

## **AMENDMENTS**

October 28, 1986	(Reissue of Ordinance)
August 7, 1989	(Section 4.13);
November 19, 1990	(Section 5.2, 8.3, 9.1.3);
January 20, 1992	(Amended, Revised and Supplemented);
November 15, 1993	(Section 8.7.4);
December 1, 1993	(Sections 10.1.3.B, 10.1.3.C, 10.1.3.D, 10.1.3.E, 10.2.3.B, 10.2.3.C, 10.2.3.D, 10.2.3.E, 10.3.3.B, 10.3.3.C, 10.3.3.D, 10.3.3.E, 10.4.3.B, 10.4.3.C, 10.4.3.D, 10.4.3.E, 10.5.3.B, 10.5.3.C, 10.5.3.D, 10.5.3.E, 10.10.1.E, 10.10.3, 10.11.3, 10.12.3 revised and Sections 10.6.1.G, 10.11.1.B, 10.12.1.0, 10.12.2.J added)
December 8, 1993	(Section 2.4 revised and Sections 10.1.2.Q, 10.2.2.P added)
January 4, 1994	(Section 7.5.1, 7.5.2 revised)
March 29, 1994	(Sections 2.4, 5.5.1, 8.5.1, 8.9.1.C, 10.3.3.B, 10.3.3.C, 10.3.3.D revised, Section 7.11 deleted, Sections 8.5.4, 8.7.5, 10.4.2.I, 10.4.2.J, 10.4.2.K, 10.4.2.L added)
May 2, 1994	(Sections 8.5.4.E, 10.1.1.V, 10.1.2.R, 10.2.1.V, 10.2.2.Q, 10.3.1.O, 10.3.2.N, 10.4.1.N, 10.4.2.M, 10.5.1.O, 10.5.2.N added)
November 7, 1994	(Section 12.1.6)
November 21, 1994	(Sections 1.4, 7.2.4, 10.1.3.C, 10.2.3.C, 10.3.2.L, 7.12, 10.3.1.P)
January 16, 1995	(Section 10.3.2K)
April 24, 1995	(Sections 7.2.5, 8.4.1C, 2.4, 6.10, 8.7.6, 8.22.3G-L)
May 9, 1995	(Sections 8.7.1, 10.11.1F)
June 13, 1995	(Sections 2.4, 10.1.2S, 10.2.2R, 10.3.2O, 10.3.2P, 10.4.2N, 10.5.2O, 10.5.2P, 10.13)
September 11, 1995	(Section 12.1.10A)
October 16, 1995	(Sections 2.4E.1, 8.9.1B, 8.9.1C delete, 8.9.3, 8.9.4)
November 14, 1995	(Sections 10.12.2D, 10.12.3)
January 22, 1996	(Section 8.22.3)
March 18, 1996	(Sections 2.4, 10.3.2P, 10.4.2O, 10.5.2P)
May 14, 1996	(Sections 8.4.1D, 8.22.3G, 10.1.1, 10.1.2, 10.11.1, 10.13.1)
June 11, 1996	(Sections 12.1.5A&B, 12.1.2F&G, 7.2.5, 7.3.4)
August 8, 1996	(Sections 10.1.2K, 10.2.2K, 10.11.2E, 10.12.2T, 10.13.1P)
December 10, 1996	(Section 7.2.3)
January 6, 1997	(Sections 2.4, 4.5, 4A.4, 6.2.4, 7.12.1, 7.12.2, 7.12.3, 7.12.4, 7.12.5, 10.3.1, 10.4.3, 10.6.2, 10.8.2, 10.9.2)
February 4, 1997	(Section 10.11.2Q)
March 3, 1997	(Sections 7.12.1, 7.12.2, 8.3.1, 8.3.2, 10.3.1, 10.4.3, 12.1.2, 12.1.3, 12.1.4, 12.1.7, 12.1.8, 12.1.9, 12.1.10)
May 19, 1997	(Section 10.12.2)
June 2, 1997	(Section 10.12.1)
July 14, 1997	(Section 2.4, 10.12.2)
July 21, 1997	(Section 13.12.1C & 13.12.2C)
September 8, 1997	(Sections 2.4, 8.35, 10.1.1U, 10.1.2K, 10.2.1U, 10.2.2K, 10.3.1N, 10.4.1M, 10.5.1N, 10.10.1C, 10.10.2D, 10.11.1C, 10.11.2E, 10.12.2T)
October 6, 1997	(Section 2.4)

November 27, 1997	(Sections 2.4, 11.4, 11.5.C, 11.6, 11.7, 11.7.2.A, 11.10, 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8)
January 5, 1998	(Sections 2.4, 7.1, 7.2.3, 7.2.6, 7.9, 10.1.2, 10.2.2, 10.3.2, 10.4.2, 10.5.2, 10.6.2, 10.8.2, 10.9.2, 10.10.2, 10.11.2, 10.12.2, 10.13.2, 11.4, 11.5, 11.6, 11.7, 11.7.2, 11.10, 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8)
March 02, 1998	(Section 2.4.E)
August 24, 1998	(Section 6.9)
November 02, 1998	(Section 1.4)
February 1, 1999	(Sections 12.1.4-A.2, 12.1.4-B.2)
February 15, 1999	(Sections 10.2.1-X, 10.3.1-S)
August 2, 1999	(Sections 4.2, 10.10.1-G, 10.11.1-H)
October 4, 1999	(Section 5.3.3)
December 1, 1999	(Sections 10.1.3-B.1, 10.1.3-D.4, 10.2.3-B.1, 10.2.3-D.4, 10.3.3-B.1, 10.3.3-D.3, 10.4.3-B.1, 10.4.3-D.2, 10.5.3-B.1, 10.5.3-D.2, 12.1.4-B.1, 12.1.1-B.3)
February 14, 2000	(Section 11.10.2-L)
March 6, 2000	(Sections 8.2.1-E, 10.5.3-H)
August 7, 2000	(Section 4A.10)
September 11, 2000	(Sections 2.4, 6.6)
January 8, 2001	(Sections 2.4, 1.1, 3.3, 3.3.1, 3.3.2, 3.3.3, 3.3.4, 5.7.2, 5.8.3, 8.22.3 F)
April 16, 2001	(Section 2.4)
May 21, 2001	(Sections 8.36, & 8.36.1)
September 17, 2001	(Sections 2.4, 10.10.2, 10.11.1, 10.11.2)
November 19, 2001	(Sections 2.4, 10.9)
December 17, 2001	(Sections 8.22.3-C, 8.22.15, 10.12.1, 10.13.1)
March 18, 2002	(Section 10.11.1)
April 22, 2002	(Sections 10.3, 10.10.1)
June 17, 2002	(Sections 11.5, 11.6.1, 11.7, 11.7.2, 11.8, 11.8.2, 11.9.2, 11.10.2)
September 23, 2002	(Sections 2.4, 10.11.2, 10.12.2)
October 21, 2002	(Sections 10.11.2-S, 10.11.2-T, 10.12.2-W, 16.7 and add 12.1.11)
November 18, 2002	(Sections 2.4, 8.7.4, 8.7.6, 10.1.1, 10.2.1 and 10.3.2)
January 27, 2003	(Section 8.7.7 added)
March 17, 2003	(Section 12.1.2)
April 21, 2003	(Section 12.1.2)
February 2, 2004	(Sections 10.3.3, 10.4.3)
May 17, 2004	(Section 2.4)
June 21, 2004	(Section 13.7)
November 15, 2004	(Sections 10.12.1.WW and 10.13.1.Q)
January 24, 2005	(Section 8.21.4 added)
May 2, 2005	(Sections 10.1.2.X, 10.2.2.W, 10.3.2.T, 10.4.2.T added)
June 20, 2005	(Sections 4.5, 4.7, 4.8, 4A.4, 4A.6, 6.2 and 6.3 revised)
August 15, 2005	(Sections 10.10.1, 10.11.1)
December 19, 2005	(Sections 4.5, 4.6, 4.8 and 4A.7)
May 15, 2006	(Section 8.22.15 revised)
June 19, 2006	(Section 2.4, 7.8, 13.8, 13.13.3)
February 19, 2007	(Section 2.4 – definition added for hospital, Section 10.11.1 – hospitals added as use by right in B-G district)
March 19, 2007	(Section 2.4 – criteria for accessory careprovider housing unit)

March 19, 2007	(Sections 4.5, 4.7, 4A.4 and 6.24 – application deadline for zoning amendments and conditional use permits, deferral of hearing by Zoning Administrator, notification of owners of properties near property in question)
March 19, 2007	(Sections 13.9 and 13.13.3 – prohibition of new off-premise advertising signs)
April 16, 2007	(Chapter 18 – Streamside Buffer Regulations – added, effective May 1, 2007)
August 20, 2007	(Chapter 17 – Adequate Public Facilities Program – added, Section 16.2 – Zoning Permit – amended, effective Sept. 1, 2007)
September 17, 2007	(Chapter 4B – Conditional Zoning Districts – added)

# LINCOLN COUNTY ZONING ORDINANCE

## **BOARD OF COMMISSIONERS**

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KELLY ATKINS, DIRECTOR, BUILDING AND LAND DEVELOPMENT  
RANDY WILLIAMS, SENIOR PLANNER  
RANDY HAWKINS, ZONING ADMINISTRATOR  
CANDI CORNWELL, ASSOCIATE ZONING ADMINISTRATOR  
ANDREW BRYANT, ASSOCIATE PLANNER/SUBDIVISION ADMINISTRATOR  
STACY YATES, ASSOCIATE PLANNER  
BARBARA CARPENTER, CODE ENFORCEMENT  
CINDY LOVELACE, CODE ENFORCEMENT





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\*\*Applicable In The RL-20, RL-14, RL-MF And RL-ZO Districts Only

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## CHAPTER 1:

### PURPOSE AND APPLICABILITY

#### **Section 1.1**            Title

These regulations shall be known as the "Zoning Ordinance of Lincoln County, North Carolina."

#### **Section 1.2**            Authority and Purpose

These regulations are adopted pursuant to the authority granted to Lincoln County by Chapter 153A, Article 18 of the General Statutes of North Carolina, and by any special local legislation enacted by the North Carolina General Assembly for Lincoln County, in order to carry out the purposes stated therein. The standards, districts, and maps identified in these regulations shall be in accordance with the objectives and policies of the adopted Generalized Land Use Plan and shall be formulated with a view to preserving the existing environment and to ensuring the development of a future environment that realizes the greatest possible use and enjoyment of individual properties and protects and advances the public health, safety, and general welfare.

#### **Section 1.3**            Jurisdiction

These regulations govern the development and use of all land and structures only within the area of Lincoln County as now fixed and as may be amended in the future, said territory being indicated in the Official Zoning Map of Lincoln County (hereafter referred to as "Zoning Map", "Official Zoning Map" or "Lincoln County Zoning Map") as is on file at the office of the Zoning Administrator. This map and its boundaries shall be incorporated and made part of this Ordinance.

No building, structure, or land shall be used or occupied, and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered, unless in conformity with all the provisions of these regulations for the district in which it is located and other applicable regulations, except as otherwise provided by these regulations. These regulations shall not apply to bona fide farms, except that non-farm uses on farms shall be regulated as provided herein.

#### **Section 1.4**            Exceptions to Applicability

Any amendments, modifications, supplements, repeal, or other changes to these regulations shall not be applicable or enforceable without the consent of the owner with regard to lots, buildings, or structures for which a building permit has been issued prior to the effective date of any such change so long as construction has commenced and so long as the permit has not been revoked pursuant to G.S. 153A-362. If after commencement the construction authorized by the permit is discontinued for a period of 12 months, the permit shall immediately expire and any further work shall be subject to these regulations. Notwithstanding the forgoing provisions, any amendments, modifications, supplements, applicable or enforceable with respect to mobile homes for which soil improvement, water supply watershed protection permit, setup, or electrical permits, or environmental health reconnect permits or environmental health certificates of compliance were issued on or after April 15, 1994, and prior to October 11, 1994, so long as the owner or his agent secures all required permits on or before April 7, 1995. For the purposes of this section, permits shall be transferable to purchasers or successor owners of lots, buildings or structures affected hereby unless otherwise prohibited by law. Piers which

meet the following conditions are specifically declared to be exempt (in terms of both their structures and uses) from the provisions of this Ordinance: piers that (1) were built pursuant to permit(s) issued by Lincoln County prior to January 01, 1997; (2) were placed in use prior to such date; and (3) are not being used in conjunction with another use that violates the provisions of this Ordinance for the zoning district in which it is located. For purposes of this paragraph, sales of piers or portions thereof, or sales of access to piers or portions thereof, in conjunction with the sale of residential lots shall not be considered a business or commercial use that would give rise to a violation of this Ordinance.

#### **Section 1.5                    Relation to Other Ordinances**

It is not intended that these regulations shall in any way repeal, annul, or interfere with the existing provisions of any other law or ordinance except any ordinance which these regulations specifically replaces. It is not intended that these regulations shall interfere with any easements, 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, for yards, or for the size of structures than is called for by other ordinances, permits, easements, or agreements, then the provisions of these regulations shall prevail.

#### **Section 1.6                    Separability**

If any section or specific provision or standard of these regulations or any zoning district boundary that now exists or may exist in the future 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 1.7                    Effective Date**

These regulations shall become effective on January 20, 1992. Upon such date, these regulations shall replace the Lincoln County Zoning Ordinance for the Westport area adopted on October 28, 1986 and any amendments to said Ordinance made after said date. All suits of law and/or all prosecutions resulting from the violation of any Zoning Ordinance heretofore in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance but shall be prosecuted to their finality, the same as if this Ordinance had not been adopted, and any and all violations of the existing Zoning Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted. Nothing in this Ordinance shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

## CHAPTER 2:

### DEFINITIONS AND RULES OF CONSTRUCTION

#### **Section 2.1            General Rules of Construction**

For the purposes of these regulations, the following rules of construction shall apply:

- A. These regulations shall be construed to achieve the purposes for which they are adopted.
- B. In the event of a conflict between the text of these regulations and any caption, figure, illustration, table, or map, the text of these regulations shall prevail.
- C. In the event of any conflict in limitations, requirements, or standards applying to an individual use or structure, the more restrictive provision shall prevail.
- D. The words "shall", "must", and "will", are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- E. The word "may" is permissive in nature.
- F. Words used in the present tense include the future tense.
- G. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.
- H. Words used in the masculine gender include the feminine gender.
- I. The words "used" or "occupied" as applied to any land, building or structure shall be construed to include the words "intended, arranged, or designed to be used or occupied".
- J. The term "Board of Commissioners" shall mean the "Board of Commissioners of Lincoln County, North Carolina".
- K. The term "Planning Board" or "Planning and Zoning Board" or "Lincoln County Planning Board" shall mean the "Planning Board of Lincoln County, North Carolina".
- L. The term "Zoning Board of Adjustment", "Board of Appeals", "Board of Adjustment," "Board of Variances and Appeals" or "Board of Adjustments" or "Lincoln County Board of Adjustments" shall mean the "Board of Adjustment of Lincoln County, North Carolina".
- M. The term "Zoning Administrator" shall mean the "Zoning Administrator of Lincoln County, North Carolina".



## **Section 2.2**                    **Interpretation of Zoning Maps**

Where uncertainty exists with respect to the boundaries of the zoning districts shown on the zoning map, the following rules shall be used to interpret the maps:

- A.     Where the map shows a boundary line located within a street or alley right-of-way, railroad or utility line right-of-way, easement, or navigable or non-navigable waterway, it shall be considered to be in the center of the right-of-way, easement, or waterway. If the actual location of such right-of-way, easement, or waterway, as indicated in a recorded legal description of such, varies slightly from the location as shown on the map, then the actual location shall prevail.
- B.     Where the map shows a boundary line as being located a specific distance from a street line or other physical feature, this distance shall prevail.
- C.     Where the map shows a district boundary to approximately coincide with a property line or city, town, or county border, the property line or city, town, or county border shall be considered to be the district boundary, unless otherwise indicated.
- D.     Where the map shows a district boundary to not coincide or approximately coincide with any street, alley, railroad, waterway, or property line, and no dimensions are shown, the location of the boundary shall be determined by use of the scale appearing on the map.
- E.     Where the map shows a district boundary dividing a lot, each part of the lot shall be used in conformity with the standards established by these regulations for the district in which that part is located. In any event, there may be only one principle use per parcel in the residential districts.

## **Section 2.3**                    **Fractional Requirements**

When any requirement of these regulations results in a fraction of a unit, any fraction up to one-half (1/2) shall be disregarded and any fraction of one-half (1/2) or more shall be considered a whole unit.

## Section 2.4

### Definitions

#### Accessory Careprovider Housing Unit

An accessory dwelling unit in the form of a Class A, B, C, E or F mobile home, the purpose of which is to accommodate an aged, infirmed, or handicapped person needing a substantial amount of personal care or attention based on a certified medical need. The careprovider may live in either the principal dwelling or the accessory mobile home.

Such uses shall also be required to meet the following criteria:

- A. The accessory unit shall be located at least twenty (20) feet from the principal structure.
- B. No more than one accessory careprovider housing unit per lot shall be allowed. No more than one principal structure may be located on the lot unless the lot contains an area for each principal structure that is at least equal to the minimum lot size for the zoning district in which it is located.
- C. The accessory unit shall observe the same setback requirements as the principal structure.
- D. The accessory unit may not be placed in front of the principal unit when located on the same lot.
- E. The process for the issuance of an Accessory Careprovider Housing Permit will be handled through the office of the Zoning Administrator. In order for the permit to be issued, the Zoning Administrator shall be required to make the following findings:
  1. The accessory unit is needed to take care of a sick, elderly, or disabled person who lives on the same lot or adjacent lot and who is in need of personal or medical attention.
  2. That the location, placement, and type of accessory dwelling unit is so located so as to minimize any negative affects on adjacent properties.

Any such permit may be issued for period of up to one (1) year. Within three (3) months prior to the permit's expiration date, the applicant can submit an application to have the permit extended. The Zoning Administrator shall have the authority to grant one or more consecutive extensions, each for a period of up to one (1) year upon determining that there has not been a substantive change in pertinent conditions or facts. The applicant can continue to apply for extensions so long as the conditions warrant the need for the accessory unit. Upon termination of the permit or the elimination of the conditions giving rise to the permit, the accessory unit shall be immediately removed within sixty days from the property. A Class F mobile home may be placed only in a mobile home park registered prior to Sept. 23, 2002.

- F. The mobile home shall be skirted or underpinned as required for multi-section manufactured homes by the North Carolina Department of Insurance.

**Accessory Structure or Use** (CHAPTER 8.9)

A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot, under the same ownership, and in the same zoning district as the principal use or structure. In addition, "accessory use" or "accessory structure" shall include all distribution lines located on the property which deliver electric, telephone, CATV, and other utility service to the end user from a transmission line providing service to an area larger than the project area or individual parcel. In no event shall "accessory use" or "accessory structure" be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located. A pier which is located on a lot which does not contain any other structures shall not be deemed to be an accessory structure.

**Adjacent; Adjoining**

Abutting or being directly across a street or alley from.

**Adult Cabaret**

Any place featuring topless dancers, strippers, go-go dancers, male or female impersonators, or entertainers displaying "Specified Anatomical Areas" as defined by North Carolina General Statute 14.202.10.

**Adult Establishment**

Any place as defined by N.C.G.S. 14-202.10 as such statute may be amended from time to time, including Adult Cabaret. However, this provision shall not pertain to any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business and similar health-related business.

**Airport**

An area of land or water that is designed or used on a recurring basis for the landing and take-off of aircraft, except that an airstrip shall not be considered an airport.

**Airstrip**

An area of land or water, located on private property, which is not used in conjunction with flying lessons or the rental or sale of aircraft which the owner of such land uses (or authorizes the use of) for the landing and take-off of (i) not more than two aircraft owned or leased by the owner of such property, or (ii) aircraft engaged in crop dusting of land owned or leased by the owner of the airstrip.

**Alteration**

A change in the size, configuration, or location of a structure; or a change in the use of a structure or lot from a previously approved or legally existing size, configuration, location, or use.

### **Amateur Radio Towers and Antennae**

A tower or antennae used as a hobby for voluntary noncommercial communication service which may also be used in providing emergency communications when necessary.

### **Animal Hospital**

A facility established to provide treatment to animals who remain in the facility for the duration of the treatment, consisting of a main building with offices and treatment rooms, as well as outdoor kennels and runways.

### **Animal Kennel**

A commercial enterprise where six (6) or more animals which are commonly considered as being household pets (e.g., birds, dogs, cats, rabbits, etc.) are bred, boarded, trained, or sold. All species of poultry and livestock (including horses, pigs, cows, chickens, and turkeys) shall not be considered as being "household pets".

### **Animal Shelter**

A public, nonprofit, or not-for-profit facility where six (6) or more animals which are commonly considered as being household pets (e.g., birds, dogs, cats, rabbits, etc.) are bred, boarded, trained, sold, or distributed to the general public. All species of poultry and livestock (including horses, pigs, cows, chickens, and turkeys) shall not be considered as being "household pets".

### **Approval for Power Connection**

Orange label placed on a meter box which notifies the local provider of electricity that a structure has been issued a building permit and a zoning permit, Lincoln County, and is permitted to be connected to power.

### **Atrium House**

Attached or semi-attached one-story house on a small lot, said lot having a small yard space which is surrounded by the house and its privacy walls. As distinguished from the patio house, an atrium house is always one-story, its yard space and lot size is usually smaller, and it is always attached (to another unit) in some fashion.

### **Auction House**

A facility which is used for the purpose of having auctions on a regularly established basis.

### **Auto Body Shop**

Any building, premises and land in which or upon which a business is conducted that primarily involves the painting of vehicles or external repairing of damaged vehicles.

### **Auto Repair Garage**

Any building, premises and land in which or upon which a business is conducted primarily involving the maintenance or servicing of vehicles.

### **Automobile Graveyard**

Any establishment or place of business which is maintained, used or operated for the storing, keeping, buying or selling of wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicles parts. Any establishment or place of business upon which five (5) or more unlicensed, used motor vehicles which cannot be operated on a road in accordance with all applicable North Carolina Division of Motor Vehicle regulations and which are not being restored to an operable condition and which are kept or stored for a period of fifteen (15) or more days shall also be deemed to be an "automobile graveyard".

### **Automobile Service Station**

A use where vehicles fuel is sold at the retail level and where the installation of lubricants, tubes, batteries and similar accessories takes place and where minor automobile repair work is conducted.

### **Bed and Breakfast**

A use that **(i)** takes place within a building that prior to such establishment, was designed and used as a single-family residence, and **(ii)** that consists of renting one or more dwelling rooms on a daily basis to tourists, vacationers and similar transients, and **(iii)** where the provision of meals, if provision of meals is provided at all, is limited to the breakfast meal, available only to guests, and **(iv)** where the bed and breakfast operation is conducted primarily by persons who reside in the dwelling unit, with the assistance of not more than the equivalent of one (1) full-time employee.

### **Building**

A temporary or permanent structure having a roof supported by walls and which can be used for the shelter, housing, or enclosure of persons, animals, or goods.

### **Canopy**

A permanent structure other than an awning made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure.

### **Cessation of Use**

A structure's use is inactive but the ability to restart it remains present.

### **Cemetery**

Property used for the interment of the dead, which use may include the commercial sale and location of burial lots, crypts, or vaults for use exclusively on the subject property. A cemetery shall not be used for the preparation or embalming of bodies or the cremation of bodies. Setbacks for cemeteries shall be measured from the nearest structure or gravesite.

### **Church**

A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious services whose site may include an accessory area for the interment of the dead.

### **Civic, Social, or Fraternal Organization**

An office or meeting facility for an organization that operates on a not-for-profit membership basis, including accessory uses, such as banquet facilities, and overnight lodging for members but not including the regular sale of goods or services on the premises.

### **Commercial Fishing Lake**

A commercial establishments whose principle business is collecting a fee in return for fishing privileges. This establishment may include accessory stands for the purpose of preparing and selling bait and or snacks (a "food stand" with no accommodations for seating)

### **Commercial Use**

A business enterprise, managed and operated over time by (a) proprietor(s), with the primary objective of making and sustaining profit.

### **Community Center**

A building used for recreational, social, educational and cultural activities, usually owned and operated by a public agency.

### **Construction / Demolition & Landclearing Inert Debris Landfill**

A facility, regulated by the state and county, for the disposal of inert, non-decomposable waste and debris such as concrete, brick, clean fill dirt, and other similar materials associated with construction, remodeling, or demolition of pavement or structures as well as the disposal of organic, decomposable land clearing debris such as stumps, trees, brush, grass, and other vegetative matter.

### **Construction Trailer**

A structure standing on wheels that is towed or hauled by another vehicle and used for neither overnight nor year-round occupancy at the construction site on a temporary basis for office purposes.

### **Convenience Store**

A one-story retail store containing less than two thousand (2,000) square feet of gross floor area that is designed and stocked to sell primarily food, beverages, fuel and other household supplies to customers who purchase only a relatively few number of items at a time. If fuel is sold, a maximum of seven fuel stations shall be allowed.

### **Country Club**

Outdoor and/or indoor recreational facilities, clubhouses and usual accessory uses, open to members and their guests which is privately operated. A country club may be developed as a free-standing entity or as part of a residential community or planned residential development.

Uses at a country club frequently include golf courses, swimming pools (outdoors), and club houses. Meal service may be available, but is generally limited to members and their guests.

### **Customary Home Occupation**      **(CHAPTER 8.1)**

An activity undertaken for gain by a resident conducted as a secondary use in the resident's dwelling unit subject to the following conditions:

- A. The home occupation shall clearly be incidental and subordinate to the residential use of the dwelling and shall not change the residential character of the dwelling.
- B. No accessory buildings or outside storage shall be used in connection with the home occupation.
- C. Use of the dwelling for home occupations shall be limited to a maximum of twenty-five percent (25%) of the gross floor area of the principal building.
- D. A maximum of two non-residents only may be engaged in the home occupation.
- E. No display of products shall be visible from any adjoining lot or street and only articles made on the premises may be sold; except that non-durable articles incidental to a service conducted as the home occupation may be sold on the premises.
- F. No external alterations inconsistent with the residential use of the building shall be permitted.
- G. No machinery that causes noises or other interference's in radio and television reception shall be permitted.
- H. Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of the customary home occupation.
- I. Chemical, mechanical, or electrical equipment that creates odors, light emission, noises, or interference in radio or television reception detectable outside the dwelling shall be prohibited.
- J. Customary home occupations may operate between the hours of 6:00 a.m. and 10:00 p.m. only.

