre-Application meeting has been conducted. The vote of a four-fifths majority of the total membership of the Board shall be necessary in order to approve an Application for a variance.

(a) *Application of the Variance Power.*

A variance shall only be allowed by the Board of Adjustments in cases involving practical difficulties or unnecessary hardships. Any authorizing of a variance shall not destroy the intent of this ordinance. Any authorized variance shall be recorded in the minutes of the Board of Adjustments and filed with the Planning Department. A hardship, as used in the context of this section, shall be considered to be some unique or unusual character of the proposed site, including but not limited to unique size, shape, contour, or distance requirement. An economic hardship to the Applicant is not to be considered for a variance. A hardship resulting from personal circumstances, as well as hardship resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

(b) *Grant of Variance.*

The Board may grant a variance upon finding that the following conditions exist:

1. Extraordinary and exceptional conditions exist pertaining to the particular place or property in question because of its size, shape, or topography.
2. The variance will not confer upon the Applicant any special privileges that are, or would be, denied to other similarly situated individuals.
3. Strict Application of this ordinance would deprive the Applicant of rights commonly enjoyed by other similarly situated individuals.
4. The variance would not seriously deter from the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
5. The special circumstances causing the need for variance(s) are not the fault of the Applicant.
6. The reason(s) for the variance meet the requirements of the definition and description of "hardship" described in this section.

The Board may impose reasonable conditions upon the granting of any variance in order to protect the public interest or neighboring property owners and to maintain the spirit of this ordinance. Violation of any such conditions shall be a violation of this ordinance and subject to the penalties set forth in this ordinance.

(c) *Appeals of Board Actions.*

Every such decision of the Board of Adjustment shall be subject to review of the superior court in the nature of certiorari consistent with N.C.G.S. 160D-1402.

Sec. 14-81. General Provisions.

(a) *Conflict with Other Laws.*

Wherever the provisions or application of this ordinance impose higher standards than are required in any other local ordinance or regulation, the provisions or application of this ordinance shall govern. Wherever the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of this ordinance, the provisions of such other statute or local ordinance or regulation shall govern.

(b) *Severability Clause.*

If any section or specific provision or standard of this ordinance is preempted by State law or found by a court of competent jurisdiction to be invalid, the section or specific provision so preempted or the decision of the court shall not affect the validity of any other section, provision, or standard of this Ordinance.

(c) *Limit of Liability.*

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

(d) *Screening Guidelines and Suggestions.*

1. Screening buffers should be a minimum of fifty (50) feet in width for Class I and Class Il Industrial Developments. Screening buffers for Class Ill Industrial Developments should be a minimum of one hundred (100) feet in width. Screening buffers for Class IV Industrial Developments should be a minimum of one hundred fifty (150) feet in width.
2. Planting for all screening buffers, in general, should be done in a staggered manner with plants set on 8-10 foot centers. Planting may be allowed further apart, depending on the trees, shrubs, and other vegetation involved, at the discretion of the Planning Department. In all cases, the screening should produce a continuous hedge that significantly reduces or eliminates the visual impact of the land use. Existing vegetation may be deemed adequate, based on a site visit and visual inspection.
3. Staggered Planting:

Illustration 3: Staggered Planning Diagram

4. Suggested Vegetation:

   Applicants are strongly encouraged to consult with the County Cooperative Extension Agency to evaluate the quality of soil and probability of survival and proposed plants; including those suggested in these guidelines. Native species are preferred. Plantings which could be considered invasive are prohibited. The following trees are generally approved for visual screening purposes:

   - Loblolly Pine (fast growing, 60-90' mature height)
   - Arizona Cypress (medium growth, 40-50' mature height)
   - Southern Magnolia (slow to medium growth, 60-80' mature height)
   - Cryptomeria Yoshino (fast growing, 50' mature height)
   - Tree Hollies (Nellie Stevens Holly, Mary Neil Holly, Emily Brunner Holly, Fosteri Holly, etc. …fast growing, 20-25' mature height)

Sec. 14-84. Effective Date

This Ordinance shall become effective and in full force upon the date of adoption.

Adopted this the 21 day of December, 2020.