### **Day Care Center**

A place where daytime care is provided to six (6) or more children unrelated by blood or marriage to, and not the legal wards or foster children of the attendant adult, within an occupied residence. Children who are related by blood or marriage to the attendant adult shall not be counted as patrons of the day care center.

### **Day Care Center, Accessory**

A day care center facility located on the premises or adjacent to the premises of an office use, institutional use, commercial use, industrial use or group development for the primary purpose of care for the dependents of employees of such commercial, office, institutional or industrial use.

At least sixty-six (66) percent of the clients enrolled shall be dependents of employees of the establishment or group development sponsoring such facility.

### **Day Care Center, Small Group**

A place where daytime care is provided to not more than five children unrelated by blood or marriage to, and not the legal wards or foster children of the attendant adult, within an occupied residence. Children who are related by blood or marriage to the attendant adult shall not be counted as patrons of the small group day care center.

### **Density, Gross**

A ratio expressed as the number of dwelling units per gross acre. The ratio is derived by dividing the total number of dwelling units by the total land area (in acres) used or proposed to be used for purposes such as buildings, roads, public facilities, and open spaces.

### **Dwelling, Detached**

A dwelling unit that is developed with open yards on all sides.

### **Dwelling, Single-Family**

A building designed for or occupied exclusively by one (1) family, but not to include mobile homes as defined by this Ordinance. Modular homes shall, however, be considered as being "single-family dwellings".

### **Dwelling, Two-Family**

A building arranged or designed to be occupied by two (2) families living independently of each other. Often referred to as a duplex.

### **Dwelling Unit**

A room or combination of rooms designed for year-round habitation, containing self-sufficient bathroom and kitchen facilities, connected to all required utilities, and designed for or used as a residence by one family.

### **Easement**

The right of a person, corporation, government agency, public utility, or other entity to use public or private land owned by another person or entity. When an easement is granted by a property owner, title to said property shall remain with the property owner.

### **Essential Services**

Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam, or water; the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provisions of public services. Essential Services are divided into the following three classes:

#### A. Class 1



Transmission lines (whether, subterranean or overhead) including electrical, natural gas, and water distribution lines; sewer gravity lines and pressure mains; underground septic tanks and drain fields, cable television and telephone transmission lines; or similar utility lines; pumping stations; lift stations.

B. Class 2

Booster stations, water storage tanks; telephone switching facilities, substations, or other similarly required facilities in connection with telephone, electric steam, water, sewer, or other similar utilities.

C. Class 3

Generation, production, or treatment facilities such as power plants, water treatment plant, sewage treatment plants (excluding package treatment plants), or similar utilities.

**Family**

An individual, or two or more persons related by blood, marriage or adoption living together as a single housekeeping unit, exclusive of household servants; or a group of not more than six persons who need not be related by blood, marriage, or adoption living together as a single housekeeping unit.

**Family Care Home**

A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons, as defined by NCGS 168-21(2).

**Farmers' Market**

A market similar in nature to a flea market at which fruits, vegetables and eatable items made by the vendor are the primary items sold.

**Feed And Flour Mills**

An establishment at which feed and grain are milled and stored.

**Feed And Seed Store**

A retail establishment at which animal feed, crop seeds and related products are sold. The milling or grinding of feed or flour at such establishments shall be prohibited as shall the storage of milled product (except for storage of such goods to be sold on a retail basis on-premises).

**Fence** (CHAPTER 8.2.3, 8.3, 8.33)

A structure serving as an enclosure, a barrier, or boundary; made of material commonly considered to be fencing material.

**Flag**

A piece of durable fabric of distinctive design attached to a permanent pole, and used as a symbol or decorative feature.

### **Flea Market**

A market held on pre-established dates in an open area or structure where individual sellers offer goods for sale to the public. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items and may include the sale of fruits, vegetables and other eatable items. The individual sellers at the flea market need not be the same each time the market is in operation.

### **Floor Area Ratio**

The gross floor area of all buildings on a lot divided by the lot area. When computing this figure, the gross floor area of all enclosed parking deck buildings shall be excluded.

### **Fuel, Station**

A fuel dispensing pump, which may contain more than one fuel nozzle, designed to accommodate one or two vehicles at a time. If two vehicles are accommodated at the same time, fuel nozzles serving the two vehicles shall be located on opposite sides of the fuel pump.

### **Funeral Home**

A facility used for the preparation of the deceased for burial and ceremonies connected therewith before burial or cremation.

### **Government Facility**

Any structure or use constructed, owned, operated, used, managed, or otherwise undertaken by Lincoln County, East Lincoln County Water and Sewer District, or any other governmental entity heretofore or hereafter created by act of the Lincoln County Board of Commissioners. This term shall include but not be limited to any structure, use, function, or facility for which the applicable government entity has eminent domain authority as provided by Chapter 40A (or successor statute) of the North Carolina General Statutes and any structure, use, function, or facility authorized as a "public enterprise" by North Carolina General Statute 153A-274 (or successor statute). This term shall also include but not be limited to any utilities or facilities for the provision of utilities constructed, owned, operated, used or managed, or otherwise undertaken by any government entities referred to in this subsection. This definition shall control over any other provision of this Ordinance which may seem to restrict the structures or uses authorized to the government entities referred to in this subsection, to the end that the broadest possible interpretation shall apply to any such structure or use by such government entity.

### **Gross Floor Area**

The sum of the gross horizontal areas of each floor of the principal building, measured from the exterior walls or from the center line of the party walls, including the floor area of accessory structures. The term does not include any area used exclusively for the parking of motor vehicles or for building or equipment access such as stairs, elevator shafts and maintenance crawlspaces.

### **Group Home**

See "Family Care Home"

### **Hazardous Waste Storage Facility**

Any facility or any portion of a facility constructed for storage of the residuals of the treatment of hazardous waste, in or on the land. "Hazardous waste" shall include any material regulated by the Federal Resource Conservation and Recovery Act of 1976" and the "North Carolina Solid Waste Management Act", as amended.

### **Hospital**

An institution providing physical and mental health services primarily for human inpatient medical or surgical care for the sick or injured, including related facilities such as laboratories, outpatient services, training facilities, central service facilities, emergency services, and staff offices

### **Hotel**

See "Motel"

### **House of Worship**

See "Church"

### **Impervious Surface**

Any material which reduces and prevents absorption of storm water into previously undeveloped land. This includes, but is not limited to buildings, roads, pavement, gravel surfaces, etc. Items not considered to be "impervious" include the water area of a swimming pool and wooden slatted decks.

### **Impervious Surface Ratio**

The gross area of all impervious surfaces on a lot divided by the lot area.

### **Junk**

Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, refrigerators, stoves, household appliances, salvaged building materials, salvaged machinery parts, dismantled or wrecked automobiles, or parts thereof, iron and steel and other scrap ferrous or non-ferrous material.

### **Junked Motor Vehicle**

A vehicle that does not display a current license plate and that:

1. Is partially dismantled or wrecked; or
2. Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
3. Is more than five years old and appears to be worth less than one hundred dollars (\$100).

### **Junkyard**

An establishment, commercial or non-commercial, place of business or place which is maintained, operated, or used for storing, keeping, buying or selling junk, or for maintenance or operation of an automobile graveyard. An establishment or place of business which stores or keeps for a period of fifteen (15) or more days materials within the meaning of "junk" as herein defined which had been derived or created as a result of industrial or commercial activity shall be deemed to be a junkyard within the meaning of this ordinance. A junkyard is created when six-hundred (600) square feet or more of "junk materials" are kept on a site. Materials enclosed in closed buildings, solid waste containers or rolling stock are excluded.

### **Land Clearing and Inert Debris Landfill**

A facility for the land disposal of land clearing waste, concrete, brick, concrete block, uncontaminated soil gravel and rock, untreated and unpainted wood, and decomposable vegetative yard trash such as brush and stumps.

### **Loading Space, Off-Street**

An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

### **Lot**

A parcel of land resulting from the subdivision of a larger parcel of land and occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such accessways, parking area, yards, and open spaces required in these regulations.

### **Lot Area**

The total area circumscribed by the boundaries of a lot, except that: **(i)** when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or **(ii)** if the right-of-way line cannot be determined, a line running parallel to and thirty feet from the center of the traveled portion of the street.

### **Lot, Corner**

A lot which occupies the interior angle at the intersection of two street lines which make an angle of less than 135 degrees with each other.

### **Lot, Through or Double Frontage**

A lot, other than a corner lot, fronting on more than one street.

### **Lot Line House**

A single-family detached dwelling unit, allowed in the RL-ZO zero lot line district, that is placed against one of the side lot lines. Such dwelling unit has a front and rear yard but only one side yard.

### **Lot of Record**

A lot described by plat or by metes and bounds which has been recorded in the office of the Register of Deeds prior to the effective date of these regulations or any amendment subsequent thereto.

### **Lot Width**

The distance between the side lot lines measured along the inner edge of the front yard required by these regulations, or if no front yard is required, the distance between the side lot lines measured along the street line.

### **Machine Shop**

A site at which metal work is machined and assembled.

### **Major Subdivision**

A subdivision where over fifty (50) lots will be created after the subdivision is complete. All lots created in every phase of the subdivision will be counted in determining the total number of lots in the subdivision. All major residential subdivisions must occur within a Planned District zoning classification and will be reviewed using the criteria specified in Chapter 11 of the Lincoln County Zoning Ordinance and Section 308 of the Lincoln County Subdivision Ordinance.

### **Marina, Accessory**

A facility which is accessory to a residential development, located as a principle or secondary use, that provides boat slips for use by the residents of such a development and their guests.

### **Marina, Commercial**

A commercial facility containing moorings and boat slips available for use by the general public and which may also offer supply and repair services.

### **Mini-Mart**

A one-story retail store containing less than two thousand (2,000) square feet of gross floor area that is designed and stocked to sell primarily food, beverages, fuel and other household supplies to customers who purchase only a relatively few number of items. A mini-mart is differentiated from a "convenience store" in that fuel is always sold and at eight (8) or more fuel stations are present. A mini-mart may also contain a coin or token-operated car wash on premises in a separate accessory structure.

### **Mini-Warehouse**

A structure containing separate storage spaces of varying sizes leased or rented on an individual basis. No outdoor storage shall be allowed in conjunction with the facility.

### **Mobile Home**

A dwelling unit that: **(i)** is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and **(ii)** is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and **(iii)** exceeds forty feet in length and eight feet in width.

### **Mobile Home, Class A**

A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development, that consists of two or more sections, and that meets the following appearance criteria:

- (1) The home shall have a length not exceeding three times its width;
- (2) The pitch of the home's roof has a minimum vertical rise of 4 feet for each 12 feet of horizontal run (4/12 pitch), and has a minimum overhang of 12 inches. The roof shall be finished with a type of shingle that is commonly used in standard residential construction or a type of metal roof system that is commonly used in standard residential construction.
- (3) The home shall have vinyl siding.
- (4) The home shall be placed on the lot in harmony with the existing structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the street providing access to the site.
- (5) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
- (6) The home shall be set up in compliance with the standards set by the North Carolina Department of Insurance and shall have brick or rock underpinning, unpierced except for required ventilation and access.
- (7) The home shall have a deck or porch not less than 36 square feet in area on all front and rear entrances.

### **Mobile Home, Class B**

A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that

were in effect at the time of construction, that consists of two or more sections, and that meets the following appearance criteria:

- (1) The home shall have a length not exceeding three times its width;
- (2) The pitch of the home's roof has a minimum vertical rise of 2½ feet for each 12 feet of horizontal run. The roof shall be finished with a type of shingle that is commonly used in standard residential construction or a type of metal roof system that is commonly used in standard residential construction.
- (3) The exterior siding shall consist predominately of vinyl or aluminum lap siding, wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (4) The home shall be placed on the lot in harmony with the existing structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the street providing access to the site.
- (5) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
- (6) The home shall be set up in compliance with the standards set by the North Carolina Department of Insurance and shall have brick, concrete block or other masonry underpinning, unpierced except for required ventilation and access. If the home is placed on a parcel with multiple spaces for mobile homes, skirting may be used instead of underpinning.
- (7) The home shall have a deck or porch not less than 36 square feet in area on all front and rear entrances. If the home is placed in an approved mobile home park, it shall have a pad or deck at least 80 square feet in area at the front entrance (see Section 14.2-H).

### **Mobile Home, Class C**

A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, that consists of one section, and that meets the following appearance criteria:

- (1) The roof shall be finished with a type of shingle that is commonly used in standard residential construction or a type of metal roof system that is commonly used in standard residential construction.
- (2) The exterior siding shall consist predominately of vinyl or aluminum lap siding, wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

- (3) The home shall be placed on the lot in harmony with the existing structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the street providing access to the site.
- (4) The tongue, axles, transporting lights and removable towing apparatus shall be removed after placement on the lot and before occupancy. If the tongue cannot be readily removed, it shall be screened from public view.
- (5) The home shall be set up in compliance with the standards set by the North Carolina Department of Insurance. Masonry underpinning or a continuous skirting of a material generally accepted in the mobile home industry shall be installed under the perimeter, unpierced except for required ventilation and access.
- (6) The home shall have a deck or porch not less than 36 square feet in area on all front and rear entrances. If the home is placed in an approved mobile home park, it shall have a pad or deck at least 80 square feet in area at the front entrance (see Section 14.2-H).

#### **Mobile Home, Class D**

Any mobile home located in Lincoln County as of December 7, 1993, that was constructed prior to July 1, 1976.

- (1) The home shall be placed on the lot in harmony with the existing structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the street providing access to the site.
- (2) The tongue, axles, transporting lights and removable towing apparatus shall be removed after placement on the lot and before occupancy. If the tongue cannot be readily removed, it shall be screened from public view.
- (3) The home shall be set up in compliance with the standards set by the North Carolina Department of Insurance. Masonry underpinning or a continuous skirting of a material generally accepted in the mobile home industry shall be installed under the perimeter, unpierced except for required ventilation and access.
- (4) The home shall have a deck or porch not less than 36 square feet in area on all front and rear entrances. If the home is placed in an approved mobile home park, it shall have a pad or deck at least 80 square feet in area at the front entrance (see Section 14.2-H).

#### **Mobile Home, Class E**



A HUD-approved mobile home constructed after July 1, 1976, and located in Lincoln County as of September 23, 2002, the roof and/or siding of which does not meet the appearance criteria for a Class B or Class C mobile home.

A Class E mobile home may be placed in the R-T and R-R districts as a permitted use by right and in the R-S district subject to the issuance of a conditional use permit, provided that all other appearance criteria are met.

### **Mobile Home, Class F**

A HUD-approved mobile home constructed after July 1, 1976, and not located in Lincoln County as of September 23, 2002, the roof and/or siding of which does not meet the appearance criteria for a Class B or Class C mobile home.

A Class F mobile home may be placed in a mobile home park that was registered prior to September 23, 2002.

### **Mobile Home, Existing**

An occupied mobile home which was located on a lot on or (legally) after the effective date of zoning for that particular lot.

### **Mobile Home Park**

A commercial type of use on a single parcel of land for which three (3) mobile home spaces with utilities and other amenities provided to serve the mobile homes located therein. The mobile homes which may serve as either the owner's, the operator's their families residences are included for the purpose of this definition. Mobile home parks of over fifty (50) spaces created after January 5, 1998, must occur within a Planned District and will be reviewed using the criteria specified in Chapter 11 & 14 of the Lincoln County Zoning Ordinance and Section 308 of the Lincoln County Subdivision Ordinance.

### **Modular Home**

A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a mobile home (except that the modular home meets the North Carolina State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site. Modular homes located within Lincoln County shall be placed on a permanent masonry foundation. Mobile homes shall not be considered as being modular homes.

### **Motel**

An establishment providing transient accommodations containing six (6) or more rooms with at least twenty-five (25%) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

### **Multi-Family Development**

A tract of land under single individual, corporate, firm, partnership or association ownership, or under common control evidenced by duly recorded contracts or agreements; planned and developed as an integral unit in a single development operation or in a definitely programmed series of development operations. Such development shall consist of two or more duplex buildings, or one or more buildings containing three (3) or more dwelling units. The development shall have a unified or coordinated design of buildings and a coordinated organization of service areas and common open space area.

### **Nightclub**

An establishment operated for profit that serves alcoholic beverages and provides entertainment. Excluded from this definition are restaurants, hotels and sports clubs that meet the requirements established in N.C.G.S. 18B-1000.

### **Noncommercial Copy**

A sign message through pictures, illustrations, symbols and/or words, or any combination thereof, which does not contain any reference to a business or product but displays a substantive message, statement or expression that is protected by the First Amendment to the Constitution of the United States.

### **Nonconforming Lot**      **(CHAPTER 7)**

Any lot of record which does not meet the minimum area or width requirements established in these regulations or any amendment thereto.

### **Nonconforming Sign**      **(CHAPTER 7.8)**

Any sign which was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this Ordinance, or amendment thereto, and which fails to conform to all applicable standards and restrictions of this Ordinance.

### **Nonconforming Structure**      **(CHAPTER 7.3)**

Any structure lawfully existing on the effective date of these regulations, or any amendment to it rendering such structure nonconforming, which does not comply with all of the standards and regulations of these regulations or any amendment thereto.

### **Nonconforming Use**      **(CHAPTER 7.2)**

A use or activity which does not conform to the use regulations of this Ordinance for the district in which it is located either at the effective date of this Ordinance or as a result of subsequent amendments which are incorporated into this Ordinance at some future date.

### **Nursery**

A commercial enterprise on land used to raise flowers, shrubs and plants for sale. Nurseries may use greenhouses for the raising of such entitles.

### **Nursing Home**

A long term intermediate or skilled nursing facility that is licensed to provide nursing and supportive care to individuals who by reason of advanced age, chronic illness or infirmity are unable to care for themselves. Such a facility may include licensed rest home beds.

**Office**

A room or group of rooms used for the conduct of a business, profession, service, industry or government where retail trade is not conducted.

**Office Building**

A building used primarily for conducting the affairs of two (2) or more businesses, professions, services, or industries, or like activity, which may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

**Outparcel**

A lot located within a planned multi-tenant development (e.g., shopping center) which does not have access from a public road either abutting or traversing through the development. Said lot may contain no more than one (1) principal use and the outparcel lot may be exempt from the yard and bulk requirements of the underlying zoning district.

**Package Treatment Plant**

A small self-contained sewage treatment facility built to serve developed areas which lie beyond the service area of sanitary sewers.

**Parapet**

That portion of a building wall or false front that extends above the roof line.

**Parking Bay**

A parking module consisting of one or more sets of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave.

**Parking Space, Off-Street**

An area located outside of any street right-of-way which is designed to accommodate the parking of vehicles which meets all area requirements contained in Chapter 9 of this Ordinance.

**Patio Home**

A single-family attached or detached dwelling located on a lot with required yards which may be considerably smaller than those of conventional single-family detached dwellings.

**Permit, Building**

Written permission issued by Lincoln County for the construction, repair, alteration or addition to a structure.

**Premises**

A parcel of real property with a separate and distinct number or designation shown on a recorded plat, record of survey, parcel map or subdivision map. When a lot is used together with one or more contiguous lots for a single use or planned development, all of the lots so used, including any lots used for off-street parking, shall be considered a single premises for purposes of these regulations.

**Principal Use**

The primary or predominant use on any lot.

**Private Residential Quarters**

An accessory dwelling either attached or part of the principal residential use or separate from the principal use in the form of a guest house or garage apartment provided that such dwelling is not rented or occupied for gain and provided that no accessory building containing such use is constructed on a lot until the construction of the main building has commenced. The accessory dwelling shall not exceed the smaller of one-half (1/2) the gross heated floor area of the principal structure or one-thousand (1,000) square feet, whichever is less. All private residential quarters shall require a permit to be issued annually by the Zoning Administrator. The principal dwelling on the lot containing the private residential quarters shall be owner-occupied. A mobile home may not serve as a private residential quarters.

Once a zoning permit is issued by the Zoning Administrator for a private residential quarters, it shall remain valid for a period of up to one (1) year. Said permit shall automatically expire, however, if during said one-year period conditions of the private residential quarters change so as to render the situation inconsistent with the definition of "private residential quarters".

If a private residential quarters is permitted pursuant to the issuance of a conditional use permit, said conditional use permit will not have to be reapplied for on an annual basis.

If a private residential quarters is issued as an agriculture exemption, it shall adhere to the following regulations:

- 1) Must have one (1) parcel containing at least ten (10) acres in actual production.
- 2) The application must be renewed every two (2) years with the supporting documentation that a farm worker resides in home.
- 3) Exemptions are for farm employees only and may not extend to a non-farm employee.
- 4) If farm subsidies, the structure must be removed or come into compliance within one hundred and eighty (180) days.
- 5) Mobile homes may only be in the form of a Class A, B, or C.
- 6) The number of homes for farm exemption status are limited to:

<u>Acreage</u>	<u>Units</u>
10	1
11-100	2
For every 50 additional acres	1 additional Unit

**Private Residential Storage Building**

A structure which is to be used for storage, consistent with the type of storage allowed in a residential accessory structure. The structure must be residential in character and it must be owned and used solely by the owner of the property on which it is to be located. The structure cannot be rented. The structure shall not be used in any manner that would not be allowed in the zoning district in which it is located. This structure shall

become an accessory structure immediately following the placement of a principle residential structure on the property.

### **Public Safety Station**

A facility at which police, fire, rescue squad and/or emergency rescue personnel and/or vehicles are stored. The facility may contain cells for detaining on a short-term basis individuals brought in by law enforcement personnel.

### **Quarry**

A place where rock, ore, stone or similar natural materials are excavated from the ground for sale or for off-tract use.

### **Racetrack**

A facility where vehicles of any size, model aircraft and similar reduced-scale objects or animals are raced for speed and/or endurance at which seating space and accessory food stands may be provided.

### **Recreation Vehicle**

A vehicular-type portable structure without a permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes. A recreation vehicle shall not be considered as being a single-family dwelling.

### **Recycling Center**

A facility where aluminum cans, glass, paper products or similar goods are collected for the purpose of recycling. Persons may be reimbursed on a cash basis for the sale of these goods at the facility. A recycling center located within an establishment and serving only in an accessory capacity to that store shall be considered as an accessory use. Such uses when located in a free-standing structure shall be considered as a being principal uses.

### **Recycling Station**

A facility which is used for the donation of used clothes, furniture, and household goods to be resold at a future date by a charitable or civic organization and where such goods are stored within an enclosed structure on-site.

### **Residential Use**

Any detached, duplex, quadplex, townhouse, or multi-family dwelling, modular home, mobile home, patio home, family care home, boarding house, or dormitory.

### **Restaurant**

A commercial establishment other than a drive-in or fast food restaurant where food and drink are prepared, served and consumed primarily within the principal building.

### **Restaurant, Drive-In**

An establishment where food products are sold in a form ready for consumption and where consumption is designed to take place on-site outside the confines of the building.

**Restaurant, Fast Food**

An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on the restaurant premises or off-premises.

**Riding Stable**

A commercial enterprise where horses are ridden, trained, or sold. The boarding of horses may also take place at such a facility. The racing of animals shall be prohibited.

**Salvage Yard**

See "Junkyard."

**Satellite Antenna**

An antenna and attendant processing equipment for reception of electronic signals from satellites.

**Saw Mill**

A mechanized facility or operation for cutting trees into logs, for cutting logs into timber that is suitable for building or for carpentry, or for clearing land of tree cover, but not including the occasional removal of selected trees for landscaping purposes.

**Seawall**

A wall or embankment to protect the shore from erosion or to act as a breakwater.

**Setback**

A distance measured inward from a property line which shall remain unoccupied and unobstructed upward except as may be permitted elsewhere in this Ordinance.

**Setback, Front**

That portion of the front yard which shall remain unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this Ordinance.

**Setback, Rear**

That portion of the rear yard which shall remain unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this Ordinance.

**Setback, Side**

That portion of the side yard which shall remain unoccupied and unobstructed from the ground upward except as may be permitted in this Ordinance.

### **Shopping Center**

A group of two (2) or more commercial establishments which are primarily retail in nature which are developed in a unified manner in one (1) or more principal buildings. All off-street loading and parking shall be on-site. A shopping center may be developed in phases. Lots containing individual uses which may share internal circulation routes with other uses located in the development but which are physically separated from the principal buildings located in the shopping center shall not be considered as being part of the shopping center.

### **Shrub**

An ornamental plant that is at least two (2) feet tall above the highest root at the time of planting.

### **Sign (CHAPTER 13)**

Any object, display or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. The term "sign" does not include the flag or emblem of any nation, organization of nations, state, political subdivision thereof, or any fraternal, religious or civic organization; works of art which in no way identify a product or business; scoreboards located on athletic fields; or religious symbols.

### **Sign, Advertising (CHAPTER 13)**

A sign, other than a directional sign, which directs attention to or communicates information about a business, commodity, service, or event that exists or is conducted, sold, offered, maintained or provided at a location other than the premises where the sign is located. Any advertising sign allowed under this Ordinance may display either a commercial or noncommercial copy.

### **Sign, Campaign and Election (CHAPTER 13)**

A sign that advertises a candidate or issue to be voted upon on a definite election day.

### **Sign, Canopy and Awning (CHAPTER 13)**

A sign attached to or painted or printed onto a canopy or awning. For the purposes of the Ordinance, the permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It still, for measuring purposes, will be considered a wall sign.

### **Sign, Construction (CHAPTER 13)**

A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

### **Sign, Directional (CHAPTER 13)**

A sign fronting on a road containing only the name of the principal use, directional arrow and mileage to the principal use. Such principal use shall not be visible to the motorist at the location at which the sign is placed.

**Sign, Directory (CHAPTER 13)**

A sign on which the names and locations of occupants or the use of a building or property is identified.

**Sign, Flashing (CHAPTER 13)**

A sign that uses an intermittent or flashing light source or windblown and/or mechanical moved reflective material to attract attention.

**Sign, Free-Standing (CHAPTER 13)**

Any sign erected on a supporting structure, mast post, or pole greater than three and one-half feet in height and not attached, supported or suspended to or from a building structure.

**Sign, Government (CHAPTER 13)**

Any temporary or permanent sign erected and maintained for any government purposes.

**Sign, Ground (CHAPTER 13)**

Any sign erected on a supporting structure, post, mast or pole three and one-half feet or less in height and not attached, supported or suspended to or from any building structure.

**Sign, Identification (CHAPTER 13)**

A sign which displays only the name, address, and/or crest, or insignia, trademark, occupation or professional of an occupant or the name of any building on the premises.

**Sign, Illuminated (CHAPTER 13)**

A sign either internally or externally illuminated.

**Sign, Incidental (CHAPTER 13)**

A sign used in conjunction with equipment or other functional elements for a use or operation. These shall include, but not be limited to drive through window menu boards, and signs on automatic teller machines, gas pumps, vending machines, or newspaper delivery boxes.

**Sign, Instructional (CHAPTER 13)**

An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance", "Exit", "Parking", "One-Way", or similar directional instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

**Sign, Lighted (CHAPTER 13)**

A sign illuminated only by light cast upon the sign from an external light source.

**Sign, Luminous (CHAPTER 13)**



A sign lighted by or exposed to artificial lighting either by lights on or in the sign.

**Sign, Off-Premises**      **(CHAPTER 13)**

A sign that draws attention to or communicates information about a business, service, commodity, that exists or is conducted, sold, offered, maintained or provided at a location other than the premises where the sign is located.

**Sign, On-Premises**      **(CHAPTER 13)**

A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained or provided on the premises where the sign is located.

**Sign, Poster**      **(CHAPTER 13)**

A sign, other than a directional sign, which directs attention or communicates information about a business, commodity, service, or event that exists or is conducted, sold, offered, maintained or provided at a location other than the premises where the sign is located. A poster sign shall have a maximum area of thirty-two (32) square feet. Any poster sign may display either a commercial or noncommercial copy.

**Sign, Pole**      **(CHAPTER 13)**

A detached sign erected and maintained on a free-standing frame, mast, or pole and not attached to any building but not including ground-mounted or monument signs. The bottom of such signs shall be greater than two (2) feet from the ground directly beneath the sign.

**Sign, Portable**      **(CHAPTER 13)**

Any sign designed or intended to be readily relocated whether or not it is permanently attached to a building, structure or on the ground. Portable signs also include signs on wheels or on portable structures such as trailers, tent signs, A-frame or T-shaped signs and normal advertising placed on motor vehicles which are not used regularly and are placed in such a manner as to attract attention.

**Sign, Projecting**      **(CHAPTER 13)**

Any sign other than a wall, awning, canopy, or marquee sign, which is affixed to a building and is supported only by the wall on which the sign is mounted.

**Sign, Public Interest**      **(CHAPTER 13)**

A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as "Warning" and "No Trespassing" signs.

**Sign, Real Estate (CHAPTER 13)**

A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

**Sign, Roof (CHAPTER 13)**

A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

**Sign Setback (CHAPTER 13)**

The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the sign or its supporting member whichever is nearest to the property line or right-of-way.

**Sign, Vehicular (CHAPTER 13)**

Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this Ordinance vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other transportation purposes.

**Sign, Wall (CHAPTER 13)**

Any sign directly attached to an exterior wall of a building or dependent upon a building or its support with its exposed face parallel or approximately parallel to the plane of the building or structure on which the sign is affixed. Signs directly painted on walls shall be considered wall signs. Signs affixed to the vertical portion of a parapet shall be considered wall signs.

**Street Right-of-Way**

An area of land occupied or intended to be occupied by a public street, for such purpose, areas claimed by a municipality or the State of North Carolina for such purposes, or actually used for such purposes.

**Structure**

Anything constructed, installed, or portable, the use of which requires location on a parcel of land. This includes a fixed or movable building which can be used for housing, business, commercial, agricultural, or office purposes, either temporarily or permanently, or signs.

**Tattoo Parlor/Body-Piercing Studio**

An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

**Telecommunication/Transmission Tower**

Any tower that supports an antennae or antennas erected for the purpose of transmitting or receiving signals over the airwaves as a commercial service. This definition shall not include any structures erected solely for residential, non-commercial individual use such as residential television antennas. Furthermore, the definition shall not include any structures less than forty (40) feet in height for and on the same lot as a commercial use that is purely incidental to other business activities of the owner.

### **Town House**

A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

### **Travel Trailer**

See "Recreational Vehicle"

### **Tree, Large**

A tree which, at the time of planting, has a caliper of at least one and three-fourths (1-3/4) inches and a height of at least ten (10) feet and of a species which, at maturity, can be expected to reach a height of at least forty (40) feet under normal growing conditions in the local climate.

### **Tree, Small**

A tree which, at the time of planting has a caliper of at least one and one-half (1-1/2) inches and a height of at least five (5) feet and of a species which at maturity, can be expected to reach a height of at least twenty (20) feet under normal growing conditions in the local climate.

### **Truck Terminal**

A facility where cargo is stored and where trucks load and unload cargo on a regular basis.

### **Truck Stop**

A facility typically offering multiple services to the traveling public which are particularly designed to serve the need of freight trucks and their drivers. Such facilities typically include fuel stations (dispensing fuel for trucks and, perhaps, for automobiles), one or more eating establishments and/or sale of prepared food, sales of convenience and sundry items, and overnight lodging facilities. Not all such facilities are provided at all truck stops. The foregoing definition distinguishes a "truck stop" from (i) a convenience store, (ii) mini-mart, express fuel, (iii) shopping center, and (iv) planned multi-tenant development.

### **Twin House**

Two dwelling units on separate lots joined by a common building wall along the property line.

### **Village House**

A single-family detached dwelling built on a small lot (typically smaller than the minimum lot size for the zoning district). Land saved by use of smaller lots is dedicated for common use. Houses may be placed close to the street to maximize rear yards. Shared driveways with separate parking areas may be utilized.

### **Wholesale Sales**

The sale of goods, products, or merchandise stored on the premises to persons who are intermediaries between the producer and the consumer.

### **Yard, Front**

An area measured between the edge of the public street right-of-way line, and the front of a building, projected to the side lot lines.

### **Yard, Rear**

A yard extending the full width of the lot on which a principal building is located and situated between the rear lot line and a line parallel thereto and passing through the point of the principal building nearest the rear lot line.

### **Yard, Side**

A space extending from the rear of the front yard to the beginning point of the rear yard between the principal building and the side lot line as measured perpendicular from the side lot line to the closest point of the principal building.

### **Yard Sale**

An outdoor sale of merchandise conducted entirely upon a residentially or institutionally developed lot by one or more households or civic groups, subject to the following provision:

Goods sold shall be limited to primarily used merchandise donated by one of the yard sale participants.

### **Zoning Administrator      **(CHAPTER 16)****

The person (or his designee) charged with overseeing the administration and enforcement of these regulations.



## CHAPTER 3

### DECISION-MAKING AND ADMINISTRATIVE BODIES

#### **Section 3.1            Board of Commissioners**

The Board of Commissioners shall have the following powers and duties to be carried out in accordance with these regulations:

- A.     To adopt comprehensive land use plans for Lincoln County or portions thereof and amendments to those plans;
- B.     To initiate amendments to this Ordinance including the text and the Zoning Map;
- C.     To hear, review, and adopt or reject amendments to the text of these regulations and to the zoning map;
- D.     To hear, review, and approve or disapprove applications for the revisions to conditional use permits.

#### **Section 3.2            Planning Board**

##### **3.2.1                Powers and Duties**

The Planning Board shall have the following powers and duties to be carried out in accordance with these regulations:

- A.     To initiate, review, and/or make recommendations to the Board of Commissioners regarding amendments to this Ordinance including the text and Zoning Map.
- B.     To review and make recommendations to the Board of Commissioners concerning applications for a conditional use permit and whether such a permit should be altered or rescinded once it has been approved.
- C.     To hear, review, adopt, amend, or reject amendments to changes in certain nonconformities.
- D.     To carry out all functions of a planning agency as provided in G.S. Chapter 160A, Article 19.
- E.     To adopt such rules of procedure necessary for the administration of its responsibilities not inconsistent with these regulations.
- F.     To hear, review, approve or reject petitions for certain temporary uses.

### **3.2.2 Membership**

Members of the Planning Board shall be appointed by the Board of Commissioners for designated terms. The Planning Board shall consist of nine members, all of whom are residents of Lincoln County. Once appointed, the Board of Commissioners may reappoint a Planning Board member for one successive term.

### **3.2.3 Meetings, Hearings, and Procedures**

- A. All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedure set forth in these regulations and rules of procedures adopted by the Planning Board on April 21, 1987, and any amendments thereto.
- B. Any rules of procedure adopted by the Planning Board shall be kept on file by the Zoning Administrator and available to the public at any public meeting or hearing.

### **3.2.4 Staff**

The Zoning Administrator shall serve as staff to the Planning Board and shall provide technical assistance to the Planning Board as requested.

## **Section 3.3 Board of Adjustments**

### **3.3.1 Powers and Duties**

The Board of Adjustments shall have the following powers and duties to be carried out in accordance with these regulations:

- A. To hear and decide appeals from and to review any order, requirement, decision, interpretation, or determination made under these regulations by the Zoning Administrator;
- B. Hearing and deciding appeals that require interpretation of the Zoning Ordinance;
- C. To hear and decide petitions for variance from these regulations where practical difficulties or unnecessary hardships would result from their strict application; and
- D. To hear and decide all appeals from decisions of the Historic District Commission.
- E. To adopt such rules of procedure necessary for the administration of its responsibilities not inconsistent with these regulations.

### **3.3.2 Membership**

The Board of Adjustments shall consist of five (5) members. Members of the Board of Adjustments shall be appointed by the Board of Commissioners. Initial terms of office shall be as follows: One (1) member appointed for a term of one (1) year; two (2) members appointed for terms of two (2) years; and two (2) members appointed for terms of three (3) years. Upon completion of the initial term of office for each member, all additional appointments to vacancies on the Board shall be for three (3) year terms. All of the members of the Board of Adjustments shall be residents of Lincoln County. The Board of Commissioners shall also appoint two (2) alternate members to serve on the Board of Adjustments in the absence, for any cause, of any regular member. Such alternate members shall be appointed for three year terms. Such alternate members while attending any regular or special meeting of the Board and serving in the absence of any regular member shall have and exercise all the powers and duties of such regular member so absent.

### **3.3.3 Meetings, Hearings and Procedures**

- A. All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedure set forth in these regulations and rules of procedure adopted by the Board of Adjustments.
- B. Any rules of procedure adopted by the Board of Adjustments shall be kept on file at the offices of the Zoning Administrator and shall be made available to the public at any meeting or hearing of the Board of Adjustments.

### **3.3.4 Staff**

The Zoning Administrator or his designee shall serve as staff to the Board of Adjustments and shall provide technical assistance to the Board of Adjustments as requested.





## CHAPTER 4:

### AMENDMENTS

The purpose of this Chapter is to provide a means for amending the text of these regulations and the classification of any parcel of land identified on the Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.

#### **Section 4.1**            **Authority**

Upon compliance with the provisions of this Chapter, the Board of Commissioners shall have the authority to amend or repeal the text of these regulations and the classification of any parcel of land, as indicated on the Zoning Map.

#### **Section 4.2**            **Initiation**

Any amendment, except for the reclassification of property to a Planned (P) or Parallel Conditional Use District, may be initiated by the Board of Commissioners or Planning Board on its own resolution, by any owner of a legal or equitable interest in the property affected by the amendment, or by any resident or local government agency of Lincoln County in accordance with the procedures set forth herein. Lincoln County shall not accept applications for zoning map classification changes without **written consent** from the owner of a legal or equitable interest in the property affected by the amendment, except when the owner is not present it shall be notarized. Prior written consent shall not be required for those zoning map classification changes initiated by the Board of Commissioners or Planning Board, however written notification of any proposed zoning map classification changes initiated by the Board of Commissioners or Planning Board shall be provided to affected property owners in a manner prescribed by law prior to scheduling of the matter for consideration.

An amendment for the reclassification of property to a Planned (P) or Parallel Conditional Use District may be initiated only by the owner of a legal or equitable interest in the affected property, or an agent authorized in writing to act on the owner's behalf.

When considering a petition for the reclassification of property to any district other than a Planned (P) or Parallel Conditional Use District, neither the Planning Board nor the Board of Commissioners shall evaluate the petition based on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development except for those which would apply to any use permitted in the requested district.

#### **Section 4.3**            **Filing of Petitions; Determination of Completeness**

- 4.3.1**            For a zoning map reclassification petition, or for petition to change the text of this Ordinance, such petition shall be on a form prescribed by the Zoning Administrator and accompanied by a fee established by the Board of Commissioners. Said form and fee shall be filed with the Zoning Administrator. Said fee shall be waived for any petition submitted by any Lincoln County official or agency acting on behalf of Lincoln County.

- 4.3.2** All petitions shall be submitted to the Zoning Administrator who shall determine if it is complete. The Zoning Administrator shall have three (3) working days to make such determination. If the Zoning Administrator fails to make a determination within three (3) working days, the petition shall be deemed complete.

**Section 4.4**            **Content of Application**

- A. Each non-contiguous parcel of land for which rezoning is requested shall be considered as a separate application, and said application fee shall accompany each application. For the purpose of this paragraph, land located and adjacent, on either side, to the rear and all property across any street or public right-of-way from the subject property shall be considered contiguous.
- B. Each application for a rezoning shall be accompanied by two (2) copies of a map, available from the Department of Building and Land Development, drawn to scale, with the following information either indicated on the map or accompanying it:
1. If not in a subdivision of record, the subject property plus such additional property as to show the location of the subject property with reference to the nearest street intersection, railroad, stream or other feature easily identifiable on the ground. In addition, all property lines which abut the property as well as those which lie within two-hundred (200) feet of the property proposed for rezoning, as well as the property owners' names and addresses.
  2. If the property is in a subdivision of record, a map of such portion of the subdivision that would relate the subject property to the closest street intersection, and in addition, the name of the subdivision and the plat book and page number on which the plat is recorded. In addition, the names and addresses of all adjoining property owners shall be indicated as shall the names and addresses of all owner's of property, which lie within two hundred (200) feet of any portion of the lot(s) proposed for rezoning.
  3. A dictated legal description (i.e., metes and bounds description) of the property(ies) proposed for rezoning shall accompany the map.
  4. The present and proposed zoning classification of the lot(s) in question.
- C. The application for a change in the text shall be made on a form provided by the Zoning Administrator. The application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefore.
- D. Within three (3) working days after having received any application, the zoning administrator shall determine whether the application is complete. If he determines that the application is not complete, he shall serve a written notice to the applicant or petitioner specifying the application's deficiencies. The Zoning Administrator shall take no further action on the application until the deficiencies are remedied. If the Zoning Administrator fails to notify the applicant or petitioner, the application shall be deemed complete.
- E. No application shall be considered complete unless it contains or is accompanied by a fee in accordance with a fee schedule approved by the Board of Commissioners.

**Section 4.5                    Submittal and Review Periods**

All applications must be submitted to the Zoning Administrator at least forty five (45) days prior to the Planning Board and Board of Commissioners joint public hearing meeting at which it is to be heard. The Zoning Administrator shall have the authority to defer a hearing on an application for up to 60 days if he determines that more time is needed to review the application.

**Section 4.6                    Planning Board Recommendations**

In considering a proposal to amend the text of these regulations or the classification of any parcel of land identified on the Zoning Map, the Planning Board shall advise and comment on whether the proposal is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report.

- 4.6.1**                    If a recommendation is made to the Board of Commissioners by the Planning Board concerning a petition for rezoning, said recommendation shall be as follows:
  - A.           Grant the rezoning as requested, or
  - B.           Grant the rezoning with a reduction of the area requested, or
  - C.           Grant the rezoning to a more restrictive general zoning district or districts, or
  - D.           Grant the rezoning with a combination of Sections 4.6.1(A)(B)(C), or
  - E.           Recommend that the application be denied.

The list of general zoning districts in descending order of restrictiveness shall be:

- |                 |                |
|-----------------|----------------|
| 1.        RL-20 | 8.        R-CR |
| 2.        RL-14 | 9.        R-R  |
| 3.        RL-ZO | 10.      B-N   |
| 4.        RL-MF | 11.      B-G   |
| 5.        R-SF  | 12.      I-L   |
| 6.        R-S   | 13.      I-G   |
| 7.        R-T   |                |

- 4.6.2** If a recommendation is made to the Board of Commissioners by the Planning Board concerning a petition to amend the text of this Ordinance, it shall be as follows:
- A. Adoption of the amendment as written, or
  - B. Adoption of the amendment as revised by the Planning Board, or
  - C. Rejection of the amendment.

**Section 4.7 Public Hearing Notification**

Notification of the public hearing shall be made in the following manner:

- A. A notice shall be published in a newspaper having general circulation in Lincoln County once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.
- B. If a change of zoning on the Zoning Map is requested, a conspicuous notice shall be posted in a conspicuous place on the subject property at least ten (10) days prior to the public hearing. Such notice shall state the existing zoning classification and the classification requested by the applicant and the date, time and location of the public hearing. The notice shall be removed only after the public hearing has been conducted and the Board of Commissioners has rendered its final decision.
- C. A notice of a proposed Zoning Map change shall be sent by first class mail by the Zoning Administrator at least ten (10) days prior to the public hearing to all adjacent property owners and to all property owners whose properties lie within six hundred sixty (660) feet of any portion of the property(ies) in question.

**Section 4.8 Board of Commissioners' Action**

The Zoning Administrator shall transmit the Planning Board's recommendation to the Board of Commissioners, who shall render a decision on the petition. The decision shall be in the form of the various options listed in Section 4.6. The petitioner shall have the right to withdraw his petition at any time prior to the final decision being rendered by the Board of Commissioners.

Before rendering a final decision, the Board of Commissioners may also schedule a new joint public hearing and resubmit the petition to the Planning Board for further study and/or recommendation.

Prior to adopting or rejecting any proposed amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.

**Section 4.9**                    **Notification of Decision**

RESERVED

**Section 4.10**                **Resubmission of Petition**

**4.10.1**                    If the Board of Commissioners has denied an application for the rezoning of a piece of property or has approved a rezoning to a general zoning district which is more restrictive than that which was originally requested, the Planning Board shall not review any applications for the same changes affecting the same property or any portion thereof until the expiration of one (1) year from the date of such previous denial.

**4.10.2**                    The Zoning Administrator may allow re-submission of such petition within said one (1) year period if he determines that, since the date of action on the prior petition:

- A.     There has been a significant change in the zoning district classification of an adjacent piece of property; or
- B.     The Board of Commissioners has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed; or
- C.     Construction or expansion of a road, water line, sewer line, or other infrastructure has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification; or
- D.     The Zoning Administrator determines that there has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition; this shall not include a change in the ownership of the subject property.

## CHAPTER 4A:

### PARALLEL CONDITIONAL USE DISTRICTS

#### **Section 4A.1**      **Purpose**

- 4A.1.1**      The conditional rezoning process allows particular uses to be established, but only in accordance with a specific development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and/or on the entire community which cannot be predetermined and controlled by general district standards or the criteria governing planned developments. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property and be consistent with the objectives of these regulations, the adopted Land Use Plan, and other plans for the physical development of the County as adopted by the Board of Commissioners. The review process established herein provides for the accommodation of such uses by a reclassification of property into a "parallel conditional use district".
- 4A.1.2**      The "parallel conditional use" district approval process is established to address those situations when a particular use may be acceptable, but the general zoning districts, which would allow that use, would be unacceptable.
- 4A.1.3**      In order for a property owner to secure privileges for developing property under the parallel conditional use process, the property must first be rezoned by the Board of Commissioners to a parallel conditional use district. The Board of Commissioners must then adopt a conditional use permit, which may contain fair and reasonable conditions to assure conformance with this Ordinance, other plans adopted by the Board of Commissioners and compatibility with surrounding properties. Any use permitted under this process must also conform to the development regulations for the corresponding general zoning district. Thus, if a property were rezoned to a CU-BN District and conditional use permit authorized the development of a particular use, that use must **(i)** be a use allowed (either on a permitted or conditional basis) in the B-N District and **(ii)** meet all dimensional, screening and related requirements of the B-N District. Rezoning of property to a parallel conditional use district is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals which may not be undertaken for some time.

#### **Section 4A.2**      **Reclassification Required**

No parallel conditional use district shall be established until the owner(s) of the property(ies) in question (or his authorized agent) proposing the district has submitted an application for the rezoning of the property and issuance of a conditional use permit and the Board of Commissioners has approved such application in accordance with the procedures stated herein.

### **Section 4A.3**

### **Plans and Other Information to Accompany Petition**

#### **4A.3.1**

Every application for the rezoning of property to a parallel conditional use district and issuance of a conditional use permit shall be submitted in duplicate and accompanied by all information contained in Section 4.4, a scale-drawn site plan and any necessary supporting text which includes the following information:

- A. A boundary survey and vicinity map showing the property's total acreage, zoning classification(s), general location in relation to major streets, railroads, and/or waterways, date, and north arrow;
- B. All existing easements, reservations, and rights-of-way;
- C. Proposed number and location of all structures, their approximate area, and their approximate exterior dimensions;
- D. Proposed use of all land and structures, including the number of residential units, if any, proposed and the total square footage of any non-residential development;
- E. A description of all screening and landscaping required by these regulations and/or proposed by the applicant;
- F. All existing and proposed points of access to public streets;
- G. Delineation of areas within the regulatory floodplain as shown on the official Flood Hazard Boundary Maps for Lincoln County;
- H. The owner's names and addresses, property identification numbers and existing land use(s) of all adjoining properties. This information is available at the Department of Building and Land Development.
- I. Proposed phasing, if any, and approximate completion time for the project;
- J. Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets;

#### **4A.3.2**

In the course of evaluating the proposed use, the Planning Board or Board of Commissioners may request additional information from the applicant. A request for such additional information shall stay any further consideration of the application by the Planning Board or Board of Commissioners. This information may include (but not be limited to) the following:

- A. Stormwater drainage plan;
- B. Existing and proposed topography at five-foot contour intervals or less;
- C. The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development;



- D. Proposed number, type, and location of signs;
- E. A traffic impact study of the proposed development prepared by a qualified transportation or traffic engineer or planner. The traffic impact study shall include the following information:
  - 1. Existing traffic conditions within the study area boundary;
  - 2. Traffic volumes generated by the existing and proposed development on the parcel, including the morning peak, afternoon or evening peak, and average annual traffic levels;
  - 3. The distribution of existing and proposed trips through the street network;
  - 4. Analyses of the capacities of intersections located within the study area boundary;
  - 5. Recommendations for improvements designed to mitigate traffic impacts and to enhance pedestrian access to the development from the public right-of-way; and
  - 6. Other pertinent information including but not limited to accidents, noise, and impacts on air quality and other natural resources.

**4A.3.3      Fees**

No application shall be considered complete unless it contains or is accompanied by all items listed in Section 4A.3.1 (and as may be required in Section 4A.3.2) and a fee, in accordance with a fee schedule approved by the Board of Commissioners for the submittal of a parallel conditional use district application and issuance of a conditional use permit.

**Section 4A.4      Submittal to Zoning Administrator**

All complete applications shall be submitted to the Zoning Administrator at least forty five (45) days prior to the Planning Board and Board of Commissioners joint public hearing meeting at which it is to be heard. The Zoning Administrator shall have the authority to defer a hearing on an application for up to 60 days if he determines that more time is needed to review the application.

**Section 4A.5      Planning Board Review**

The Planning Board shall have a maximum of forty-five (45) days from the date of the public hearing to submit its recommendation to the Board of Commissioners. If a recommendation is not made during said forty-five (45) day period (except as provided in Section 4A.3.2), the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board.

**Section 4A.6      Board of Commissioners Action**

Notice of said public hearing shall be as prescribed in Section 4.7 of this Ordinance.

**Section 4A.7**

**Board of Commissioners Decision**

The Board of Commissioners may approve the rezoning of property to a parallel conditional use district. A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition. Such rezoning, under the parallel conditional use rezoning process, does not confer upon the applicant any privileges for development under that zoning district unless and until a conditional use permit is approved for the property in question by the Board of Commissioners.

**4A.7.1** The Board of Commissioners may issue the conditional use permit only after having evaluated an application and having determined that:

- A. The proposed development will not materially endanger the public health or safety if located where proposed and developed according to plan; and
- B. The proposed development meets all required conditions and specifications; and
- C. The proposed development will not substantially injure the value of adjoining or abutting property unless it is a public necessity; and
- D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with an adopted Land Development Plan.

**4A.7.2** The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which Sections 4A.7.1 (B) and (D) of this Ordinance require. If any person submits evidence allegedly contrary to any of the facts or conditions listed in Sections 4A.7.1 (A) and (C) of this Ordinance, the burden of proof for overcoming such evidence shall rest with the applicant.

**4A.7.3** In approving a petition for a conditional use permit, the Board of Commissioners may attach fair and reasonable conditions. Any such conditions shall relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and landscaping areas, the timing of development, street and right-of-way improvements, water and sewer improvements; stormwater drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate or the applicant may propose. Such conditions to approval of the conditional use permit may include dedication of rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners. Only those conditions mutually approved by the Board of Commissioners and the applicant may be incorporated into the permit requirements.

**Section 4A.8**

**Effect of Approval**

**4A.8.1** If a petition for a parallel conditional district rezoning and conditional use permit are both approved under this Part, the district that is established, the approved conditional use permit, and all conditions which may have been attached to the approval are binding on the property as an amendment to these regulations and to the Zoning Map. All subsequent development and use of the property shall be in accordance with the standards for the approved parallel conditional use district, the conditional use permit, and all conditions attached to the approval.

**4A.8.2** If a petition is approved subject to conditions, the Zoning Administrator shall record with the Register of Deeds a notice that development of the subject property is subject to conditions and that such conditions are on file at the Zoning Administrator's office.

**4A.8.3** Following the approval of the petition for a parallel conditional use district, the subject property shall be identified on the Zoning Map by the appropriate district designation. A parallel conditional use district shall be identified by the same designation as the underlying general zoning district preceded by the letters CU (for example, "CU B-N").

**Section 4A.9**                    **Alterations to Approval**

**4A.9.1** Except as provided in Section 4A.9.2, changes to the approved petition or to the conditions attached to the approval shall be treated the same as amendments to these regulations or to the Zoning Map and shall be processed in accordance with the procedures in this Chapter.