CASWELL COUNTY BOARD OF COMMISSIONERS

David J. Owen, Chairman

APPENDIX A

High Impact Development Intent to Construct Permit Application

Caswell County Planning Department

Date:

Project Name: Township Name:

Contact Person: Parcel I.D. Number:

Contact Address: Proposed Use:

Acreage of Lot: Property Owner

(If Different)

Contact Phone:

Describe what the land and/or building(s) will be used for:
Please state the proposed days and hours of operation:
Please state any additional comments you would like to make that you feel may be relevant to the consideration of this Application:
By signing this Application, the Applicant hereby certifies to the best of their knowledge the following statements are true:

1. The industry for which the Permit is being requested will at all times comply with the applicable regulations and standards imposed under this Ordinance.
2. No Permit issued to the Applicant under this Ordinance, or under any successor Ordinance hereto, has ever been revoked.

Applicant Signature: _____ Date: _____

Received By: _____ Date: _____

APPENDIX B

High Impact Development Operations Permit

Caswell County Planning Department

Date: _____

Project Name: _____ Township Name: _____

Contact Person: _____ Parcel I.D. Number: _____

Contact Address: Proposed Use: _____

_____

_____ Acreage of Lot: _____

_____

Contact Phone: _____

By signing this Application, the Applicant hereby certifies to the best of their knowledge the following statements are true:

1. The industry for which the Permit is being requested will at all times comply with the applicable regulations and standards imposed under this Ordinance.
2. No Permit issued to the Applicant under this Ordinance, or under any successor Ordinance hereto, has ever been revoked.
3. The proposed industry is properly permitted under and complies with, and at all times will be maintained and operated and will continue to be permitted under, all rules, regulations, and other requirements imposed by NC DOT, NC DEQ, and any other applicable regulatory agency or governmental body.
4. The Applicant is the owner or lessee of the tract or tracts on which the industry is located or is proposed to be located.
5. The Applicant has been duly issued an Intent to Construct Permit by the Planning Department for the same proposed use, which Permit is still valid as of the date of filing of the Application for the Operations Permit.

Applicant Signature: _____ Date: _____

Received by: _____ Date: _____

APPENDIX C

Specifications for High Impact Development Site Plans

Title & General Information

a. Date of submission.
b. Location designation (township, county, state).
c. Name and address of surveyor (Surveyor must sign and seal the site plan).
d. Scale in figures and bar graph.
e. North arrow.
f. Vicinity Map
g. Surveyor's or Engineer's Seal

Site Data

a. Name and address of owner(s).
b. Parcel Identification Number(s)
c. Name of Project.
d. Total acreage
e. Total percentage of proposed and existing impervious surface area.

Project Area (as applicable)

a. Designated Area of Operations; clearly showing all fencing and existing and/or proposed buildings to be located on the site.
b. The distance of the Area of Operations from all property lines.
c. Location of any streams, ponds, or other waterways located on the property.
d. The distance of the Area of Operations from any stream (perennial or intermittent) located on the property.
e. Lake and stream buffers.
f. Location and extent of any marginal land/floodplain.
g. Representative topography.
h. Location and purpose of any existing or proposed rights-of-way or easements.
i. Location of any existing or proposed stormwater control devices.
j. Location of existing or proposed septic tank and drainage field or public utilities
k. Design of the parking lot, showing all points of entrance and exit, proposed lot lighting (if applicable), parking stalls, handicapped-parking stalls, and distance between stalls (aisles); including all dimensions.
l. Location and dimensions of loading berths.
m. Location of proposed gate and signage.
n. An exterior lighting plan showing locations of all lighting and proposed lighting fixtures.
O. Screening/landscaping plan.

APPENDIX D

High Impact Development Ordinance Operations Permit

Permit # _____

Applicant: _____

Permitted Use: _____

Date: _____

Expires: _____

Caswell County Planning Director _____

APPENDIX E

Proposed Fee Schedule

Classification	Permit Application Fee	Renewal Fee
Class 1	$350	$50
Class 11	$350	$50
Class 111	$350	$50
Class IV	$500	$50
Nonconforming /Grandfathered	$0	$0

APPENDIX F

NOTICE OF PUBLIC HEARING

Please take notice that the Caswell County Planning Board will hold a public hearing on DATE at TIME to consider the following:

Application of NAME/CORPORATE IDENTITY for a USE.

This USE will be located at ADDRESS.

Please contact COMPANY CONTACT for more information about NAME or USE.

If you would like to view a copy of the complete Application for this proposed USE, please contact the Caswell County Planning Department at NUMBER or view online at: LOCATION.

This public hearing will be held at the Historic Caswell County Courthouse, 144 Court Square, Yanceyville, NC 27379. All interested residents are invited to attend. If any disabled person has a special request for a hearing interpreter or other assistance, please contact the Clerk to the Board at (336) 694-4193.