**4A.9.2** Any conditional use permit so authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Board of Commissioners. However, minor changes in the detail of the approved plan which **(i)** will not alter the basic relationship of the proposed development to adjacent property, and **(ii)** will not alter the uses permitted or increase the density or intensity of development, and **(iii)** will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site may be made with the approval of the Zoning Administrator on a one time basis only. Such increase in building size may thereby take place provided the increase does not exceed 10% of the existing floor area on the site or 1,000 square feet of gross floor area on the entire site, whichever is less; and provided such building, when expanded, shall lie no closer than fifty (50) feet from any adjoining lot which lies in a Residential (R) district.

**Section 4A.10**                    **Revocation of Approval of or Parallel Conditional Use District**

Structures or Uses Requiring Building Permits. Unless the Board of Commissioners issues a Conditional Use Permit which is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant shall have a period of twenty-four (24) months from the date of issuance of the Conditional Use Permit to obtain a building permit for the project. If the applicant fails to obtain a building permit within the said 24-month period or if a building permit is secured but has lapsed before the end of the said 24-month period, the Conditional Use Permit shall automatically expire unless the applicant files a written request with the Zoning Administrator for a renewal of the Conditional Use Permit. Such application must be filed prior to the expiration of the 24-month period from the issuance of the original Conditional Use Permit.

Upon receipt of such application for renewal, the Zoning Administrator shall determine whether conditions in the area adjacent to the property in question have changed substantially since the issuance of the Conditional Use Permit and shall have the discretion to call for a review by the Planning Board and a new public hearing by the Board of Commissioners before a renewal permit may be issued by the Board of Commissioners.. If the Zoning Administrator in his discretion feels that conditions in the area in question have not substantially changed and that therefore Planning Board review and a new public hearing are unnecessary, the Zoning Administrator may renew the Conditional Use Permit on the same terms and conditions originally specified for an additional 24-month period.

The applicant's failure to file a request for a renewal of the Conditional Use Permit before its expiration shall require the applicant to apply for a new Conditional Use Permit and go through the process of Planning Board review and public hearing as specified herein for new Conditional Use Permits.

For phased projects which involve the need for multiple building permits, an applicant shall be deemed to have complied with this section for a particular phase if he has obtained at least one of the building permits applicable to that phase of the project within the 24-month period specified. Failure to seek renewal of the Conditional Use Permit as to phases for which no permits have been issued during the 24-month period will result in the expiration of the Conditional Use Permit as to such phase, and the applicant will be required to reapply for a new Conditional Use Permit for any such phases.

To the extent that it is reasonably possible to do so, the Zoning Administrator shall note on each Conditional Use permit the date upon which such permit expires, but the failure of the Zoning Administrator to make such notation shall not limit the authority of Lincoln County to enforce the provisions of this section.

#### **Section 4A.11                      Change in CU Zoning**

Once a petition for rezoning to a parallel conditional use district and issuance of a conditional use permit has been approved by the Board of Commissioners, any request to materially change the parallel conditional use district or conditional use permit for a property may only be made by the property owner or his authorized agent only after a public hearing has been duly advertised and held in accordance with Section 4.7 (except as provided for in Section 4A.10). Any amendment to the conditional use permit shall also be subject to the same considerations as provided for in Section 4A.7.1 of this Ordinance.

### **CHAPTER 4B:**

## Conditional Zoning Districts

### **Section 4B.1**

#### **Purpose**

Conditional Zoning (CZ) Districts are zoning districts in which the development and use of property is subject to the predetermined ordinance standards applicable to the corresponding general zoning district or planned district as well as additional rules, regulations and conditions that are imposed as part of the legislative decision creating the district. Uses which may be considered for a Conditional Zoning District are restricted to those uses allowed (either on a permitted or conditional basis) in the corresponding general district or planned district.

### **Section 4B.2**

#### **Application**

##### **4B.2.1**

Petitioning for a CZ district is a voluntary procedure and can be initiated only by the owner(s) of the property(ies) in question or by his/her authorized agent. Every application for the rezoning of property to a CZ district shall be accompanied by a site plan, drawn to scale, containing all of the information outlined in Section 4A.3.1 of this Ordinance. The Zoning Administrator shall schedule a meeting with the applicant, prior to any Community Involvement Meeting (CIM) being advertised and/or held, to review the rezoning application and site plan to make sure that it meets, at a minimum, all minimum requirements of this Ordinance.

##### **4B.2.2**

No application shall be considered complete unless it is accompanied by a fee in accordance with a fee schedule approved by the Board of Commissioners for the submittal of an application for rezoning to a CZ district. Said fee shall be waived for any application submitted by any official or agency acting on behalf of Lincoln County or the State of North Carolina.

##### **4B.2.3**

The Zoning Administrator may require the petitioner to submit more than one copy of the rezoning application in order to have enough copies available to circulate to other government agencies for review and comment. When dealing with the conditional zoning district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Planning Board and/or Board of Commissioners may request additional information (in addition to that required above), as they deem necessary.

### **Section 4B.3**

#### **Community Involvement Meeting**

##### **4B.3.1**

Once the requisite number of complete applications has been submitted to the Zoning Administrator and the requisite fee has

been paid, and prior to the public hearing on the rezoning request, a Community Involvement Meeting (CIM) shall be scheduled and held. Such meetings shall occur prior to any recommendation by the Planning Board and approval by the Board of Commissioners. The CIM is designed to provide a framework for creating a shared vision with community involvement directed by the applicant in accordance with the following requirements:

- A. The applicant shall provide an agenda, schedule, location, and list of participants such as landscape architects, engineers, etc. to answer questions from citizens and service providers for the CIM in cooperation with the Zoning Administrator.
- B. It is recommended that the CIM last 2-4 hours, depending on the nature of the proposed development and its location. The CIM shall be held at one of the following locations:
  - 1. On the subject property; or
  - 2. At the nearest available public meeting place including schools, libraries, community centers, places of worship, etc.; or
  - 3. Other publicly accessible locations approved by the Zoning Administrator.

Notwithstanding the above, a CIM may last for different amounts of time, depending on the nature of the development, its location, and the number of parties involved and/or attending the meeting.

- C. Notice of the CIM shall, at a minimum, be given as follows:
  - 1. A public notice shall be sent by the County to a newspaper having general circulation in the county not less than 10 days nor more than twenty-five (25) days prior to the date of the CIM.
  - 2. A notice shall be sent by first class mail by the County to the applicant and to the owners of all properties that lie within six hundred sixty (660) feet of any portion of the property(ies) in question. Such notice shall be sent not less than ten (10) days prior to the date of the CIM. The notification shall contain information regarding the CIM time and location(s) as well as a general description of the proposal.

3. A CIM notification sign shall be posted by the County in a conspicuous place at the property not less than 10 days prior to the CIM. The sign shall indicate date, time, and location(s) of the CIM. In lieu of any or all of this information to be contained on this posted notice, the notice may give a phone number where interested parties may call during normal business hours to get further information on the CIM.

- D. The Zoning Administrator will keep notes of comments received during the CIM. A summary of the comments made shall be included in any staff report prepared by the Zoning Administrator relative to the rezoning request.

**4B.3.2** Following the CIM, the applicant shall have the opportunity to make changes to the application to take into account information and comments received. One or more revised copies of the application shall be submitted to the Zoning Administrator for review. No additional fee shall be required to be paid for making such changes provided the Zoning Administrator receives the revised application within thirty (30) days following the CIM. If a revised application is not received during said thirty (30) day period, the Zoning Administrator shall review the original application submitted.

**Section 4B.4                    Administrator Approval**

The Zoning Administrator shall have up to thirty (30) days following any revision of the application to make comments. If the Zoning Administrator forwards no comments to the applicant by the end of any such thirty-day period, the application shall be submitted to the Planning Board and Board of Commissioners for their review without any further comment.

**Section 4B.5                    Public Hearing Notification Requirements**

**4B.5.1** Before any property is rezoned to a CZ district, the Planning Board shall have had an opportunity to review and make a recommendation on the application. Such Planning Board review shall take place after both the community involvement meeting (CIM) is completed and a joint public hearing is held by the Planning Board and the Board of Commissioners. Notification of the public hearing shall be as prescribed in Section 4.7 of this Ordinance.

**Section 4B.6                    Planning Board Review**

The Planning Board shall have at least thirty (30) days to make a recommendation on the proposed change, said thirty (30) days being measured from the date of the closing of the joint Planning Board/Board of Commissioners public hearing. If a recommendation is not made during said time period, the application shall be forwarded to the governing board without a recommendation. Any such Planning Board recommendation shall be accompanied by statements that address (1) whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the governing board and any other officially adopted plan that is applicable, and (2) other matters that the Planning Board deems appropriate and (3) why it considers the action taken to be reasonable and in the public interest.

#### **Section 4B.7**

#### **Board of Commissioners' Action**

Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. Once the public hearing has been held, the Board of Commissioners shall take action on the petition. The Board of Commissioners shall have the authority to:

- A. Approve the application as submitted.
- B. Deny approval of the application
- C. Approve the application with modifications that are mutually agreed to by the applicant and the governing board. Such conditions shall be in compliance with Subsection F herein.
- D. Submit the application to the Planning Board for further study. The Planning Board shall have up to thirty (30) days from the date of such submission to make a report to the governing board. If no report is issued, the governing board can take final action on the petition. The governing board reserves the right to schedule and advertise a new public hearing based on the Planning Board's report.

#### **Section 4B.8**

#### **Conditions to Approval of Petition**

In approving a petition for the reclassification of property to a CZ district, the Planning Board may recommend and the Board of Commissioners may require that reasonable and appropriate conditions be attached to approval of the petition. Such conditions shall be limited to those that address the conformance of the development and use of the site to Lincoln County ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the



governing board. In no instance shall any of these conditions be less restrictive than any requirements that would otherwise pertain to that particular development if it were located in a general or parallel conditional use zoning district. Such conditions may exceed any performance criteria or minimum requirements listed elsewhere in this Ordinance that pertain to that development. Statements that (1) analyze whether the rezoning is consistent with an adopted comprehensive plan and any other officially adopted plan, and (2) other matters that the Board of Commissioners deems appropriate and (3) why it considers the action taken to be reasonable and in the public interest shall be prepared and accompany each final decision relative to the CZ rezoning request

#### **Section 4B.9**

#### **Effect of Approval; Zoning Map Designation**

If a petition for a CZ district is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's zoning classification, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Map. Following the approval of the petition for a CZ district, the subject property shall be identified on the Zoning Map by the appropriate district designation preceded by the letters CZ (i.e., CZ B-G) Notwithstanding, the Zoning Administrator may approve minor changes to the approved site plan (per Section 4A.9.2 and 11.6.7) administratively without necessitating a need to rezone the property to a different conditional zoning district classification.

## CHAPTER 5:

### BOARD OF ADJUSTMENTS

#### **Section 5.1**            **Authority of Board of Adjustments**

- A.     The Board of Adjustments shall have the authority to hear and decide appeals from any order, decision, determination, or interpretation made by the Zoning Administrator or Historic District Commission pursuant to or regarding these regulations.
- B.     The Board of Adjustments shall have the authority to hear and decide petitions for variances from the requirements of these regulations.
- C.     The Board of Adjustments shall have the authority to make an interpretation of any portion of this Ordinance.

#### **Section 5.2**            **Initiation**

- A.     An appeal may be initiated by any aggrieved party or by any officer, department, or Board of Lincoln County.
- B.     A petition for a variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

#### **Section 5.3**            **Administrative Review and Appeals**

The Board of Adjustments shall hear and decide appeals from and review any order, requirement, decision, interpretation or citation made by the Zoning Administrator or Historic District Commission and apply such interpretation to particular fact situations. In addition, the Zoning Administrator may ask the Board of Adjustments to interpret any portion of the Zoning Ordinance.

**5.3.1**            The Board of Adjustments may, after having held a public hearing on the matter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed or make an interpretation of the Zoning Ordinance. The Board of Adjustments may also give relief to **(i)** dimensional regulations for authentic reconstruction or **(ii)** waiver of parking requirements (Refer to Sections 12.4.5 and 12.4.6).

**5.3.2**            The Board of Adjustments shall have all the powers of the Zoning Administrator in making any order, requirement, decision, interpretation or determination with reference to an appeal or petition.

**5.3.3**            An appeal may be taken to the Board of Adjustments by any person who has first appealed to and received a ruling from the Zoning Administrator. An appeal to the Board of Adjustments shall be made within forty-five (45) days of the issuance or denial of a zoning or building permit or the written decision of the Zoning Administrator. The Zoning Administrator may make an appeal to the Board of Adjustment at any time.

## **Section 5.4**            **Variances**

When practical difficulties, special conditions, or unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Board of Adjustments shall have the power to vary or modify any of the regulations or provisions of this Ordinance relating to the construction or alteration of buildings or structures or the use of land.

**5.4.1**            The Board of Adjustments, in considering an application for a variance, shall give due consideration to the following:

- A.        The citing of other nonconforming or conforming uses of land or structures in the same or other districts, shall not be considered grounds for the granting of a variance.
- B.        The request for a variance for a particular use expressly, or by inference, prohibited in the district involved, shall not be granted.

**5.4.2**            The Board of Adjustments, may only grant a variance after having first held a public hearing on the matter and having made the following determinations:

- A.        There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance.
- B.        That the variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and
- C.        That in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done; and
- D.        That the reasons set forth in the application justify the granting of a variance, and that the variance is a minimum one that will make possible the reasonable use of land or structures.

**5.4.3**            The Board of Adjustments, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this Ordinance and shall be punishable as prescribed in Section 20.7 of this Ordinance.

**5.4.4**            Unless otherwise authorized by the Board of Adjustments and included in its decision to grant a variance, any order of the Board of Adjustments in granting a variance shall expire, if a building permit, or certificate of occupancy (for a use for which a building permit is not required), has not been obtained (or has been obtained but has since lapsed) at the end of one (1) year from the date of its decision.

**Section 5.5                    Application Procedure**

The following regulations apply to all applications submitted to the Board of Adjustments.:

**5.5.1**                    Before a petition for an administrative appeal, interpretation of the Zoning Ordinance text or map, or variance shall be heard and a public hearing conducted by the Board of Adjustments, an application shall be submitted to the Zoning Administrator along with a fee in accordance with fee schedule established by the Board of Commissioners. Said application shall be submitted at least twenty-one (21) days prior to the date of the Board of Adjustments public hearing at which the application is to be heard. Said fee shall be waived for any petition initiated by the Zoning Administrator or other official of Lincoln County who initiates a request on behalf of Lincoln County. For variance requests, the application shall be accompanied by a map clearly identifying the subject property and all contiguous pieces of properties (i.e., all properties traversed and/or separated by a road, stream, right-of-way, or any similar natural or man-made configuration). In addition, a list of names and addresses of the owners of said properties, from the most recent official tax records, shall be provided by the applicant.

**5.5.2**                    The filing of any application stays all proceedings unless the Zoning Administrator certifies that a stay in his opinion will cause imminent peril to life or property, or, that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the Ordinance. In that event, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment, Board of Commissioners or by a court of record.

**5.5.3**                    Within three (3) working days after having received an application for an appeal, interpretation or a variance, the Zoning Administrator shall determine whether the application is complete. If he determines that the application is not complete, he shall serve a written notice on the appellant or petitioner specifying the application's deficiencies. The Zoning Administrator shall take no further action on the application until the deficiencies are remedied. If the Zoning Administration fails to so notify the appellant or petitioner, the application shall be deemed complete.

**Section 5.6                    Public Notification**

**5.6.1**                    Lincoln County shall give notice of all public hearings. Said notice shall become a part of the record of the proceedings of the Board of Adjustments. Notice shall be given in the following manner:

A.                    Interpretations and Appeals of the Zoning Administrator or Historic District Commission

1.                    Notice shall be sent by the County by first class mail to the applicant at least ten (10) days prior to the public hearing. Notice shall also be posted by the Zoning Administrator in a conspicuous location in the Lincoln County Citizens Center at least ten (10) days prior to the public hearing.

Both notices shall indicate the nature of the public hearing and the date, time and place at which it is to occur.

B. Variances

1. Notices shall be sent by Lincoln County by first class mail to the applicant, and to owners of all contiguous pieces of property and to all other property owners whose properties lie within two hundred (200) feet of any portion of the property in question at least ten (10) days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur.
2. Notice shall also be posted by the Zoning Administrator in a conspicuous location in the Lincoln County Citizens Center at least ten (10) days prior to the public hearing. Said notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur.
3. A conspicuous sign shall also be placed by the County in a conspicuous location on the subject property(ies) indicating the nature of the public hearing and date, time and place at which it is to occur. Said sign shall be placed on the property(ies) in questions at least ten (10) days prior to the public hearing.

**Section 5.7**

**Board of Adjustments Decision**

**5.7.1** The Board of Adjustments shall hold a public hearing on an application no later than forty-five (45) days after the completed application has been filed with the Zoning Administrator. The Board of Adjustments shall decide on the matter which was presented at the public hearing within thirty-one (31) days of the close of the public hearing.

**5.7.2** The concurrent vote of four-fifths (4/5) of the voting members of the Board of Adjustment shall be necessary to make an interpretation of the Zoning Ordinance, reverse any order, requirement, decision or determination of the Zoning Administrator or Historic District Commission, grant a variance, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application.

**5.7.3** All decisions of the Board of Adjustments shall be written and filed by the Zoning Administrator.

**Section 5.8**

**Appeals From the Board of Adjustments**

**5.8.1** An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of fifteen (15) days after the date of the Board of Adjustments decision. In addition, specific information to enable the Board of Adjustments to determine whether or

not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the Board of Adjustments if, in its judgment, such change in facts, evidence or conditions has not been proven. A public hearing shall not be required to be held by the Board of Adjustments to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four (4) voting members. In the event that the Board of Adjustments finds that a rehearing is warranted, it shall thereupon proceed as in the original hearing except that the application fee shall be waived.

**5.8.2** Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, or upon the withdrawal of the request application by the applicant, a similar application may not be filed for a period of one year after the date of denial of the original application.

**5.8.3** Every decision of the Board of Adjustments 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 thirty (30) days after the decision of the Board is filed in the office of the Zoning Administrator, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Zoning Administrator or the Chairman of the Board of Adjustment at the time of the Board's hearing of the case, whichever is later.



## CHAPTER 6:

### CONDITIONAL USES

#### **Section 6.1**            **Conditional Uses**

This Ordinance provides for a number of uses to be located by right in each general purpose zoning district subject to the use meeting certain area, height, yard and off-street parking requirements. In addition to these uses, the Ordinance allows some uses to be allowed in these districts subject to the issuance of a Conditional Use Permit. The purpose of having such "conditional uses" is to insure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located.

#### **Section 6.2**            **Procedures**

A Conditional Use Permit application shall be filed with the Zoning Administrator. The application shall be accompanied by a site plan, drawn to scale and necessary supporting text which shall include the following information:

- A. Name, address and phone number of the property owner (or his agent) and the property identification number of the property. (NOTE - the property owner or his authorized agent are the only two parties who may initiate a request for a Conditional Use Permit).
- B. A boundary survey and vicinity map, showing the property's total acreage, zoning classification(s), general location in relation to major streets, railroads and/or waterways, date and north arrow.
- C. The owners' names and addresses, tax parcel numbers and existing land use(s) of all adjoining properties. This information is available at the Department of Building and Land Development.
- D. Proposed use of all land and structures including the number of residential units (if applicable).
- E. Proposed number and location of all structures, their approximate area and their approximate exterior dimensions.
- F. All existing easements, reservations and rights-of-way.
- G. Proposed phasing, if any, and approximate completion time for the project.
- H. Delineation of areas within the regulatory floodplain as shown on the official Federal Emergency Management Agency (FEMA) Flood Hazard Boundary Maps of Lincoln County.
- I. A description of all screening and landscaping required by these regulations and/or proposed by the applicant.
- J. Traffic, parking and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets.



**6.2.2** In the course of evaluating the proposed use, the Planning Board or Board of Commissioners may request additional information from the applicant. A request for such additional information shall stay any time limits for staff review of the petition under Section 6.2.5 and shall stay any further consideration of the application by the Board of Commissioners or Planning Board. This information may include (but not be limited to) the following:

- A. Stormwater drainage plan.
- B. Existing and proposed topography at five-foot contour intervals or less.
- C. The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development.
- D. Proposed number, location and size of signs.
- E. A traffic impact study of the proposed development prepared by a qualified transportation or traffic engineer or planner. The traffic impact study shall include the following information:
  - 1. Existing traffic conditions within the study area boundary.
  - 2. Traffic volumes generated by the existing and proposed development on the parcel, including the morning peak, afternoon or evening peak, and average annual daily traffic levels.
  - 3. The distribution of existing and proposed trips through the street network.
  - 4. Analyses of the capacities of intersections located within the study area boundary.
  - 5. Recommendations for improvements designed to mitigate traffic impacts and to enhance pedestrian access to the development from the public right-of-way; and
  - 6. Other pertinent information, including but not limited to accidents, noise, and impacts of air quality and other natural resources.

**6.2.3** No application shall be considered complete unless it contains or is accompanied by all items listed in Section 6.2.1 (and as may be required in Section 6.2.2) and a fee, in accordance with a fee schedule approved by the Board of Commissioners for the submittal of Conditional Use Permit applications.

**6.2.4** All complete applications shall be submitted to the Zoning Administrator at least forty five (45) days prior to the Planning Board and Board of Commissioners joint public hearing meeting at which it is to be heard. The Zoning Administrator shall have the authority to defer a hearing on an application for up to 60 days if he determines that more time is

needed to review the application. Notice of said public hearing shall be as prescribed in Section 4.7 of this Ordinance.

- 6.2.5** The Planning Board shall have a maximum of forty-five (45) days from the date of the public hearing to submit its recommendation to the Board of Commissioners. If a recommendation is not made during said forty-five (45) day period (except as indicated in Section 6.2.2), the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board.

**Section 6.3**                    **Board of Commissioners Decision**

- 6.3.1** Once a recommendation has been received from the Planning Board, or the forty-five (45) day Planning Board review period has expired, the Board of Commissioners shall consider the application for a Conditional Use Permit.

In approving an application for a Conditional Use Permit, the Planning Board may recommend and the Board of Commissioner may attach fair and reasonable conditions to the approval. Any conditions shall relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. Such conditions to approval may include dedication of any rights-of-way or easements for streets, water, sewer or other public utilities necessary to serve the proposed development. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners. In no instance shall any of these conditions be less restrictive than any requirements which would pertain to that particular development found elsewhere in a similar zoning district.

- 6.3.2**                    **Burden of Proof.** The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which Sections 6.3.3 (B) and (D) of this Ordinance require. If any persons submits evidence allegedly contrary to any of the facts or conditions listed in Sections 6.3.3 (A) and (C) of this Ordinance, the burden of proof for overcoming such evidence shall rest with the applicant.

- 6.3.3** The Board of Commissioners shall issue a Conditional Use Permit only after having evaluated an application and having determined that:

- A. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
- B. The use meets all required conditions and specifications, and
- C. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and

- D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the approved Land Development Plan for the area in question.

**Section 6.4                    Effect of Approval**

If an application for a Conditional Use Permit is approved by the Board of Commissioners, the owner of the property shall have the ability to **(i)** develop the use in accordance with the stipulations contained in the Conditional Use Permit or **(ii)** develop any other use listed as a "permitted use" for the general zoning district in which it is located.

If, however, a Conditional Use Permit is issued in relation to the rezoning of a property to a parallel Conditional Use District (refer to Chapter 4A), the property may only be used for the development for the Conditional Use Permit as approved.

**Section 6.5                    Binding Effect**

Any Conditional Use Permit so authorized shall be perpetually binding to the property included in such permit provided it is initiated within one year of being granted unless subsequently changed or amended by the Board of Commissioners. However, minor changes in the detail of the approved plan which **(i)** will not alter the basic relationship of the proposed development to adjacent property, and **(ii)** will not alter the uses permitted or increase the density or intensity of development, and **(iii)** will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site may be made with the approval of the Zoning Administrator. Such changes shall all be deemed to be minor changes. An increase in building size not to exceed 10% of the existing floor area on the site or 1,000 square feet of gross floor area on the entire site, whichever is less; and provided such building, when expanded, shall lie no closer than fifty (50) feet from any adjoining lot which lies in a Residential (R) district; and provided such expansion does not violate any of the standards of this Ordinance; shall also be deemed a minor change as described in this section. Such minor changes may be approved by the Zoning Administrator or a one-time basis only for any Conditional Use Permit approved by the Board of Commissioners. Further changes to the development may only be made in compliance with Section 6.8.

**Section 6.6                    Certificate of Occupancy and Approval of Power Connection**

No Certificate of Occupancy for a use listed as a Conditional Use or a label that indicates Approval for Power Connection shall be issued for any building or land use on a piece of property which has received a Conditional Use Permit for such particular use unless the building is constructed or used, or the land is developed or used, in conformity with the Conditional Use Permit approved by the Board of Commissioners. In the event that only a segment of a proposed development has been approved, the certificate of occupancy and a label that indicates Approval of Power Connection shall be issued only for that portion of the development constructed or used as approved.

**Section 6.7                    Twelve-Month Limitation on Re-Application**

If a request for Conditional Use Permit is denied by the Board of Commissioners, a similar application for the same property or any portion thereof shall not be filed until the expiration of a twelve (12) month period from the date of the most recent denial by the Board of Commissioners. This waiting period shall not be applicable where the application for a Conditional Use Permit is substantially different from the original application.

The term "substantially different" as herein applied shall mean:

- A. The proposed principal use is different than the use contained in the original application; or
- B. The gross floor area of the proposed development is fifty (50) percent or more smaller than contained in the original application.

### **Section 6.8 Change in Conditional Use Permit**

Any request to materially change the Conditional Use Permit once it has been issued must first be reviewed by the Planning Board in accordance with Section 6.2.4 of this Ordinance. The Board of Commissioners may thereafter change or amend any previously approved Conditional Use Permit, only after having held a public hearing. Notice of public hearing shall be in accordance with Section 4.7 of this Ordinance. Amendment by the Board of Commissioners of a previously issued Conditional Use Permit shall be subject to the same considerations as provided for in Section 6.3 of this Ordinance.

### **Section 6.9 Implementation of Conditional Use Permit**

6.9.1 Structures or Uses Requiring Building Permits. Unless the Board of Commissioners issues a Conditional Use Permit which is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant shall have a period of twenty-four (24) months from the date of issuance of the Conditional Use Permit to obtain a building permit for the project. If the applicant fails to obtain a building permit within the said 24-month period or if a building permit is secured but has lapsed before the end of the said 24-month period, the Conditional Use Permit shall automatically expire unless the applicant files a written request with the Zoning Administrator for a renewal of the Conditional Use Permit. Such application must be filed prior to the expiration of the 24-month period from the issuance of the original Conditional Use Permit.

Upon receipt of such application for renewal, the Zoning Administrator shall determine whether conditions in the area adjacent to the property in question have changed substantially since the issuance of the Conditional Use Permit and shall have the discretion to call for a review by the Planning Board and a new public hearing by the Board of Commissioners before a renewal permit may be issued by the Board of Commissioners.. If the Zoning Administrator in his discretion feels that conditions in the area in question have not substantially changed and that therefore Planning Board review and a new public hearing are unnecessary, the Zoning Administrator may renew the Conditional Use Permit on the same terms and conditions originally specified for an additional 24-month period.

The applicant's failure to file a request for a renewal of the Conditional Use Permit before its expiration shall require the applicant to apply for a new Conditional Use Permit and go through the process of Planning Board review and public hearing as specified herein for new Conditional Use Permits.

For phased projects which involve the need for multiple building permits, an applicant shall be deemed to have complied with this section for a particular phase if he has obtained at least one of the building permits applicable to that phase of the project within the 24-month period specified. Failure to seek renewal of the Conditional Use Permit as to phases for which no permits have been issued during the 24-month period will result in the expiration of the Conditional Use Permit as to such phase, and the applicant will be required to reapply for a new Conditional Use Permit for any such phases.

To the extent that it is reasonably possible to do so, the Zoning Administrator shall note on each Conditional Use permit the date upon which such permit expires, but the failure of the Zoning Administrator to make such notation shall not limit the authority of Lincoln County to enforce the provisions of this section.

- 6.9.2 Structures or Uses Not Requiring Building Permits. For applications involving structures or uses for which no building permits are required, Conditional Use Permits shall be valid for an indefinite period of time unless the Board of Commissioners or other section of this Ordinance specifies otherwise. In the event that the Board of Commissioners or other provisions of this Ordinance has specified a different time, the applicant shall have the right to apply for a renewal of his permit as specified in (A) above, and the Zoning Administrator shall have the same discretion with respect to renewing such permits.

## **Section 6.10                    Conditional Uses Which Have Been Destroyed**

- 6.10.1** If a use or a structure housing a use listed as a conditional use for the zoning district in which it is located is destroyed [i.e., receives damage to over fifty percent (50%) of its assessed value at the time of destruction], and such use never received a Conditional Use Permit from the Board of Commissioners, such a permit shall be required (per Sections 6.2 & 6.3) if the use is to be reestablished. Said permit shall be applied for within one-hundred eighty (180) days from the date of destruction. If the permit is not applied for within said time frame, the use will be considered as having become abandoned.
- 6.10.2** Notwithstanding the above, in the event of destruction (as herein defined), the Zoning Administrator is herein authorized to issue a permit for “saw pole” Electrical service (i.e., electrical service of the 30 amp / 120 volt variety) to the site. Such service may not be connected to the existing building wiring and may only serve the site itself (i.e., no adjacent uses or lots). The purpose of allowing such electrical service is to facilitate debris removal and clean-up, secure contents from further damage, aid in insurance inspections, and secure the premises from trespassers. The electrical service may not be used to re-establish the use.
- 6.10.3** The Zoning Administrator may issue a permit for such electrical service for a maximum of thirty (30) days; one extension to the permit, for a period not to exceed thirty (30) days may also be granted.

## CHAPTER 7:

### NONCONFORMITIES

#### **Section 7.1**            **Purpose and Applicability**

The purpose of this section is to regulate and limit the continued existence of uses and structures established prior to the effective date of this Ordinance or any amendment subsequent thereto that do not conform to this Ordinance. Any nonconformity created by a change in the classification of property or the text of this Ordinance shall be regulated by the provisions of this section. Many nonconformities may continue and make limited expansions, but the provisions of this section are designed to lessen their impact upon surrounding conforming uses in order to preserve the integrity of this Ordinance.

#### **Section 7.2**            **Nonconforming Uses**

**7.2.1**            Nonconforming uses of land or structures, and nonconforming structures that contain nonconforming uses, may continue only in accordance with the provisions of this Chapter.

**7.2.2**            Normal structural repair and maintenance may be performed to allow the continuation of a nonconforming use.

**7.2.3**            A nonconforming single-family residential use located in an Industrial (I) District may be enlarged or altered provided no additional dwelling units result therefrom. Any such enlargement shall be in compliance with all yard requirements of the R-S District.

An existing nonconforming residential use located in a Business (B) District will be allowed to continue in compliance with all regulations of the R-S District.

An existing nonconforming nonresidential use may not be expanded beyond its current parcel except pursuant to a permit issued by the Planning Board per Section 7.10 of this Ordinance.

**7.2.4**            Except as provided in Section 7.12 a nonconforming use may be changed to another nonconforming use only in accordance with a permit issued by the Planning Board per Section 7.10 of this Ordinance.

**7.2.5**            If the structure housing an existing nonconforming use is destroyed (i.e., receives damage to an extent of more than fifty (50) percent of its assessed value at the time of destruction, it may only re-establish by a permit issued by the Planning Board per Section 7.10 of this Ordinance. Said permit shall be applied for within one-hundred eighty (180) days from the date of destruction. If the permit is not applied for within said time frame, the use will be considered abandoned and may not be re-established. The structure must meet all pertinent zoning regulations, if Possible, when being replaced, OR the structure must be rebuilt in the same location as before the time of destruction, OR in the case of a

nonconforming use change, petition the Planning Board for approval in accordance with Section 7.10 of the Zoning Ordinance.

Notwithstanding the above, in the event of destruction (as herein defined), the Zoning Administrator is herein authorized to issue a permit for “saw pole” electrical service (i.e., electrical service of the 30 amp / 120 volt variety) to the site. Such service may not be connected to the existing building wiring and may only serve the site itself (i.e., no adjacent uses or lots). The purpose of allowing such electrical service is to facilitate debris removal and clean-up, secure contents from further damage, aid in insurance inspections, and secure the premises from trespassers. The electrical service may not be used to re-establish the use.

The Zoning Administrator may issue a permit for such electrical service for a maximum of thirty (30) days; one extension to the permit, for a period not to exceed thirty (30) days may also be granted.

- 7.2.6** If there is a cessation of use in a nonconforming nonresidential use for four (4) years or more, the use shall not be allowed to re-establish without approval from the Planning Board. All new uses in said structure shall thereafter be conforming.

**Section 7.3 Nonconforming Structures**

- 7.3.1** A nonconforming structure devoted to a use permitted in the zoning district in which it is located may continue only in accordance with the provisions of this Section.
- 7.3.2** Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.
- 7.3.3** A nonconforming structure may not, under any circumstances, be enlarged or altered in a way that increases its nonconformity.
- 7.3.4** If a nonresidential nonconforming structure receives damage to an extent of fifty (50%) percent or more of its assessed value at the time of destruction, it may be replaced subject to the following:
- A. The structure must meet all pertinent zoning regulations, if possible, when being replaced; and
  - B. The structure must be rebuilt in the same location as before the time of destruction; and
  - C. In the case of nonconforming use change, petition the Planning Board for approval in accordance with Section 7.10 of the Zoning Ordinance.

A nonconforming residential structure which receives damage in an amount of less than fifty (50%) percent of its assessed value may be repaired on site. If a residential structure is constructed on-site to replace a destroyed nonconforming residential structure, the new structure shall not have a gross floor area larger than the structure it replaced, unless the structure is placed on the lot in a conforming manner.

Said replacement residential structure shall not be placed on the lot in a more non-conforming manner than the original structure. Wherever

possible, the structure shall be placed on the lot in a conforming manner. Assessed value shall be determined using the tax assessment records provided by the Lincoln County Assessor's Office for the year in which the structure was destroyed.

- 7.3.5 Should a nonconforming structure be moved for any distance on the lot upon which it is located, it shall if possible, conform with all applicable regulations for the zoning district in which it is located. Otherwise the structure, if moved, shall be placed on the lot in as conforming a manner as possible.

**Section 7.4                    Nonconforming Accessory Structures**

- 7.4.1 A nonconforming accessory use or accessory structure may be expanded only if the nonconforming features of that use or structure are not expanded so as to increase the degree of nonconformity.
- 7.4.2 No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, damage, or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.

**Section 7.5                    Nonconforming Vacant Lots**

- 7.5.1 An undeveloped lot in any zoning district which was recorded with the Lincoln County Register of Deeds Office prior to the effective date of the zoning by Lincoln County in such area, and such lot does not comply with the minimum lot area or width requirements for the zoning district in which such lot is located, then such lot may be developed for a use allowed in that zoning district provided all structures on said lot meet all applicable yard, setback, and bulk requirements.
- 7.5.2 Any lot created after the effective date of this ordinance as a result of recombination of previously existing lots which were nonconforming with respect to lot size or width, shall, as a minimum, contain at least seventy-five (75) percent of the required lot area or width for the zoning district in which said lot is located.

**Section 7.6                    Nonconforming Screening and Landscaping**

In accordance with Section 8.2 of this Ordinance, certain uses are required to provide screening and/or landscaping on-site. The initial development of such uses, change of use or expansion of such existing uses cannot occur without the required screening and/or landscaping having first been provided on-site. Said requirement may be waived by the Planning Board if, after having first held a public hearing, it determines that:

- A. The required screening and/or landscaping would serve no meaningful purpose, either in the present or in the future, given the physical location of the lot and the use which is either located on the lot or proposed to be located there; and
- B. The spirit and intent of this Ordinance will be preserved. Application for such relief shall be as prescribed in Section 7.10.



**Section 7.7                    Nonconforming Off-Street Parking and/or Loading**

On any lot which contains a use which does not comply with the off-street parking and loading regulations contained in this Ordinance, a certificate of occupancy shall not be issued for any expansion and/or change of said use which would result in a need to increase the number of off-street parking and/or loading spaces required, until all such off-street parking and loading requirements and all other applicable requirements of this Ordinance have first been met.

A certificate of occupancy may be issued when there has been a change in a principal use and the number of off-street parking spaces required for the new use (per Chapter 7 of this Ordinance) is within ten (10) percent or ten (10) spaces, whichever is less, of the number of off-street parking spaces actually provided.

An example of this is as follows:

A principal use (Use A) is located on a lot with two-hundred (200) off-street parking spaces. Use A goes out-of-business and is replaced with Use B. Chapter 7 of this Ordinance requires that Use B have 208 spaces. A certificate of occupancy can be issued for Use B (so long as the use is otherwise in accordance with all applicable requirements of this Ordinance) as the number of deficient spaces (eight) is less than the prescribed maximum (10).

Such relief may be granted on a one-time basis only on any lot.

**Section 7.8                    Nonconforming Signs**

- 7.8.1**                    Nonconforming advertising signs that were otherwise lawful on the effective date of this Ordinance and subsequent amendment may be continued. All other nonconforming signs shall be altered to comply with this Ordinance or be removed within one year of a notice of nonconformity.
- 7.8.2**                    Deleted
- 7.8.3**                    Deleted
- 7.8.4**                    Deleted
- 7.8.5**                    Deleted
- 7.8.6**                    Deleted
- 7.8.7**                    Deleted
- 7.8.8**                    Deleted
- 7.8.9**                    Deleted
- 7.8.10**                  Deleted.

**Section 7.9                    Abandonment**

The term “cessation of use” as used herein shall mean the voluntary or involuntary discontinuance of a use with the intent to re-establish. Any of the following shall constitute evidence of cessation of use:

- A. Any positive act indicating intent to re-establish the use after it has ceased.
- B. Premises have been devoted to another use for less than four (4) years.
- C. Property is actively being marketed when vacant.
- D. Parcel(s) continue to be assessed at a commercial tax rate.

If a cessation of use of a nonresidential structure is longer than four (4) years in duration, a use may not be re-established without approval from the Planning Board.

### **Section 7.10                    Application Procedure**

The Planning Board shall hear and decide requests from any land owner to consider **(i)** expanding an existing nonconforming nonresidential use; **(ii)** changing one nonconforming use to another or, **(iii)** allowing the reconstruction of a building housing a nonconforming use which has been destroyed, or **(iv)** waiving the screening requirements of Section 8.2 for a new use, change of use, or expansion of an existing use. A fee, in accordance with a fee schedule adopted by the Board of Commissioners, shall be required of any person seeking a change or expansion of a nonconformity as herein outlined.

All complete applications shall be submitted to the Zoning Administrator twenty-one (21) days prior to the Planning Board meeting at which it is to be reviewed. This requirement may be waived by a unanimous vote of the Planning Board membership present at a meeting occurring less than twenty-one (21) days prior to the date of submission. Except as otherwise permitted, in no case shall the meeting at which the Planning Board initially reviews the application occur greater than sixty (60) days after the completed application has been submitted by the applicant to the Zoning Administrator.

In order to decide such an appeal, the Planning Board shall first hold a public hearing. Notice of the public hearing shall be as provided in Section 5.6.1(B) of this Ordinance. A fee, in accordance with a fee schedule adopted by the Board of Commissioners, shall be required of any person seeking an appeal as herein outlined.

The Planning Board may approve such an a request having first held the public hearing and having determined:

- A. That the decision to approve or deny the request is based on whether the proposed use and/or structure would be more suitable and appropriate for the lot(s) on which they are located then the existing use and/or structure; and
- B. That the proposed use and/or structure would have a less harmful effect than the existing use and/or structure on the properties surrounding the lot in question; and
- C. That the decision to grant the request will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare; and

- D. That in approving the request, adequate safeguards exist or are required to be put in place to insure that the proposed use and/or structure will be in harmony with the neighborhood in which it is located and will not cause undue harm.

The Planning Board, in granting the request may prescribe fair and reasonable conditions and safeguards in conformity with this Ordinance in order to insure that the findings listed in Subsections A-D as herein contained are met. Such conditions may include, but are not limited to, the following:

- A. Type of use allowed
- B. Gross floor area of buildings allowed
- C. Hours of operation
- D. Days of operation
- E. Amount and location of screening and landscaping
- F. Location and amount of off-street parking and loading
- G. Location and number of trash dumpsters
- H. Amount, type and lighting of exterior signs
- I. Ingress and egress points

In no instance shall any of these conditions be less restrictive than any conditions which otherwise would apply to such use as called for by this Zoning Ordinance.

Violations of such conditions when made a part of the terms upon which the appeal was granted, shall be deemed a violation of this Ordinance and shall be punishable as prescribed in Section 16.7 of this Ordinance.

If the appeal is for an expansion to an existing nonconforming mobile home park, such appeal may be approved (in addition to any other conditions placed by the Planning Board on the approval) based upon each of the following:

- A. The mobile home park did not exceed, prior to such expansion, the maximum permissible density for the mobile home park in the underlying general zoning district.
- B. Except in the R-R and R-T districts, in no instance shall one Class D mobile home be able to replace another Class D mobile home. Replacement of a Class D mobile home with another Class D mobile home in a mobile home park in the R-R or R-T districts is subject to the issuance of conditional use permit in accordance with Chapter 6.
- C. The addition to the mobile home park must be in accordance with all applicable regulations for new spaces and new mobile home parks as contained in this Ordinance.

If a request for an appeal is denied by the Planning Board, a similar application shall not be filed until the expiration of a twelve (12) month period from the date of the most recent denial. This waiting period shall not be applicable where the application for an appeal is substantially different from the original application. The term "substantially different" as herein applied shall mean the following:

- A. The proposed principal use is different than the use contained in the original application; or,

- B. The gross floor area of the proposed structure (or structure addition) is fifty (50) percent or more smaller than contained in the original application; or,
- C. The proposed increase in multi-family units or mobile home park spaces is fifty (50) percent or more smaller than contained in the original application.

**Section 7.11** RESERVED

**Section 7.12** **Nonconforming Mobile Homes**

A nonconforming mobile home located on a lot (outside of a mobile home park) on the date of adoption of this amendment may be replaced with another mobile home under the following conditions:

- 7.12.1** There are no more than two (2) mobile homes on the lot in question.
- 7.12.2** Existing mobile homes may be replaced as a permitted use by-right subject to the following:
  - A. An existing Class A mobile home may only be replaced by a Class A mobile home.
  - B. An existing Class B mobile home may only be replaced by a Class A or Class B mobile home.
  - C. An existing Class C mobile home may be replaced by a Class A, B, or C mobile home.
  - D. An existing Class D mobile home may only be replaced by a Class A, B, or C mobile home.
  - E. Any replacement mobile home shall have been constructed at a later date than the mobile home which it is replacing. The applicant shall be required to document that this condition has been met.
- 7.12.3** In no instance may a Class D mobile home serve as the replacement mobile home, except as a conditional use in the R-R and R-T districts only per Sections 10.1.2 and 10.2.2.
- 7.12.4** The replacement mobile home shall be placed on the lot within one-hundred eighty (180) day of removal of the previous mobile home.
- 7.12.5** The replacement mobile home shall be placed on the lot in conformity with all applicable yard regulations for the zoning district in question.
- 7.12.6** These restrictions shall be applicable in any zoning district except the RL-MF, RL-ZO, RL-14, and RL-20 Zoning Districts.



## CHAPTER 8:

### GENERAL PROVISIONS

**(NOTE - SECTIONS 8.1 THROUGH 8.21 SHALL APPLY IN ALL ZONING DISTRICTS EXCEPT THE RL-20, RL-14, RL-Z0- AND RL-MF DISTRICTS. GENERAL PROVISIONS PERTAINING TO THESE DISTRICTS ARE FOUND IN SECTIONS 8.23 THROUGH 8.33. SECTION 8.22 SHALL PERTAIN IN ALL ZONING DISTRICTS CONTAINED IN THIS ORDINANCE)**

#### **Section 8.1 Customary and Rural Home Occupations**

##### A. Customary Home Occupations

Customary home occupations shall be allowed under the following conditions:

1. The customary home occupation shall clearly be incidental and subordinate to the residential use of the dwelling and shall not change the residential character of the dwelling.
2. No accessory buildings or outside storage shall be used in connection with the customary home occupation.
3. Use of the dwelling for customary home occupations shall be limited to a maximum of twenty-five (25) percent of the gross floor area of the principal building.
4. A maximum of two persons who are not residents of the lot upon which the customary home occupation is located may be employed at the customary home occupation.
5. No display of products shall be visible from any adjoining lot or street and only articles made on the premises may be sold; except that nondurable articles incidental to a service conducted as the customary home occupation may be sold on the premises.
6. No external alterations inconsistent with the residential use of the building shall be permitted.
7. No machinery or equipment that causes noises, odors, or other interference in radio and television reception shall be permitted.
8. Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of the customary home occupation.
9. Chemical, mechanical, or electrical equipment that creates odors, light emission, noises, or interference in radio or television reception detectable outside the dwelling shall be prohibited.
10. Customary home occupation may operate between the hours of 6:00 a.m. and 10:00 p.m. only.

B. Rural Home Occupations

Rural home occupations may be conducted in the R-R, R-T, R-S, R-SF and R-CR Districts only. If a customary home occupation takes place on the lot, a rural home occupation may not be in operation. A rural home occupation may take place in one (1) accessory structure on the lot and must meet the following specifications.

1. Said accessory structure shall be located in the rear yard only and shall also be located at least one-hundred (100) feet from any existing residence on adjacent parcels of land and at least fifty (50) feet from any adjoining lot line.
2. Said accessory structure shall have a maximum gross floor area equal to one-half (1/2) the gross floor area of the principal structure or seven-hundred and fifty (750) square feet, whichever is less.
3. No outside storage of materials or goods shall be permitted.
4. The operator of the rural home occupation must reside on the same lot as the occupation.
5. No more than two (2) full-time employees at any one time who do not reside on the premises may be employed at the home occupation.
6. Machinery or equipment that creates odors, light emission, noises or interference in radio or television reception detectable outside the dwelling shall be prohibited.
7. No display of products shall be visible from a public street and only articles made or reconditioned on the premises may be sold; except that non-durable articles incidental to a service conducted as the home occupation, may be sold on the premises. An example of this is beauty products which are sold at hair salons conducted as rural home occupations.
8. Rural home occupations may operate between the hours of 6:00 a.m. and 10:00 p.m. only.
9. No auto repair business shall be allowed under these provisions.

## **Section 8.2                    Screening and Landscaping**

The intent of these screening requirements shall be to separate certain zoning districts from other zoning districts or to screen certain uses in order to minimize potential nuisances such as the transmission of noise, dust, odor, litter, and glare of lights; to reduce the visual impact of unsightly aspects of adjacent development; to provide for the separation of spaces; and to establish a sense of privacy. Any screening required under this Section shall materially screen the subject use between the ground level and the height of the required screening from the view of the adjoining property.

### **8.2.1                    Screening shall be required under the following situations:**

- A.     When a lot in a Business (B) District abuts a lot in a Residential (R) District, screening in the form of a Grade C screen on the Business (B) lot shall be provided. In lieu of a Grade C screen, an opaque wall or fence or a berm shall be provided on said lot. The equivalent of a Grade C screen is indicated on Figure 8-3.  
When a lot in a Business (B) District abuts a lot in a Industrial (I) District, screening in the form of a Grade B screen shall be provided on the lot in the Industrial (I) District. In lieu of said screen, an opaque wall or fence or a berm shall be provided on said lot. The equivalent of a Grade B screen is indicated on Figure 8-2.  
When a lot in an Industrial (I) District abuts a lot in a Residential District, screening in the form of a Grade C screen plus an opaque wall or fence shall be provided on the lot in the Industrial (I) District.
- B.     When the front yard of a lot developed in an Industrial (I) District is located directly across a public road from a Residential (R) District, screening must be provided on the Industrial (I) lot in the form of a Grade A screen. The equivalent of a Grade A screen is indicated on Figure 8-1. In lieu of said screen, all principal and accessory structures and off-street parking facilities must be set back in the front yard located across from the Residential (R) District a minimum of one-hundred feet from the edge of the road right-of-way.
- C.     For open-air storage, or an unenclosed structure consisting of a roof, but no walls used for storage of materials, products, wastes or equipment associated with business or industrial uses, located within one-hundred (100) feet of the street right-of-way line. Such screening may be located anywhere on the subject property provided the storage is effectively screened from view from any abutting lot; or
- D.     As otherwise called for in this Ordinance.
- E.     When a nonresidential use, in the R-CR District, abuts a lot with a residential use in a R-CR District or another Residential (R) District, screening in the form of a Grade C screen on the lot With a nonresidential use shall be provided on said lot. In lieu of A Grade C screen, an opaque wall or fence or a berm shall be



provided on said lot. The equivalent of a Grade C screen is indicated on Figure 8-3.

### **8.2.2 Screening Standards**

- A. The various screening alternatives using natural plantings are depicted in Figures 8-1, 8-2, and 8-3. To determine the total number of plants required, the length of each side of the property requiring a buffer, minus the area covered by a sight distance triangle as required in Section 8.6, shall be divided by 100 and multiplied by the number of plants shown for the required screen.
- B. For each required screen, more than one alternative is shown. The owner of the lot which is required to provide screen may choose among these options. In no case may a fence or wall be substituted for a screen consisting of natural plantings when there is adequate width to provide a screen which does consist of natural plantings.
- C. Except as provided in Section 8.2.1(c), screening shall be required along rear and/or side lot lines only.
- D. No structure shall be permitted within a required screen area other than a wall, fence, mailbox, sidewalk, sign or driveway. No off-street parking may take place in any required screen area.

### **8.2.3 Standards for the use of walls, fences, or berms**

Whenever a screening alternative specified is selected which includes a wall, fence, or berm, such wall, fence, or berm shall meet the following requirements:

- A. Any wall shall be constructed in a durable fashion of brick, stone, or other masonry materials with no greater than 25 percent of the wall surface left open.
- B. Any fence shall be constructed in a durable fashion of wood posts and/or planks with a minimum diameter or width of three inches and with no greater than 25 percent of the fence surface left open between posts and/or planks.
- C. No wall or fence used as part of a screen shall be less than six (6) feet nor more than eight (8) feet in height above grade.
- D. No berm shall be less than four feet nor more than six feet in height above grade, nor have a slope of greater than 33 percent.
- E. Any berm shall be stabilized to prevent erosion and shall be landscaped with trees, shrubs, grasses, or other vegetative ground cover; no part of the berm shall be left as bare soil.

- F. Where a fence or wall is used as part of a buffer, the plantings accompanying the fence or wall shall be located between the fence or wall and the adjacent property.

#### **8.2.4 Plant Installation Standards**

The following standards shall apply to all new plant material installed as part of a screen required under these regulations:

- A. All specifications for the measurement, quality, and installation of trees and shrubs shall be in accordance with the "American Standards for Nursery Stock" published by the American Association of Nurserymen. The property owner or developer shall provide to the Zoning Administrator written certification that the trees and shrubs meet these standards.
- B. All plant material shall be free from disease.
- C. All plant material shall be installed in a fashion that ensures the availability of sufficient soil and water to sustain healthy growth.
- D. All plant material shall be planted with a minimum of 6 inches of organic soil and mulched to a depth of 3 inches. All canopy and understory trees shall be properly guyed or staked at the time of planting.
- E. All plant material shall be planted in a manner that is not intrusive to utilities or pavement.
- F. Where plant materials are herein required, they shall be installed on the side of any wall or fence opposite the new development, unless a waiver per Section 8.2.6 is granted (Refer to Figure 8-4).

#### **8.2.5 Screen Maintenance**

The plantings, fences, walls or berms that constitute a required screen shall be properly maintained in order for the screen to fulfill the purpose for which it is established. The owner of the property and any tenant on the property where a screen is required shall be jointly and severally responsible for the maintenance of all screen materials. Such maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy and orderly in appearance, and to keep walls, fences, and berms in good repair and neat appearance. Any vegetation that constitutes part of a screen shall be replaced in the event that it dies. All screen materials shall be protected from damage by motor vehicles or pedestrians that could reduce the effectiveness of the screen.

#### **8.2.6 Relief to Screening Requirements**

In the event that the unusual topography or elevation of a development site or the location or size of the parcel to be developed would make strict adherence to the requirements of this section serve no meaningful

purpose or would make it physically impossible to install and maintain the required screen, the Zoning Administrator may alter the requirements of this Ordinance as long as the existing features of the development site comply with the spirit and intent of this Ordinance. Such an alteration may occur only at the request of the developer, who shall submit a plan to the Zoning Administrator showing existing site features that would screen the proposed use and any additional screen materials the developer will plant or construct to screen the proposed use. The Zoning Administrator shall have no authority to alter the screening requirements unless the developer demonstrates that existing site features and any additional screening materials will screen the proposed use as effectively as the required screen. In deciding whether to approve such a plan, the Zoning Administrator may, at his discretion, seek an advisory opinion from the Planning Board.

#### **8.2.7 Existing Screened Areas**

In cases where an existing screened area exists, further plantings and or improvements shall not be required so long as said screened area is of sufficient width and depth and contains adequate and sufficient materials to meet the requirements of this Ordinance. If the screened area is deficient, the developer shall make needed improvements and/or additions to satisfy the screening requirements and intent of this Ordinance.

#### **8.2.8 Location of Screening**

Screening provided in relation to Section 8.2.1(b) shall be in the front yard of the lot in the Industrial (I) District immediately behind the street right-of-way. Screening provided in relation to Section 8.2.1(c) shall be located where needed on the subject property to effectively screen the storage from view from any abutting lot adjacent to or across the street from the lot in question.

#### **8.2.9 Implementation of Screening**

The following standards shall be adhered to for all screening installed per this Section:

- A. Fences or walls used for screening shall be installed prior to issuance of a Certificate of Occupancy.
- B. Screening in the form of natural plantings may be installed or planted no later than six (6) months after the certificate of occupancy has been issued subject to the approval of the Zoning Administrator.

**Section 8.3            Fences or Walls Permitted**

Except as otherwise noted, fences or walls are permitted in the various districts subject to the following regulations:

**8.3.1            In Residential (R) Districts:**

- A.     All fences must be placed outside the right of way. The maximum height shall be eight feet (8’).
- B.     No electrical fences other than livestock protection fences shall be allowed.
- C.     No permit will be required to be issued for a fence complying with these regulations.

**8.3.2            In All Other Districts:**

- A.     Within all required setbacks the maximum height of a fence or wall shall be eight feet (8’) above grade.

**Section 8.4            Lot To Abut A Dedicated Street**

**8.4.1**            No lots may be created after the effective date of this Ordinance which do not have at least thirty-five (35) feet of street right-of-way frontage except as follows:

- A.     A lot not having thirty-five (35) feet of dedicated street right-of-way frontage may be created if located entirely within a **(i)** planned shopping center or office park or other planned unified development of a nonresidential nature or **(ii)** within a condominium, town home, patio home, zero lot line home, or similar type development.
- B.     A one-family residence may be constructed on any lot which existed on the effective date of this Ordinance which does not abut a dedicated street provided the lot is given access to a dedicated street by an easement at least twenty (20) feet in width for the use of the dwelling established on such lot and further provided that such easement is maintained in a condition passable for service and emergency vehicles. This easement may not be extended to provide access to another lot not having frontage on a dedicated street.
- C.     Lots which are exempt from the regulations of the Lincoln County Subdivision Regulation Ordinance (Adopted August 7, 1989, as amended) through the division of land settled in an estate [Section 106(e)] shall not be required to have public road frontage.
- D.     Lots which are created through the Lincoln County Subdivision Ordinance, [Section 303(A): Subdivision Among Family Members], shall not be required to have public road frontage.

**Section 8.5**                    **One Principal Building or Use**

- 8.5.1**                    No more than one principal structure devoted to a residential use shall be located on a lot, except as part of a multi-family development or as otherwise permitted as private residential quarters. Temporary mobile homes located on the same lot as a single-family dwelling are also allowed per Sections 8.7.4 and 8.7.5.
- 8.5.2**                    More than one principal building devoted to a nonresidential use may be located on a lot provided that an access way at least twenty (20) feet wide is maintained from a public street to each building for use by service or emergency vehicles.
- 8.5.3**                    Only one principal nonresidential use per lot shall be allowed except as part of a planned shopping center, office building, or similar planned multi-tenant development.
- 8.5.4**                    In any Residential (R) zoning district, no more than one principal use shall be located on a lot with the following exceptions:
- A.                    On any lot containing a church, single-family dwelling occupied by the pastor or similar official of that church, provided the lot contains enough area to satisfy the minimum lot size standards of the church and a single-family residence.
  - B.                    A produce stand, animal kennel, riding, stable, or cemetery, may be located on the same lot as a single-family residence. Minimum yard requirements shall be the more restrictive for either use. The lot upon which the two principal uses are located shall contain enough area to satisfy the minimum lot size standards of both uses.
  - C.                    On any lot containing a single-family dwelling and any such other principal use, a minimum separation of fifty (50) feet shall be maintained on the lot between the single-family dwelling and any principal or accessory structure associated with the other principal use.
  - D.                    No additional principal uses may be established on a lot containing a pre-existing nonconforming use.
  - E.                    Where allowed, a church and church-owned and operated school may occupy the same lot.

**Section 8.6**                    **Visibility At Intersections**

On a corner lot in any district no planting, structure, sign, fence, wall or artificial obstruction to vision more than three (3) feet in height shall be placed or maintained within the triangular area formed by the intersection of front or rear lot lines and the side lot line and a straight line connecting points on said lot lines, each of which is twenty-five (25) feet in distance from the point of intersection. In instances where NCDOT sight triangle provisions are applicable, such regulations shall prevail.

**Section 8.7                      Temporary Structures and Uses**

Temporary structures and uses, when in compliance with all applicable provisions of this Ordinance and all other ordinances of Lincoln County shall be allowed. The following temporary structures and uses shall be permitted:

**8.7.1**                      Construction trailers used in conjunction with construction projects provided that the following conditions are met:

- A.        Such construction trailers shall be located at a building site upon receipt of a valid building permit for the construction project.
- B.        Such construction trailers may remain upon a construction site for a maximum of thirty days after the issuance of the certificate of occupancy or two (2) years from the date of issuance of the zoning permit; if located in a Residential (R) District whichever is sooner.

Nevertheless, if the project is multi-family or industrial in nature, the zoning permit may be extended beyond two (2) years, if the approved project is not yet completed and the applicant requests an extension within three (3) months prior to the expiration of the permit period. Such extensions may be for one year.

- C.        All construction trailers shall be located at least ten (10) feet off all street right-of-way and property lines if located in a Residential (R) District. In all other districts the construction trailer may be placed in any required yard setback but should not be placed over gas, electrical, water or sewer lines.

**8.7.2**                      Certain uses of a temporary nature [i.e., less than 45 days in duration and held no more than three (3) times per year at any particular location] which would not otherwise be permitted in a particular zoning district may be issued a permit as herein provided. Upon completion and submittal of an application, the Zoning Administrator may grant a zoning permit for the following temporary uses:

- A.        Christmas tree sales
- B.        Revivals
- C.        Sales for civic organizations

The permit shall be valid for a specified period only, not to exceed forty-five (45) days in duration.

All other such temporary uses not otherwise listed may only be granted a zoning permit only after **(i)** a public hearing has been conducted by the Planning Board, and **(ii)** the Planning Board has made the following determinations:

- A.        The proposed use will not materially endanger the public, health, welfare and safety; and

- B. The proposed use will not have a substantial negative effect on adjoining properties.

In approving such permit, the Planning Board may authorize conditions regarding duration of the use, hours of operation, signage, lighting, etc. and such conditions shall be made part of the permit issued. Violations of such conditions shall be considered a violation of this Ordinance. Notice of said public hearing shall be as provided in Section 5.6.1(B) of this Ordinance. A fee, in conformance with a fee schedule adopted by the Board of Commissioners, shall be required of any person seeking such a temporary use permit.

### 8.7.3

Modular structures, mobile offices, conventional-built structures for commercial purposes may be used as a temporary sales office for any recorded and/or County-approved subdivision or development subject to the issuance of a one-year permit by the Zoning Administrator. Such development, at initial sale, shall contain at least thirty (30) lots. A permit may be reissued (on a one-time basis only) by the Zoning Administrator if greater than 10 percent of the lots proposed for initial sale remain unsold at the expiration of the initial permit. All such sales offices shall meet the following criteria:

- A. The lot on which the sales office is located must meet all applicable yard requirements of the applicable zoning district.
- B. A minimum of four (4) off-street parking spaces containing a 4" gravel base or similar non-dust producing surface shall be provided.
- C. Any sales office shall have a gross floor area of no less than 300 square feet and no greater than one-thousand (1,000) square feet.
- D. All decks, handrails, steps and landings shall be permanent in nature and in accordance with all applicable building codes.
- E. Towing apparatus of any mobile sales unit shall be removed or screened so as not to be visible from any adjacent street or lot.
- F. Structures shall have either a continuous brick, cinder block, stucco, stone or other masonry type foundation or underpinning or have a continuous non-reflective vinyl, metal, or pressure treated wood skirting.
- G. No accessory structures shall be located on the same lot except for water well apparatus.
- H. If the structure contains indoor plumbing facilities, those facilities shall be operable only if the lot can be served by public water or an approved well, sewer or septic system.
- I. Any such structure shall be located on one of the development's numbered lots designated for sale unless otherwise conditionally approved by the Zoning Administrator.

- J. Structures which were initially designed and constructed as residential dwellings shall not be allowed.
- K. No such structure shall be placed closer than three-hundred (300) feet to an existing residential structure.

#### **8.7.4 Temporary Mobile Homes**

In R-T and R-R zoning districts where a single-family dwelling is a use by right, the Zoning Administrator shall have the authority to issue a temporary zoning permit for the placement of a mobile home on a lot of record on a temporary basis while a single-family dwelling is being constructed on the same lot. Such permit may only be issued under the following conditions:

- A. The mobile home is a Class A, B, C or E mobile home.
- B. The mobile home is used as the principal residence of the owner of the lot while the single-family dwelling is being constructed.
- C. The temporary permit for the mobile home shall not be issued by the Zoning Administrator until the owner of the lot has received a building permit for the construction of the single-family dwelling.
- D. The mobile home shall be placed on the lot in such manner that it meets all required setbacks for the principal structure.
- E. The temporary permit shall initially be valid for a period of one (1) year. The permit may be extended on a one-time basis for a period of no greater than six (6) months if the Zoning Administrator determines that significant progress is being made in completing the construction of the single-family dwelling. Upon expiration of said eighteen-month period, the temporary permit for the mobile home shall become invalid.
- F. The mobile home shall immediately be removed upon (i) expiration of the temporary zoning permit for the mobile home, or (ii) upon expiration of the building permit for the single-family dwelling, or (iii) within thirty (30) days of the issuance of a certificate of occupancy for the single-family dwelling.
- G. An existing mobile home located on the lot may be so used so long as all applicable regulations of this Section are met.

#### **8.7.5**

In addition, in the R-S, R-SF, and R-CR districts, where an existing mobile home is located on a lot, and such mobile home serves as the only principal residential structure on said lot, the Zoning Administrator shall have the authority to issue a zoning permit to allow the construction of a single-family dwelling unit to be located on the same lot, under the following conditions:



- A. The single-family dwelling to be constructed will otherwise be in harmony with all other requirements of the Zoning Ordinance.
- B. The existing mobile home is the principal residence of the owner of lot while the single-family dwelling is being constructed.
- C. Notwithstanding Section 16.2(A), the zoning permit for the single-family dwelling shall initially be valid for a maximum period of one (1) year. The zoning permit may be extended on a one-time basis only for a period not to exceed nine (9) months if the Zoning Administrator determines that significant progress is being made in completing the construction of the single-family dwelling. Upon expiration of the one-year period or any extension, if applicable, the zoning permit allowing both the single-family dwelling and the mobile home to be located on said lot shall expire. Construction of the single-family dwelling shall immediately cease upon expiration of said zoning permit (or upon expiration of the associated building permit). The Zoning Administrator shall have no authority to renew or reissue the zoning permit for said single-family dwelling unless the mobile home on the lot is first removed.
- D. Within thirty (30) days of the issuance of a certificate of occupancy for the single-family dwelling, the owner of the lot shall have the mobile home removed.
- E. Rights established per any zoning permit issued per this Subsection shall be transferable to subsequent owners of the lot without the necessity of a new permit being issued, provided that the successor owner complies with all provisions herein indicated.

**8.7.6**

Mobile homes may be allowed on a temporary basis in the R-S, R-SF, & R-CR districts on a permitted basis under the following conditions:

- A. In the event of a disaster, the result of which an occupied single-family dwelling was destroyed [i.e., received damage greater than fifty (50) percent of its assessed tax value as indicated on the most current tax listings], a Class C, E or F mobile home may be placed on the lot containing the dwelling unit which was destroyed. The purpose of allowing such mobile home on said lot is to give the occupants of the destroyed single-family dwelling unit a place to live while a new dwelling unit is being constructed or damage to the original dwelling unit is being repaired.
- B. Such mobile home may only be placed in the side or rear yard (in relation to the structure to be replaced or damaged), or in the front yard a minimum of one-hundred (100) feet from the edge of the street right-of-way line. The mobile home shall be no closer than ten (10) feet to any side or rear lot line.
- C. The Zoning Administrator shall be given the authority to issue a zoning permit for such temporary use on a one-time basis only for a period of up to nine (9) months. Such permit may be renewed

on a one-time only basis for up to three (3) additional months by the Planning Board if, after a public hearing, it is determined that:

1. Construction of a single-family dwelling unit is proceeding in a diligent manner; and,
  2. The granting of such permit will not materially endanger the public health, welfare and safety; and,
  3. The location of the mobile home on the site does not have a negative effect on the abutting properties.
- D. Such mobile home may be allowed on the lot irrespective of the number of other dwelling units located on the lot prior to the date of destruction.
- E. The permanent replacement of a structure on the lot may occur if such use and structure is in conformity with the underlying zoning district's regulations; otherwise, the Planning Board may issue a permit for the replacement permanent structure in accordance with Section 7.2.5.

#### **8.7.7 Temporary Permit for the Placement of an RV**

In all residential zoning districts, the Zoning Administrator shall have the authority to issue a temporary zoning permit for the placement of a recreational vehicle on a lot under the following conditions:

- A. The principal residential structure was destroyed by a fire, tornado or other disaster, and a temporary permit for a recreational vehicle is necessary to allow the owner to live at the property during the reconstruction of the principal structure.
- B. A visual inspection shall be conducted by the county to determine that the home is rendered uninhabitable prior to the issuance of a temporary zoning permit.
- C. The fee for a temporary zoning permit and electrical permit shall be waived. The temporary zoning permit shall be valid for a period of nine (9) months. However, the permit may be extended on a one-time basis for a period of three (3) months if the county determines that significant progress is being made in completing the reconstruction of the principal structure.
- D. The recreational vehicle may only be placed in the side or rear yard (in relation to the principal residential structure), or in the front yard a minimum of one-hundred (100) feet from the edge of the street right-of-way line, and no closer than ten (10) feet to any side or rear lot line. The Zoning Administrator shall have the authority to reduce the 100-foot front setback requirement by up to 50 percent if he determines that special circumstances make it impracticable to place the recreational vehicle in the side or rear yard.

- E. Electrical connections shall be inspected and approved by the county. The property owner shall properly dispose of sewage and obtain any required permit and approval.

**Section 8.8                    Height Calculations and Exceptions**

For purposes of this Ordinance, the height of a structure shall be the vertical distance measured from the mean elevation of the finished grade at the front of the structure to the highest point of the structure. (ANY ZONES EXCEPT “RL”)

The maximum heights as indicated in the various districts may be exceeded for the following uses:

- 8.8.1**                    Roof structures not intended for human occupancy and serving in an accessory capacity, such as skylights, housing for elevators, stairways, water tanks, ventilating fans, air conditioning equipment or similar equipment, steeples, spires, belfries, cupolas or chimneys, may exceed the maximum allowable heights as provided in any of the zoning districts. Towers and antennae shall follow the maximum height prescribed for the particular zoning district where located, if applicable.
  
- 8.8.2**                    Any structure which exceeds the prescribed maximum building height for the zoning district in which it is located shall be located on the lot so that no portion of the structure is located closer to any lot line than the greater of: **(1)** the minimum setback regulations in that zoning district or, **(2)** the difference between the actual height of the structure and the normally allowed maximum building height in that zoning district.

**Section 8.9                    Accessory Structures**

**8.9.1** Within any Residential (R) District, accessory structures shall be located as follows:

- A. No portion of any accessory structure (except water wells, fences, mailboxes, newspaper boxes, fountains, school bus shelters, walls) shall be located within any front yard on lots less than one (1) acre in area. On lots of one (1) acre in area or greater, accessory structures may be located in the front yard, a minimum of one-hundred fifty (150) feet from the edge of the street right-of-way line. Water wells, fences, mailboxes, school bus shelters, newspaper box, fountains and walls may be located in any front, side or rear yard.
- B. Accessory structures are allowed in side and rear yards no closer than ten (10) feet to the property line, however, as the size of the accessory structure increases the required setback increases too. Table 8-1 gives the required setbacks:

**TABLE 8-1**

<u>Size of Accessory Structure in Square Feet:</u>	<u>Required Setback:</u>
1,000 OR LESS	TEN (10) FEET
1,001 TO 2,000	TWENTY (20) FEET
2,001 TO 3,000	THIRTY (30) FEET
3,001 TO 4,000	FORTY (40) FEET
4,001 OR MORE	FIFTY (50) FEET

**8.9.2** Within all other districts, accessory structures shall be located as follows:

- A. No accessory structure shall be located in any front or side setback. A water well, fence, wall, newspaper box or school bus shelter or fountain on any lot may be located in any front, side or rear yard.
- B. Accessory structures are allowed in a rear setback provided that no accessory structure [except as provided in Section 8.9.2(a) of this Ordinance] shall be allowed within five (5) feet of any rear yard line, except twenty (20) feet of any rear yard line which abuts a Residential (R) District.

**8.9.3** On any lot containing a principal residential use, no accessory structure shall be permitted that involves or requires any external construction features which are not primarily residential in nature or character except

for an accessory structure used as a rural home occupation and barns for agricultural uses.

- 8.9.4**
- A. On any lot 1/2 acre or less (21,780 square feet or less) in area, containing a principle residential use, the total maximum size of the accessory structure(s) shall be 1/2 the heated ground floor area of the principal structure or 750 square feet, whichever is greater. The size of the accessory structure(s) shall be based on the total floor area of the structure(s).
  - B. On any lot that is larger than 1/2 acre in size, containing a principle residential use, the total maximum size of the accessory structure(s) shall be computed by taking 3% of the area over 1/2 acre (over 21,780 square feet) and adding either 750 square feet or 1/2 the heated ground floor area, whichever is greater. The accessory structure(s) shall be based on the total floor area of the structure(s). There shall be no maximum prescribed size for accessory structures in the R-R District.

**Section 8.10                    Construction Begun Prior to Adoption of Ordinance**

Nothing in this Ordinance shall be deemed to require any change in the plans, construction or designed use of any building or structure upon which a building permit was secured prior to the adoption of this Ordinance, so long as the building permit remains valid.

**Section 8.11                    Reduction of Lot and Yard Areas Prohibited**

No yard or lot existing at the time of adoption of this Ordinance or any amendment subsequent thereto shall be reduced in size or area below the minimum requirements set forth herein, except as the result of street widening or other taking for public use or conveyance.

Yards or lots created after the effective date of this Ordinance shall meet all minimum requirements established by this Ordinance. This prohibition shall not be construed to prevent the condemnation of narrow strips of land for public purposes in the future.

**Section 8.12                    Use and Configuration of Mobile Homes**

Mobile homes, regardless of internal alterations, shall be used for residential purposes only, except when serving as a mobile home sales lot office.

In no event may two mobile homes be structurally attached or otherwise connected to one another for the purposes of forming a dwelling unit.

**Section 8.13                    Uses Not Expressly Listed**

No building or structure, sign or land shall hereafter be used, erected or occupied and no building or structure shall be erected, expanded or moved except in conformity with the regulations of this Ordinance. This Ordinance specifies uses which are allowed in each zone. Uses designated as "permitted uses" are allowed in a zone as a matter of right. Uses designated as "conditional uses" are allowed only after approval by the Board of Commissioners pursuant to Chapter 6 of the Ordinance.

Certain uses pre-existing the adoption of this Ordinance are allowed to remain as nonconforming uses in accordance with Chapter 7 of this Ordinance. Temporary uses are allowed in accordance with Section 8.7 of this Ordinance. Unless a use is allowed as a "permitted", "conditional", "nonconforming use" or "temporary use", then such use is expressly prohibited in that zone by this Ordinance.

**Section 8.14                    Location of Required Yards on Irregular Lots**

The location of required front, side and rear yards on irregularly shaped lots shall be determined by the Zoning 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 8.15                    Vibration**

No established use in any district may operate in such a fashion that any inherent or recurring ground vibrations can be felt or detected at the property line by the human senses without the use of instruments.

**Section 8.16                    Noise**

Every use of land must be operated in such a way that regularly recurring noises are not disturbing or unreasonably loud and so not to cause injury, detriment, or nuisance to any person of ordinary sensitivities.

**Section 8.17                    Odor**

Every use of land shall be operated in such a way that regularly recurring odors are not disturbing and do not cause injury, detriment or nuisance to any person of ordinary sensitivities. Every nonresidential use in a Business (B) or Industrial (I) District which adjoins a Residential (R) District must be operated in such a way that any odor which may be detected by the human senses at the district boundary line is similar in character to odors which could be expected to be generated in those Residential (R) Districts.

**Section 8.18                    Outdoor Lighting**

Outdoor lighting shall be so located as not to reflect on adjacent property, or on public streets in such manner as to adversely affect the enjoyment of adjacent property or endanger the motorist traveling such streets.

**Section 8.19                    Parking of Commercial and Recreational Vehicles**

**8.19.1                         Recreational Vehicles**

Except as provided in Section 8.7.7, for purposes of this Ordinance, a recreational vehicle shall not be deemed a dwelling unit and the usage of a recreation vehicle for living, sleeping or housekeeping purposes and the connection of such vehicle to utility services (other than for periodic maintenance and/or repair purposes) shall be limited to a maximum duration on any lot to fourteen (14) days unless the vehicle is located in a campground so designed to accommodate recreations vehicles.

**8.19.2                         Commercial Vehicles**

On any lot of less than one (1) acre in size which is located in a subdivision recorded in the Lincoln County Register of Deeds Office, commercial vehicles which may be parked on an overnight basis shall be limited to school buses, vans and pick-up trucks. This requirement shall not be interpreted to prohibit vehicles from loading and unloading household goods in any Residential (R) District for a period of up to twenty-four (24) hours nor shall this restrict the overnight parking of freight truck tractors without trailers on any such lot.

**Section 8.20            Central Solid Waste Storage Area**

All nonresidential uses whose principal buildings are constructed after the effective date of this Ordinance shall provide facilities for the central storage of solid waste upon the lot. Such facilities may also be required for any multi-family development or mobile home park in relation to the issuance of a Conditional Use Permit. Where such facilities are provided outside of a building, they shall be screened from all public rights-of-way and adjacent residentially or institutionally developed properties by an enclosure consisting of a wall or fence which is constructed in accordance with Section 8.2.3.

**Section 8.21            Maintenance and Repair of Automobiles or Motor Vehicles in Residential Districts**

**8.21.1**            Only minor maintenance may be performed which, for purposes of this section, are defined as the changing and replenishment of fluid levels, such as hydraulic fluid, windshield washer fluid, and lubricating oil, the replacement of sparkplugs, ignition points, the rotation of tires and the checking of adequate pressure; and the replacement of drive belts and hydraulic lines. Such maintenance may take place in a partially enclosed, fully enclosed or unenclosed area on the lot.

**8.21.2**            All other repairs not listed in Section 8.21.1 must be conducted in a structure which is enclosed on at least three of its four sides [unless conducted in association with an auto repair or auto body shop (located in the R-R District) which has received a Conditional Use Permit]. All automobiles so repaired must be owned by the residents of the lot on which such repair is conducted.

**8.21.3**            Auto repair cannot be conducted in association with a customary or rural home occupation.

**8.21.4**            Effective April 1, 2005, the following shall be prohibited on any residential lot: the storage of any junked motor vehicle unless it is screened from view from a public road by means of an enclosed building, suitable fencing, trees, shrubbery or otherwise. Fencing consisting of tarps, pallets, particle board, tin or similar materials shall not be considered suitable.

**Section 8.22            Special Requirements for Facilities Located on or Adjacent to Lake Norman**

**8.22.1            Purpose**

The purpose of this section is to establish special supplementary zoning requirements for Lake Norman and its shoreline area for the enhancement of public recreation and water safety on the Lake. The section reflects the coordinated efforts of the counties bordering Lake Norman (Mecklenburg, Lincoln, Catawba, and Iredell) and the Lake Norman Marine Commission to guide and control those development activities along and within Lake Norman which directly affect the use, enjoyment, and safety of the Lake.

### **8.22.2 Description of the Area**

The provisions of this section shall apply to the surface waters of Lake Norman lying below contour elevation seven-hundred sixty (760) feet above Mean Sea Level, United States Geological Survey (USGS) Datum and to land areas bordering on the waters of Lake Norman within one-thousand (1,000) feet of the shoreline when measured from full pond level at contour elevation seven-hundred sixty (760) feet above Mean Sea Level, USGS Datum.

All dimensional requirements herein, when reference is made to the water surface, or shore, shall be measured from the full pond level, which is at contour elevation seven-hundred sixty (760) feet above Mean Sea Level, USGS Datum, unless otherwise noted. Property lines of waterfront lots will be considered to be on the shoreline where such lots have been surveyed and a plat thereof has been recorded in the Lincoln County Register of Deeds and where such plat clearly indicates that the property lines are based upon and intended to represent contour elevation seven-hundred sixty (760) feet above Mean Sea Level, USGS Datum.

All uses of land and any facilities, structures, construction or alterations to the Lake and its shoreline shall be subject to the provisions of this Section and other pertinent provisions of this Ordinance.

### **8.22.3 Piers and Docks**

Pier facilities shall be located and constructed to remain within an area defined generally by projection perpendicular to the shore at the lot corners and defined more specifically as follows:

- A. A projection over the water shall be established at each of two (2) property corners on the shoreline. Each projection shall be perpendicular to a line connecting two (2) points on the seven-hundred sixty (760) foot contour line where a ten (10) foot radius from that property corner intersects the seven-hundred sixty (760) foot contour level. This is indicated on the accompanying illustration
- B. Such pier facilities shall may extend over the water a maximum distance of one-hundred and twenty (120) feet from the shore. In no case shall pier facilities, when located in a cove, extend more than one-third (1/3) the width of the cove, measured from the shore at the point of proposed construction to the closest point on



the opposite shore. All piers shall be designed so that the top of the decking will be at least one (1) foot above the water surface when at full pond level.

- C. A "pier" shall be defined as any structure extending into the water from the seven hundred sixty (760) foot contour, whether floating or fixed to the lake bottom, for use as a boat landing place or promenade. Structures that are attached to a pier but sit on shore shall not be considered part of the pier. The term "pier facility" is intended to mean a pier and all appurtenances thereto such as floats, pilings, and buoys used to berth a boat at the pier.
- D. All piers and docks shall have two (2) white reflectors, a minimum of six (6) inches above full pond elevation, on each furthest corner of the extension of the pier into the water, reflecting light parallel to the shore in each direction and directly across the water line with the shore from each corner.

White reflectors shall be placed on each side of the pier at intervals of fifteen (15) feet or less, six (6) inches above the water, beginning at its outermost extension into the water, including all floats and other appurtenances, and extending to the seven-hundred sixty (760) contour of the shoreline.

- E. Two (2) or more adjoining property owners may jointly apply for a permit for a common pier facility and may use the aggregate of the individual areas as herein defined provided a written contract duly recorded by all parties concerned is submitted with the building permit application and that other properties affected by the contract would not be preempted.
- F. Where, due to existing nonconforming piers on nearby property or to unusual property configuration, a pier cannot be constructed within the above described area, the property owner may apply for and the Board of Adjustment may grant a variance from this requirement. The Board of Adjustment however, in granting said request must find that the construction of pier facilities on other property affected by the variance would not be preempted. Said request shall also be reviewed by the Lake Norman Marine Commission for their recommendation prior to the decision of the Board of Adjustment
- G. Piers and docks located on or adjacent to Lake Norman shall comply with all applicable regulations contained in Section 8.22. With regard to any new subdivision of land, a master pier location plan may be submitted as part of the preliminary and final plats. Said plan shall show (i) designated buildable pier areas for the pier facilities and (ii) the projections depicted in Section 8.22.3(A) of the Lincoln County Zoning Ordinance. All such designated pier projections must begin adjacent to the shoreline of the property corners of the lot being served. The subdivision approval body shall have the authority to approve such pier plan (or a modification thereof) as part of the preliminary and final plat approval process. Such piers may cross the

projections shown in Section 8.22.3(A) but shall otherwise be in compliance with all applicable criteria contained in Sections 8.22.3(B), (C), and (D).

A similar master pier plan may be submitted (in the form of a scaled boundary survey plat) for two (2) or more adjacent recorded lots showing, at a minimum, (i) all property line boundaries for the lots in question, (ii) projections into the body of water as depicted in Section 8.22.3(A), (iii) the designated buildable pier area for each such pier, and (iv) a statement signed by the owner(s) of each of the lots in question certifying lot ownership and acceptance of the pier plan as so designated. All such designated buildable pier projections must begin adjacent to the shoreline of the property corners of the lot being served. Such piers may cross the projections shown in Section 8.22.3(A) but shall otherwise be in compliance with all applicable criteria contained in Sections 8.22.3 (B), (C), and (D). Said plat shall be in a form suitable for recordation at the Lincoln County Register of Deeds Office and must first be recorded in order for such pier placements to be allowed.

Lincoln County reserves the right to request that a survey of any completed pier facility (authorized in Subsection F) be submitted to the Zoning Administrator prior to issuance of a certificate of occupancy for such facility.

- H. A single-slip pier or dock may be located on a lot without any other structures located on that lot. In such instances, the pier shall be deemed to be a principal use. Yard and bulk requirements for the pier or dock shall be waived, except as may be prescribed in Section 8.22.
- I. If single-slip pier or dock, or a boat launching ramp designed to serve one household, is located on a lot in a R or RL zoning district, and such pier, dock, or launching ramp, serves as the principal structure on the lot, said structure shall be allowed as a use-by-right. Any other accessory structures (i.e., picnic shelters, changing room facilities, etc.) may be allowed on the lot subject to the issuance of a Conditional Use Permit by the Lincoln County Board of Commissioners.
- J. Multiple boat slips (not used for commercial purposes), or a boat launching ramp, located on a lot with a permitted principal use, shall be considered an accessory use and shall be allowed as a use-by-right.
- K. Multiple boat slips (not used for commercial purposes), or a boat launching ramp designed to serve more than one household, located on a lot without a principal use, may be allowed subject to the issuance of a Conditional Use Permit by the Lincoln County Board of Commissioners.
- L. In approving a Conditional Use Permit under this Section, the Board of Commissioners, in addition to making the findings of fact contained in Section 6.3.3, shall also be required to find that:

- M. "The proposed use is so situated and developed in a manner which is well-integrated with and minimizes any negative effects upon adjoining and nearby properties."
- N. The Board of Commissioners shall have the authority to attach fair and reasonable conditions to the Conditional Use Permit which support this (and the other) findings of fact. These conditions may include the placement of a minimum lot size for the lot(s) containing the pier, dock, or boat launching ramp.

**8.22.4 Moorings and Floats**

Moorings and floats when placed in the Lake for navigational purposes shall be so placed only with the expressed written approval of the Lake Norman Marine Commission or the North Carolina Wildlife Commission. When placed for the purpose of mooring, it shall be separated on every side from any other mooring by a distance of at least fifty (50) feet and shall be located so as to permit unobstructed passage on the Lake of through boats. Moorings and floats shall not be anchored in such a manner as to deny or obstruct in any manner access to the Lake from boat docks, boat houses, or boat launching ramps. In addition to the foregoing requirement, such mooring and floats shall conform with the Uniform Waterway Marking System.

**8.22.5 Marine Railways**

Marine railways shall have permanent signs complying with the requirements of the North Carolina Wildlife Commission Uniform State Waterway Marker System designating the location of the marine railway. Marine railways shall not extend above the normal or natural lake bed at the time of construction more than eighteen (18) inches, between a horizontal measurement extending from the seven-hundred sixty (760) contour to a water depth of fifteen (15) feet below the seven-hundred sixty (760) contour.

**8.22.6 Breakwaters**

Breakwaters, when constructed for the purpose of protecting docks, piers, or other facilities shall be so placed as to protect the particular facility for its width only and shall not offer area protection which might overly obstruct passage on the Lake. Breakwaters shall be located and marked so as not to be a hazard to boating at any time.

**8.22.7 Filling**

Any filling operations shall be designed by a registered engineer and approved by Duke Power and appropriate State and Federal agencies. Fill shall not be placed above the water level without proper and adequate riprapping to prevent fill from being eroded into the Lake. Fill so placed shall be sufficiently compacted to reach ninety (90) percent maximum dry density using the Standard Proctor Test as defined by ASTM D698 66T.

Fill areas shall not obstruct access to or be a hazard to passage on the Lake or a nuisance to adjacent property owners.

**8.22.8 Dredging**

Dredging shall not be conducted in such a way that the spoil therefrom is placed back into Lake Norman, thus reducing water depth in areas outside of the dredged areas. A permit shall be obtained from Duke Power and appropriate State and Federal agencies before any dredging activity can be undertaken on the Lake.

**8.22.9 Signs**

Signs, other than navigational signs, should be constructed in such a manner as to be compatible with the adjacent visual qualities of the area in which they are located. Signs shall not unduly obstruct the view of the Lake from any adjacent lakeshore occupant and shall not be placed in the water nor within twenty-five (25) horizontal feet of the water's edge at elevation seven-hundred sixty (760). When lighted, signs shall have fixed, non-moving, indirect or internal lighting when necessary. There shall be no off-site advertising signs placed or maintained so as to be visible from the Lake.

**8.22.10 Lighting**

Lighting which offers navigational aid on Lake Norman, whether public or private, shall be approved by the Lake Norman Marine Commission. When installed for purposes other than navigational, lights shall not be moving or flashing or colored other than white, except for a continuous non-flashing yellow light for insect control. Lights shall not be of such intensity as to cause night blindness for boat operators on the Lake and not inhibit vision in any way.

**8.22.11 Overhead Transmission Lines**

Overhead transmission lines shall be constructed to a minimum height of forty-eight (48) feet at maximum deflection above the full pond level.

**8.22.12 Public and Private Swimming Areas**

Swimming areas shall not be defined in water beyond a depth of fifteen (15) feet and in no event shall extend more than eighty (80) feet from the shore. Swimming areas shall extend into the water so as to remain confined within a projection of the side lot lines of the lot on which the area is located maintaining the side yard requirements of the district in which the lot is located. Public swimming areas shall be, and private swimming areas may be marked and protected in keeping with the North Carolina Wildlife Commission regulations.

**8.22.13 Seawalls**

Seawalls may be built in areas on the Lake, subject to the approval of all appropriate local, State, and Federal agencies and Duke Power Company.

**8.22.14 Submission of Plans**

Application shall be submitted to the Zoning Administrator for piers, seawalls, moorings, floats, marine railways, breakwaters, signs or swimming areas and shall be accompanied by three (3) sets of plans for the proposed facility or activity showing the name and address of the property owner and project designed; the location and detailed graphic description of the proposed improvement; property boundary and area; adjacent shoreline and waterborne facilities; date, north arrow and scale; and such additional information as the Zoning Administrator might require to enable him to act upon such application.

**8.22.15 Location of Land-Based Principal and Accessory Structures**

On any lot which abuts the full pond level of Lake Norman, no principal structure or accessory structure (other than one which is water-borne) shall be located closer than fifty (50) feet inward from the edge of the full pond level line. Walkways to a pier are allowed within the 50-foot setback provided they are made of decking or other pervious material and do not exceed six feet in width.

**NOTE - THE FOLLOWING GENERAL PROVISIONS 8.23 THROUGH 8.33 ARE APPLICABLE IN THE RL-20, RL-14, RL-MF AND RL-ZO ZONING DISTRICTS ONLY.**

**\*Section 8.23 Screening and Landscaping**

**8.23.1 Screening**

Screening and landscaping shall be required for certain uses in all RL districts. Such screening shall be located on the property with which it is associated or required and shall materially screen the subject use from the view of the adjoining property. Screening shall only be in the form of natural vegetation, opaque fences or berms. When screening is in the form of natural vegetation, a buffer strip of at least thirty (30) feet in width shall be planted. This strip shall be free of all encroachments by buildings, parking areas or impervious coverage. Shrubs, which shall be arranged in at least one (1) row, shall be a minimum of three (3) feet high at planting shall be spaced not more than five (5) feet apart. Shrubs and/or trees may be used as natural screening providing that when trees are used, only varieties which bear limbs and foliage down to within one (1) feet of ground level shall be allowed. Trees or shrubs installed as a planted screen shall be of a variety which can be expected to achieve a

height of at least six (6) feet within two (2) year as of planting. When screening provided is in the form of fencing, such fencing shall be opaque and shall be six (6) feet in height as measured from the ground up along the adjoining property line. Berms may be used as screening provided such berms are at least six (6) feet in height. Any combination of the methods described in this section may be employed to achieve the intent of this section. It shall be the responsibility of the property owner to maintain any screening or landscaping required by this ordinance. Screening shall be required along all side and rear property lines except that such screening requirements will not be required along side or rear property lines which front upon Lake Norman. If natural screening exists on a lot where screening is required, said screening may be accepted as meeting the requirements of this Ordinance if it effectively screens the use on said lot from the adjoining property and if said screening is at least thirty (30) feet in width.

### **8.23.2 Landscaping**

In addition to screening, landscaping along the front property line of each principal use (except single-family dwellings and family care homes) in the RL-14, RL-20, RL-MF and RL-ZO zones. Such landscaping shall be installed under the following conditions:

- Such trees may be evergreen or deciduous
- Such trees shall be a minimum of eight (8) feet high at planting
- The maximum spacing between trees shall be thirty (30) feet
- Such trees shall, when possible, be located behind the right-of-way of the street. When it is necessary to locate landscaping required by this section on the right-of-way of a State-maintained road, an encroachment agreement shall be obtained from the North Carolina Department of Transportation.

### **8.23.3 Exceptions and Modifications**

In cases where screening and/or landscaping are required by this Ordinance and devices such as existing vegetation or topographical features or extreme size of the tract involved would render the installation of such screening unnecessary, the Zoning Administrator is hereby empowered to accept the existing features as meeting the general screening and/or landscaping requirements. Such decision shall be based on the spirit and intent of Section 8.23 of this Ordinance. The vacancy or non-use of adjacent property shall not negate the necessity for installation of screening and/or landscaping. If at any time after such existing features are accepted, such features are altered so as to render them inadequate as screening or landscaping, the owner of the land shall be required to provide screening and/or landscaping as described in Sections 8.23.1 and 8.23.2 of this Ordinance.

### **\*Section 8.24**

#### **Lot to Abut a Public Street**

No building or structure shall be erected or located, nor shall any principal use be instituted on a lot which does not abut a public street with the following exceptions:

A one-family dwelling may be constructed on a lot which does not abut a street provided such lot existed prior to the effective date of this Ordinance and provided such lot is provided access to a public street by an easement of at least twenty (20) feet in width for the use of the dwelling established on such lot and further provided that such easement is maintained by the property owner in a condition passable for service and emergency vehicles. Said easement may also be used, where needed for the installation and maintenance of utility facilities.

**\*Section 8.25      One Principal Building**

No more than one single-family dwelling shall be permitted on a lot except in an approved multi-family development. More than one principal non-residential building may be located on a lot so long as an access road at least ten (10) feet wide is maintained from a public street to each building for use by service or emergency vehicles. A minimum separation of ten (10) feet is required between separate principal buildings on the same lot.

**\*Section 8.26      Fractional Requirements**

When any requirement of this Ordinance results in a fraction of a unit, a fraction of one-half (1/2) or more shall be considered a whole unit and a fraction of less than one-half (1/2) shall be disregarded. For instance, if the Ordinance calls for a use to have three and one-half parking spaces, four parking spaces shall be required.

**\*Section 8.27      Visibility at Intersections**

No structure, wall, fence, shrub, or tree shall be erected, maintained, or planted on any lot which will obstruct the view of the driver of a vehicle approaching an intersection.

**\*Section 8.28      Outdoor Lighting**

Outdoor lighting shall be so located as not to reflect on adjacent property, or on public streets in such manner as to adversely affect the enjoyment of adjacent property or endanger the motorist traveling such streets.

**\*Section 8.29      Vibration**

No use in any RL zoning district may operate in such a fashion that any inherent or recurring ground vibrations can be felt or detected at the property line without the use of instruments.

**\*Section 8.30      Noise**

Every use of land must be operated in such a way that regularly recurring noises are not disturbing or unreasonably loud and do not cause injury, detriment, or nuisance to any person of ordinary sensitivities.

**\*Section 8.31            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, except for street widening. Yards or lots created after the effective date of this Ordinance shall meet the minimum requirements established by this Ordinance. This prohibition shall not be construed to prevent the condemnation of narrow strips of land for public utilities or street right-of-way purposes.

**\*Section 8.32            Uses**

No building, sign, or land shall hereafter be used, erected or occupied and no building shall be erected, expanded or moved except in conformity with the regulations of this Ordinance. Unless a land use or structure is listed as being "permitted" or "conditional", it shall be prohibited.

**\*Section 8.33            Fences or Walls Permitted**

Unless otherwise permitted in this Ordinance, fences or walls are permitted in the various districts subject to the following regulations:

**8.33.1** In residential (R) districts:

- A. All fences must be placed outside of the road right-of-way. The maximum height shall be eight feet (8').
- B. No electric fences other than livestock protection fences shall be allowed.
- C. No permit will be issued for a fence complying with these regulation

**8.33.2** In all other districts, within all required set backs, the maximum height of a fence or wall shall be 12 feet.

**Section 8.34            Piers and Docks**

**8.34.1** Piers and docks located on or adjacent to Lake Norman shall comply with all applicable regulations contained in Section 8.22.

**8.34.2** A single-slip pier or dock may be located on a lot without any other structures located on that lot. In such instances, that pier shall be deemed to be a principle use. Yard and bulk requirements for the pier or dock shall be waived, except as may be prescribed in Section 8.22.

**8.34.3** If a single-slip pier or dock, or a boat launching ramp designed to serve one household, is located on a lot in a R or RL zoning district, and such pier, dock, or launching ramp, serves as the principal structure on the lot, said structure shall be allowed as a use-by-right. Any other accessory structures (i.e., picnic shelters, changing room facilities, etc.) may be allowed on the lot subject to the issuance of a Conditional Use Permit by the Lincoln County Board of Commissioners.

**8.34.4** Multiple boat slips, (not used for commercial purposes), or a boat launching ramp, located on a lot with a permitted principle use, shall be considered an accessory use and shall be allowed as a use-by-right.



**8.34.5** Multiple boat slips (not used for commercial purposes), or a boat launching ramp designed to serve more than one household, located on a lot without a principal use, may be allowed subject to the issuance of a Conditional Use Permit by the Lincoln County Board of Commissioners.

**8.34.6** In approving a Conditional Use Permit under this Section, the Board of Commissioners, in addition to making the findings of fact contained in Section 6.3.3, shall also be required to find that:  
“The proposed use is so situated and developed in a manner which is well-integrated with and minimizes and negative effects upon adjoining and nearby properties.”

The Board of Commissioners shall have the authority to attach fair and reasonable conditions to the Conditional Use Permit which support this (and the other) findings of fact. These conditions may include the placement of a minimum lot size for the lot(s) containing the pier, dock, or boat launching ramp.

**8.35 Telecommunication / Transmission Towers**

**8.35.1** No commercial signs or advertising shall be allowed on a telecommunication / transmission tower.

**8.35.2** All telecommunication / transmission towers must comply with all FCC and FAA guidelines, as well as applicable portions of the Lincoln-Lincoln County Airport Zoning Ordinance. The telecommunications / transmission tower owner shall provide the County each year with a copy of any FCC and FAA licenses required.

**8.35.3** The telecommunication / transmission tower owner shall provide the Zoning Administrator with a map or description of the service area(s) for the proposed tower antenna(s) as part of the Conditional Use Permit application. The applicant shall also identify all other possible alternatives considered within the service area for the proposed tower's antenna(s) and explain why existing towers and structures can not accommodate the proposed antenna(s).

**8.35.4** Telecommunication / transmission towers shall not be constructed unless the tower owner has general liability coverage of at least \$1,000,000. The owner of the tower shall provide the County with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the County thirty (30) days prior to the cancellation, modification, or failure to renew the insurance coverage required. Lapse of this insurance shall be deemed by the County to be sufficient grounds to revoke the Conditional Use Permit.

**8.35.5** As a condition of issuance of a permit under this section, the applicant shall be required to make provisions for the removal of the tower once its use has been discontinued for more than 180 days. The use shall not be deemed “discontinued” as that term is used in this subsection, during any reasonable period of time in which the tower may be temporarily out of service while repairs, upgrades, or improvements are being made to the tower. The cash bond or letter of credit provided shall be in effect for the length of the property lease and any successive leases.

The applicant and / or owner or operator of the tower may satisfy this requirement by entering into an agreement with Lincoln County whereby the applicant and / or owner or operator, as the case may be, shall agree to dismantle and remove the tower at its or their expense within 90 days after discontinuance of use. The applicant and / or the owner or operator of the tower shall be required to submit evidence satisfactory to Lincoln County of the estimated costs of dismantling and removal. All such agreements and guarantees shall be subject to approval by the Lincoln County Board of Commissioners and shall be made payable to Lincoln County, and such agreement shall be secured by one of the following methods, in an amount equal to 1.25 times the estimated cost of dismantling and removal:

1. Surety performance bond(s): a performance bond issued by a surety bonding company duly authorized to do business in North Carolina; and such bond(s) shall remain in effect until the tower is dismantled and removed to the satisfaction of Lincoln County.
2. Cash or equivalent security; cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value. Such security shall be deposited with the County or in escrow with a financial institution designated as an official depository of Lincoln County.

If cash or other instrument is deposited in escrow with a financial institution as herein provided, the responsible party shall then file with the Board of Commissioners an agreement between the financial institution and himself guaranteeing the following:

- (i) 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 depositor in any other matter during the term of the escrow; and
- (ii) That in case of a failure on the part of the responsible party to complete the dismantling, the financial institution shall immediately either pay to the County the funds (estimated by an engineer licensed in the state of North Carolina) to complete the dismantling, up to the full balance of the escrow account, or deliver to the County any other instruments fully endorsed or otherwise made payable in full to the County.

Upon default, meaning failure on the part of the responsible party to complete the dismantling 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 Board of Commissioners, pay all or a portion of the bond or escrow fund to Lincoln County up to the amount needed to complete the dismantling based on the engineer's estimate. Upon payment, the 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 dismantling. The County shall return to the bonding firm any funds not spent in completing the dismantling. Should the amount of funds needed to complete the

dismantling exceed the amount in the bond or escrow account, the responsible party shall nonetheless be responsible for providing the funds to cover such costs. The responsible party shall at all times bear the financial burden for the required dismantling.

Upon completion of the dismantling, the Board of Commissioners shall authorize the County Manager to release any remaining portions of any security posted by the responsible party. Such funds shall be released within ten (10) days after the dismantling has been approved.

## **8.36 Land Clearing and Inert Debris Landfills / Construction/Demolition and Land Clearing and Inert Debris Landfills**

### **8.36.1**

As a condition of issuance of a permit under this section, the applicant shall be required to make provisions for the closure of a land clearing and inert debris landfill or construction/demolition and land clearing and inert debris landfill. If said landfill has not been closed within the prescribed time limit approved by the Lincoln County Board of Commissioners, the cash bond or letter of credit shall be used for the closure of said landfill. The cash bond or letter of credit shall be in effect for the length of the property lease and any successive leases.

All such agreements and guarantees shall be subject to approval by the Lincoln County Board of Commissioners and shall be made payable to Lincoln County, and such agreement shall be secured by one of the following methods, in an amount of \$10,000 per acre of said dump area:

1. Surety performance bond(s): a performance bond issued by a surety bonding company duly authorized to do business in North Carolina; and such bond(s) shall remain in effect until the landfill is closed and covered to the satisfaction of Lincoln County.

2. Cash or equivalent security; cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value. Such security shall be deposited with the County or in escrow with a financial institution designated as an official depository of Lincoln County.

If cash or other instrument is deposited in escrow with a financial institution as herein provided, the responsible party shall then file with the Board of Commissioners an agreement between the financial institution and himself guaranteeing the following:

- (i) 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 depositor in any other matter during the term of the escrow; and

- (ii) That in case of a failure on the part of the responsible party to properly close said landfill, the financial institution shall immediately either pay to the County the funds (at the sum stated herein) to complete the closure, up to the full balance of the escrow account, or deliver to the County any other instruments fully endorsed or otherwise made payable in full to the County.

Upon default, meaning failure on the part of the responsible party to complete closure in a timely manner as spelled out by the Board of Commissioners, then the surety, or the financial institution holding the escrow account, shall, if requested by the Board of Commissioners, pay all or a portion of the bond or escrow fund to Lincoln County. Upon payment, the 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 closure. The County shall return to the bonding firm any funds not spent in completing the closure. Should the amount of funds needed to complete the closure exceed the amount in the bond or escrow account, the responsible party shall nonetheless be responsible for providing the funds to cover such costs. The responsible party shall at all times bear the financial burden for the required closure.

Upon completion of the closure, the Board of Commissioners shall authorize the County Manager to release any remaining portions of any security posted by the responsible party. Such funds shall be released within ten (10) days after the closure has been approved.



## CHAPTER 9:

### OFF-STREET PARKING AND LOADING REQUIREMENTS

#### **Section 9.1      Off-Street Parking Requirements**

Every new use, or an enlargement, expansion or alteration of an existing use, shall require off-street parking in compliance with this Chapter, with the exception of uses located in a RL District. Off-street parking requirements in those zoning districts shall be as provided in Sections 10-6, 10-7, 10-8 and 10-9.

**9.1.1**      The number of required off-street parking spaces shall be increased when a change of use of either a structure or of land requires additional parking spaces in compliance with this Article except as provided in Section 9.1.2. Parking spaces may be decreased when a change of use requires fewer spaces than was originally provided for the replaced use.

**9.1.2**      A principal use which is not deficient in the number of off-street parking spaces provided may expand without having to provide additional off-street parking spaces under certain circumstances. Such circumstances are:

- A.      When, after the expansion, the number of off-street parking spaces provided still meets or exceeds the required minimum; or
- B.      If the expansion results in the need to create no greater than five (5) off-street parking spaces in order to meet the minimum number of required spaces, these additional spaces may be waived on a one-time basis only. In shopping centers, office parks and similar planned, phased or multi-use developments where more than one principal use is involved, such waiver may only be applied once within the development.

In no instance shall a reduction be allowed for the number of off-street parking spaces parking for any use which expands when, prior to such expansion, said use was deficient in the number of off-street parking spaces provided.

**9.1.3**      A certificate of occupancy shall not be issued for any use until all off-street parking and loading requirements in accordance with this Ordinance have been met and are in place and ready for use.

#### **9.1.4      Satellite Parking**

Off-street parking spaces shall generally be provided on the same lot as the principal use. In instances where such parking for a principal non-residential use cannot be reasonably provided on the same lot for said nonresidential use, it may be provided on a separate lot. At least one-half (1/2) of the required amount of parking shall be provided on the lot in question or on said satellite lot, provided such parking on the satellite lot

lies within a five-hundred (500) foot walking distance of the lot upon which the principal use is located. All such satellite parking areas provided for a use not allowed as a permitted basis in the underlying Residential (R) District shall require the issuance of a Conditional Use Permit by the Board of Commissioners in accordance with Chapter 6 of this Ordinance.

#### **9.1.5 Cooperative Parking**

- A. Cooperative provisions for off-street parking may be made by contract between two or more adjacent property owners. Such contract shall be filed with the Zoning Administrator. The parking area provided on any one lot may be reduced to not less than one-half (1/2) the number of parking spaces required for the use occupying such lot. The end result shall be that the sum of the parking spaces for the uses computed cooperatively shall be the same or more than if the uses were computed separately. Any such cooperative parking mechanism must first be submitted to the Zoning Administrator for his review (except as provided in Section 9.1.4 where the issuance of a Conditional Use Permit is required) and determination of compliance with the Zoning Ordinance prior to the issuance of a certificate of occupancy.
- B. Similarly, one parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.
- C. To the extent that developments that wish to make joint use of the same parking spaces and operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90% vacant on weekends, another development that operates only on weekends could be credited with 90% of the spaces on that lot. Or, if a church parking lot is generally occupied at 50% of capacity on days other than Sunday, another development could make use of 50% of the church lot's spaces on those other days.

#### **9.1.6 Parking Space Dimensions**

- A. Notwithstanding, Subsection B, each parking space shall contain a rectangular area at least nineteen feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain the rectangular area required by this section.
- B. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-two feet in length and nine feet in width.

**9.1.7 Required Widths of Parking Area Aisles and Driveways**

A. Parking area aisle widths shall conform to the following table:

	<u>Parking Angle</u>				
<u>Aisle Width</u>	<u>0</u>	<u>30</u>	<u>45</u>	<u>60</u>	<u>90</u>
One Way Traffic	13	11	13	18	24
Two Way Traffic	19	20	21	23	24

B. Driveways shall be not less than ten feet in width for one way traffic and eighteen feet in width for two way traffic, except that ten feet wide driveways are permissible for two way traffic when **(i)** the driveway is not longer than fifty feet, **(ii)** it provides access to not more than six spaces, and **(iii)** sufficient turning space is provided so that vehicles need not back into a public street. Driveways shall have a maximum width of thirty-six (36) feet, unless a greater width is required by NCDOT.

**9.1.8 General Design Requirements**

- A. Unless no other practicable alternative is available, off-street parking areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways serving lots which contain one or two family dwelling units.
- B. Off-street parking areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- C. Every off-street parking area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.
- D. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
- E. No off-street parking area shall be located over an active or auxiliary septic tank field.

**9.1.9 Off-Street Parking Area Surfaces**

A. All off-street parking areas shall either be paved or graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface that is stable and will help to reduce dust and



erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the off-street area that opens onto such streets), shall be paved for a distance of fifteen feet back from the edge of the paved street. This subsection shall not apply to single-family or two-family residences or other uses that are required to have only one or two off-street parking spaces.

- B. Off-street parking areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, off-street parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

**9.1.10 Off-Street Parking Space Requirements**

The number of off-street parking spaces for any particular use as required by this Ordinance shall be computed as follows:

- A. When units of measurement determining the number of required parking spaces result in a fractional space, any fraction of one-half (1/2) or more shall require one (1) parking space.
- B. Where seats consist of pews or benches, each twenty (20) inches of a pew or bench shall be considered as one seat.
- C. For the purpose of computing parking requirements based on the number of employees, the on-site owners or managers shall also be considered employees.
- D. The number of required off-street parking spaces designed for use by handicapped persons as prescribed by the North Carolina State Building Code shall be computed separately from the off-street parking requirements as otherwise contained in the Ordinance.

**9.1.11** The following table indicates the required number of off-street parking spaces for any permitted or conditional use indicated in this Ordinance.

<u><b>Use Classification</b></u>	<u><b>Space Requirement</b></u>
Animal Hospital, Clinic Veterinarian or Kennel	One (1) space per 200 square feet of gross floor area.
Automobile Repair, Paint or Body Shops	One (1) space per employee during the shift of greatest employment plus four (4) spaces per service bay.

**Use Classification**

Automobile Sales

Automobile Washing and  
Cleaning Establishments

Banks, Savings and  
Loans, and Similar  
Financial Institutions

Bars and Nightclubs

Cemeteries

Auction Houses

Barber or Beauty Shops

Churches, Synagogues and  
Other Places of Worship

Colleges, Vocational and  
Professional Schools

**Space Requirement**

See sales lots.

One (1) space per employee during the shift of greatest employment, and reserve spaces equal to three (3) times the capacity of the establishment.

One (1) space per each 100 square feet of gross floor area for the first 1000 square feet and 1 space for each 300 additional square feet of gross floor area.

One (1) space for each employee during the shift of greatest employment plus one (1) space for each three (3) seats.

One (1) space per employee during the shift of greatest employment plus parking on internal roads with room for cars to pass parked cars on said roads.

One (1) space for each three (3) persons of seating or standing capacity of the main auction hall.

Three (3) spaces per barber or beautician during the hours of greatest employment.

One (1) space for each four (4) seats in the sanctuary.

One (1) space for each three (3) students during the shift of greatest enrollment plus one (1) space per employee during the shift of greatest employment.

**Use Classification**

**Space Requirement**

Convenience Store and Mini-Mart

One (1) space for each two-hundred (200) square feet of gross floor area plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces.

Day Care Centers, Nurseries, Preschools and Kindergartens

One (1) space per employees during the shift of greatest employment plus one (1) space per ten (10) persons of certification capacity.

Dwellings, One-Family

Two (2) spaces for each one (1) dwelling unit.

Dwellings, Two-Family

Two (2) spaces for each one (1) dwelling unit.

Dwellings, Multi-Family (except those dwellings designed specifically for elderly and/or handicapped persons)

<b>Spaces Required Per Dwelling</b>	
<b>Bedrooms</b>	<b>Unit</b>
1	1.50
2	2.00
3 or More	2.25

Dwelling Multi-Family (designed specifically for elderly and/or handicapped persons)

1.25 spaces for each one (1) dwelling unit.

Elementary and Junior High Schools

One and three-fourths (1.75) spaces for each room used for instruction or administration, or one (1) space for each four (4) seats used for assembly purposes, whichever is greater.

Funeral Homes

One (1) space for each four (4) seats in the chapel or chapels, plus one (1) space for each employee, plus one (1) space for each vehicle used in the operation. In

## Use Classification

## Space Requirement

	addition, off-street parking area shall be provided on-site to accommodate a minimum of thirty (30) passenger vehicles for the purpose of forming a funeral procession.
Furniture and Appliance Stores, Household Equipment Repair Shops; Showroom of a Plumber, Electrician or similar trade; machinery sales	One (1) space per eight-hundred (800) square feet of gross floor area plus one (1) space per employee during the shift of greatest employment.
Golf Courses	One (1) space for the largest number of employees per shift plus four (4) spaces per hole plus one (1) space for each vehicle used in the operation (excluding golf carts).
Jails	One (1) space per employee during the shift of greatest employment; plus one (1) space for each eight (8) beds, plus sufficient spaces for law enforcement vehicles and vehicles used in the operation.
Libraries	One (1) space for each three-hundred fifty (350) square feet of public space, plus one (1) space for each employee during the shift of greatest employment.
Laboratories, Analytical, and Testing	One (1) space per employee during the shift with greatest employment plus one (1) space for each eight-hundred (800) square feet of gross floor area.
Lumber or Building	One (1) space per employee

**Use Classification**

**Space Requirement**

Material Stores

during the shift with greatest employment plus one (1) space for each three-hundred (300) square feet of retail sales space or showroom floor area plus one (1) space for each vehicle used in the operation.

Manufacturing, Processing or Fabrication Plants

One (1) space per employee during the shift with greatest employment.

Medical and Dental Offices Clinics

One and one-half (1-1/2) parking spaces for each patient treatment or examination room (or other such patient treatment space), plus one (1) space for each non-doctor employee during the shift of greatest employment plus one (1) space for each doctor practicing at the clinic.

Motels and Hotels; Bed and Breakfast Inns. (the number of required off-street parking spaces for restaurants, lounges and banquet facilities located within a motel or hotel shall be computed separately)

One (1) space for each guest plus one (1) space for each employee on the shift of maximum employment.

Nursing Homes, Rest Homes, Homes for the Aged

Three (3) spaces for each five (5) patient beds.

Offices, Professional, Business, or Public, (excluding medical and dental offices and clinics)

One (1) space for each two-hundred (200) square feet of gross floor area.

Places of Public Assembly (not otherwise listed)

One (1) space for each four (4) seats of seating capacity.

**Use Classification**

**Space Requirement**

Post Office

One (1) space per employee during the shift of greatest employment plus one (1) space for each three-hundred (300) square feet of gross floor area.

Private Residential Quarters

One (1) space per private residential quarters.

Public Safety Station

One (1) space per employee during the shift of greatest employment plus one (1) space for each vehicle used in the operation.

Radio and Television Stations

One (1) space per employee during the shift of greatest employment.

Outdoor Recreation Facilities (Private) such as athletic fields, tennis courts, swimming pools, playgrounds, parks, etc., not otherwise listed not constructed pursuant a permit authorizing the construction of another use such as a school

One (1) space per 200 square feet of area within enclosed buildings, plus one (1) space for every three persons that the outdoor facilities are and designed to accommodate when used to the maximum capacity.

Recreation Facilities, indoor not otherwise listed (e.g., gymnasium community center, physical fitness centers or clubs, pinball or video or arcade game centers, etc.)

One (1) space for every three persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion - example, tennis courts) plus one (1)space per 200 square feet of gross floor area used in a manner not susceptible to such calculation, or one (1) space for each three (3) seats(fixed in the largest assembly room) whichever is greatest.

**Use Classification**

Restaurants (including fast food restaurants)

Retail Business and Consumer Service Establishments (except as noted herein)

Sales Lots and Showrooms (automobile, mobile home, etc.)

Senior High School

Service Stations

**Space Requirement**

One (1) space for each employee during the shift of greatest employment plus one (1) space for each three (3) restaurant seats, plus reservoir lane capacity equal to three (3) spaces per trivets window.

One (1) space for each 200 square feet of gross area.

Four (4) spaces for each salesperson plus one (1) space per other employee during the shift with greatest employment. These spaces shall be in addition to other spaces used to park all vehicles for sale or on display and in addition to spaces required in this section for automobile repair use classification where sales and repairs are provided by the same establishment.

Five (5) spaces for each room used for instruction or administration or one (1) space for each four (4) seats used for assembly purposes, whichever is greater. Assembly purposes shall be deemed to include the capacity of either indoor or outdoor assembly, whichever is greater.

One space located away from pumps for each fuel pump nozzle plus two (2) spaces for each bay plus one (1) space for each employee during the shift of greatest employment, plus sufficient parking area to

**Use Classification**

**Space Requirement**

accommodate vehicles at pumps without interfering with other parking spaces

Shopping Centers  
(under two-hundred thousand  
(200,000 square feet of  
gross floor area)

One (1) space for each two-hundred (200) square feet of gross floor area excluding uses whose off-street parking requirements are listed separately. Off-street parking for these uses shall be computed separately.

Shopping Centers  
(200,000+ square feet of  
gross floor area)

One (1) space for each two-hundred (200) square feet of gross floor area.

Theaters, Indoor

One (1) space for each employee during the shift of greatest employment plus one (1) space for each three (3) seats.

Truck Terminal, Warehouses  
and Moving Storage Company

One (1) space per employee during the shift of greatest employment in addition to spaces used for vehicles in the operation.

Video Tape Rental Shops

One (1) space per two-hundred (200) square feet of gross floor area.

Wholesale Sales

One (1) space per employee during the shift of greatest employment plus one space per five-hundred (500) square feet of office space plus one (1) space per five-hundred (500) square feet devoted to on-premise sales such as showrooms and sales counters.



**Use Classification**

**Space Requirement**

Other Uses Not Listed

The Zoning Administrator may establish a parking requirement for any use not listed herein on the basis of similar uses creating similar parking needs as listed in this section.

**Section 9.2      Reserved**

**Section 9.3      Off-Street Loading Requirements**

**9.3.1      Purpose**

In order to assure a proper and uniform development of off-street loading areas and to relieve traffic congestion in the streets, the off-street loading requirements herein set forth will apply in all zoning districts. These requirements will apply to new buildings and uses and to additions to existing buildings and uses.

**9.3.2      Minimum Off-Street Loading Space Requirements**

The following minimum loading space requirements shall apply for the appropriate use:

<b><u>Type of Use</u></b>	<b><u>Gross Floor Area (Square Feet)</u></b>	<b><u>Required Number of Loading Spaces</u></b>
Restaurant Hotel or Motel	0 - 4,999	1
	5,000 - 49,999	2
	50,000 - 99,999	3
	100,000+	3 plus 1 for each 100,000 square feet of gross floor area in excess of 100,000 square feet
Other Commercial Establishments or Industrial Uses	0 - 4,999	None
	5,000 - 19,999	1
	20,000 - 49,999	2
	50,000 - 79,999	3
	80,000 - 99,999	4
	100,000 - 149,999	5
	150,000+	5 plus one for each 50,000 square feet of gross floor area in excess of 150,000 square feet

### **9.3.3 Design of Loading Spaces**

Off-street loading spaces shall be designed and constructed so that all maneuvering to park and unpark vehicles for loading and unloading can take place entirely within the property lines of the premises. Loading spaces must be designed so as to not to interfere with the normal movement of vehicles and pedestrians on public rights-of-way. Where feasible, off-street loading areas shall be located in the rear yard. No area allocated to loading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading facilities.

Each loading berth shall have a paved surface and be a minimum of twelve (12) feet in width and thirty-five (35) feet in length. Each such berth shall also have a minimum vertical clearance of fourteen (14) feet. For any use which is required to furnish three (3) or more berths, at least one shall have a minimum width of twelve (12) feet, minimum length of sixty-five (65) feet and a minimum vertical clearance of fourteen (14) feet.

## CHAPTER 10:

### **GENERAL ZONING DISTRICT REGULATIONS**

#### **Section 10.1      R-R Rural Residential District**

The purpose of this district is to encourage the development of residential and related development at fairly low density levels in order to maintain and promote a rural and semi-rural atmosphere in portions of the county in which public utilities are not available and will likely not be available in the foreseeable future. A number of nonresidential uses are also allowed in this district. Such uses are typical of those found in areas so zoned. This zoning district is not established, however, to promote or encourage the development of community or neighborhood shopping facilities. Major subdivisions of over fifty (50) lots may only be created through a rezoning to a conditional Planned District classification. Mobile home parks with over fifty (50) spaces may only be created through a rezoning to a conditional R-R district.

#### **10.1.1      The following uses are permitted by right:**

- A. Single-family detached dwellings
- B. Mobile Homes, Class A
- C. Mobile Homes, Class B
- D. Mobile Homes, Class C
- E. Mobile Homes, Class E
- F. Family Care Homes
- G. Room renting provided that:
  - 1. The dwelling is owner-occupied
  - 2. No more than four rooms are rented per dwelling unit
  - 3. None of the rooms rented have private kitchen facilities
- H. Customary home and rural home occupations
- I. Two-family dwellings / duplexes
- J. Elementary and Secondary Schools, Public and Private
- K. Essential Services, Classes 1 and 2
- L. Cemeteries
- M. Small group day care centers
- N. Public recreation facilities

- O. Churches
- P. Public safety stations
- Q. Private residential quarters
- R. Mobile home parks containing under twenty (20) mobile home spaces. All such mobile home parks shall be constructed in compliance with Chapter 14.
- S. Government facilities not otherwise listed as a conditional use
- T. Stands for the in-season sale of produce located on the premises where the product is being grown
- U. Private recreation facilities constructed pursuant to a permit authorizing the construction on a residential development and provided that these facilities are designed for the use and enjoyment of the residents thereof
- V. Telecommunication / transmission towers and antennae with a maximum height of sixty (60) feet
- W. Church-owned and operated schools shall be allowed as a permitted use provided the school has an enrollment of less than one-hundred eighty (180) students. The school may be operated on the same lot as the church. If so, the number of required off-street parking requirements shall be the greater of the two uses. No outdoor stadiums or other lighted ball fields shall be allowed. Setback requirements shall be determined separately for each church and school structure.
- X. Private residential storage building on a lot two (2) acres in size or greater.

**10.1.2**

The following uses are permitted subject to the issuance of a Conditional Use Permit by the Lincoln County Board of Commissioners or through a rezoning to a conditional R-R district:

- A. Bed and breakfast establishments
- B. Rest homes
- C. Nursing homes
- D. Total care facilities
- E. Day care centers
- F. Private outdoor recreation facilities not otherwise listed as a permitted use
- G. Animal kennels

- H. Riding stables
- I. Airports, including aircraft sales and service
- J. Airstrips
- K. Telecommunication / transmission towers or antennae in excess of sixty (60) with a maximum of three hundred twenty-five (325) feet in height provided that front, side and rear yards each equal one-hundred ten (110) percent the height of the tower
- L. Essential Services, Class 3
- M. Package treatment plant
- N. Machine shops, auto body shops and auto repair shops, wood-working shops subject to the following conditions:
  - 1. No portion of any pre-existing residential structure (other than the residential structure which is occupied by the owner of said use) shall be located within two-hundred (200) feet of the principal structure containing said use)
  - 2. The use may only be in operation between the hours of 7:00 A.M. and 9:00 P.M.
  - 3. The total gross floor area of all principal and accessory structures shall be no greater than two-thousand (2,000) square feet
  - 4. No outside storage of motor vehicles, parts or equipment shall be allowed
- O. Mobile home parks containing twenty (20) or more spaces. All such mobile home parks shall be constructed in compliance with Chapter 14.
- P. Community center
- Q. Mobile Homes, Class D
- R. Church-owned and operated schools may be allowed as a conditional use if the school has an enrollment of one-hundred eighty (180) students or greater. Such school must have direct access onto a major or minor thoroughfare, as depicted on the most recently adopted version of the Lincoln County Thoroughfare Plan. Any church-owned and operated school having an outdoor stadium or lighted ball field shall be a conditional use.

Such school may be located on a lot containing a church. If so, the number of required off-street parking requirements shall be the greater of the two users. Setback requirements shall be determined separately for the church and school structure.

- S. DELETED.
- T. Civic, Social and Fraternal Organizations
- U. Commercial fishing lake
- V. Private residential storage building on a lot less than two (2) acres in size.
- W. Land Clearing and Inert Debris Landfill
- X. Winery

In addition to any other conditions which may be imposed upon said use, the following criteria must be met:

1. The minimum area for any lot containing a winery shall be ten (10) acres.
2. The facility must be operated in association with an existing vineyard located on the same property or on adjoining properties under the same ownership. Associated uses, including but not limited to a tasting/sampling room, gift shop, dining and catering facilities and meeting rooms, may be permitted within or in conjunction with the winery.
3. All structures and storage areas associated with the winery must be located a minimum of one hundred (100) feet from all property lines or street right-of-ways.

**10.1.3 Yard Regulations**

- A. Minimum Lot Size
  1. All uses (except government facilities and Essential Services) - Forty-three thousand five-hundred and sixty (43,560) square feet
  2. Essential Services and government facilities - None
  3. Package treatment plans - None
- B. Minimum Front Yard Setback
  1. All uses (except Essential Services, Class 1 and private residential storage buildings) - Thirty (30) feet
  2. Essential Services, Class 1 - None

3. Private residential storage building - refer to Section 8.9.1 and table 8-1 of this ordinance.
- C. Minimum Side Yard Setback (an additional ten (10) feet shall be provided on all side yards which abut a public street)
1. Single-family dwellings; two-family dwellings; mobile homes, classes A, B, C - Ten (10) feet
  2. Schools - Fifty (50) feet
  3. Bed and breakfast establishments - Twenty-five (25) feet
  4. Public safety stations - twenty-five (25) feet
  5. Essential services, Class 1 - None
  6. Essential services, Class 2 and 3 - Fifty (50) feet
  7. Church - Twenty-five (25) feet
  8. Rest home, nursing home and total care facility - Twenty-five (25) feet
  9. Public and private recreational facilities - Twenty-five (25) feet
  10. Cemeteries - Twenty-five (25) feet
  11. Machine shops, wood-working and auto body shops - Fifty (50) feet
  12. Auction houses - Fifty (50) feet
  13. Animal kennels, animal hospitals and riding stables - Fifty (50) feet
  14. All other uses - Twenty-five (25) feet
  15. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.
- D. Minimum Rear Yard Setback
1. Essential Services, Class 1 - None
  2. Essential Services, Classes 2 and 3 - Fifty (50) feet
  3. Animal kennels; riding stables - Fifty (50) feet
  4. All other uses - Forty (40) feet
  5. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.

- E. Minimum Lot Width (as measured at building setback line)
  - 1. All uses (except Essential Services, Class 1) - One-hundred (100) feet
  - 2. Essential Services, Class 1 - None
- F. Maximum Building Height
  - 1. All uses - Thirty-five (35) feet except for towers and antennae and as provided in Section 8.8 of this Ordinance.





## Section 10.2

### **R-T Transitional Residential District**

The purpose of this district is to allow a wide variety of residential oriented uses in portions of Lincoln County which to date have not experienced significant amounts of growth. In general, such areas do not have public water and sewer facilities. Areas which are zoned R-T, however, should be viewed as development "holding zones". Unlike the R-R zoned areas, where chances for significant growth in the future do not appear likely, areas zoned R-T may come under growth pressures in the future. Rezoning of R-T areas to more densely populated zones may be necessary at some point in the future. Thus, it is important that land use patterns in these areas generally be in harmony with other zoning districts allows for denser development. Major subdivisions of over fifty (50) lots may only be created through a rezoning to a conditional Planned District classification. Mobile home parks with over fifty (50) spaces may only be created through a rezoning to a conditional R-T district.

#### 10.2.1

#### **The following uses are permitted by right:**

- A. Single-family detached dwellings
- B. Mobile homes, Class A
- C. Mobile Homes, Class B
- D. Mobile Homes, Class C
- E. Mobile Homes, Class E
- F. Two-family dwellings / duplexes
- G. Family care homes
- H. Room renting provided that:
  - 1. the dwelling is owner-occupied
  - 2. no more than four rooms are rented per dwelling unit
  - 3. none of the rooms rented have private kitchen facilities
- I. Customary home occupation
- J. Rural home occupation
- K. Elementary and Secondary Schools, Public and Private
- L. Churches
- M. Public safety stations
- N. Cemeteries
- O. Private Residential Quarters
- P. Public recreation facilities

- Q. Essential Services, Class 1 and 2
- R. Small group day care centers
- S. Government facilities not otherwise listed as a conditional use
- T. Stands for the in-season sale of produce located on the premises where the product is being grown.
- U. Private recreation facilities constructed pursuant to a permit authorizing the construction of residential development and provided that these facilities are designed for the use and enjoyment of the residents thereof
- V. Telecommunication / transmission towers and antennae with a maximum height of sixty (60) feet
- W. Church-owned and operated schools shall be allowed as a permitted use provided the school has an enrollment of less than one-hundred eighty (180) students. The school may be operated on the same lot as the church. If so, the number of required off-street parking requirements shall be the greater of the two uses. No outdoor stadiums or other lighted ball fields shall be allowed. Setback requirements shall be determined separately for each church and school structure.
- W. Private residential storage building on a lot two (2) acres in size or greater.
- X. Public safety stations

**10.2.2**

The following uses are permitted subject to the issuance of a Conditional Use Permit by the Lincoln County Board of Commissioners or through a rezoning to a conditional R-T district:

- A. Bed and breakfast establishments
- B. Rest Homes
- C. Nursing Homes
- D. Total Care Facilities
- E. Day Care Centers
- F. Private outdoor recreation facilities (excluding racetracks and shooting ranges) not otherwise listed as a permitted use
- G. Animal kennels
- H. Riding stables
- I. Airports, including aircraft sales and service

- J. Airstrips
- K. Telecommunication / transmission towers or antennae in excess of sixty (60) feet with a maximum height of three hundred twenty-five (325) feet, provided that front, side and rear yards each equal one-hundred ten (110) percent of the tower's height.
- L. Package treatment plant
- M. Mobile Home Parks constructed in compliance with Chapter 14
- N. Community Centers
- O. Essential Services, Class 3
- P. Mobile Homes, Class D
- Q. Church-owned and operated schools may be allowed as a conditional use if the school has an enrollment of one-hundred eighty (180) students or greater. Such school must have direct access onto a major or minor thoroughfare, as depicted on the most recently adopted version of the Lincoln County Thoroughfare Plan. Any church-owned and operated school having an outdoor stadium or lighted ball field shall be a conditional use.

Such school may be located on a lot containing a church. If so, the number of required off-street parking requirements shall be the greater of the two users. Setback requirements shall be determined separately for the church and school structure.

- R. Deleted
- S. Civic, Social and Fraternal Organizations.
- T. Commercial fishing lake.
- U. Private residential storage building on a lot less than two (2) acres in size.
- V. Land Clearing and Inert Debris Landfill
- W. Winery

In addition to any other conditions which may be imposed upon said use, the following criteria must be met:

1. The minimum area for any lot containing a winery shall be ten (10) acres.
2. The facility must be operated in association with an existing vineyard located on the same property or on adjoining properties under the same ownership. Associated uses, including but not limited to a

tasting/sampling room, gift shop, dining and catering facilities and meeting rooms, may be permitted within or in conjunction with the winery.

3. All structures and storage areas associated with the winery must be located a minimum of one hundred (100) feet from all property lines or street right-of-ways.

### **10.2.3 Yard Regulations (except as otherwise provided)**

- A. Minimum Lot Size
  1. All uses (except government facilities and Essential Services)- Thirty-two thousand five-hundred (32,500) square feet
  2. Essential Services and Government Facilities- None
  3. Package Treatment Plants- None
- B. Minimum Front Yard Setback
  1. All uses (except Essential Services, Class 1 and Private residential storage building)- Thirty (30) feet
  2. Essential Services, Class 1- None
  3. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.
- C. Minimum Side Yard Setback (an additional ten (10) feet shall be provided on all side yards which abut a public street)
  1. Single-family dwellings; two-family dwellings; Mobile Homes, Classes A, B and C-Ten (10) feet
  2. Schools- Fifty (50) feet
  3. Bed and breakfast establishments- twenty (20) feet
  4. Public safety stations- twenty-five (25) feet
  5. Essential Services, Class 1- None
  6. Essential Services, Class 2 and 3- fifty (50) feet
  7. Reserved
  8. Church- Twenty-five (25) feet

9. Rest home, nursing home and total care facilities- twenty-five (25) feet
10. Public and Private recreational facilities- fifty (50) feet
11. Cemeteries- twenty-five (25) feet
12. Animal kennels; riding stables- fifty (50) feet
13. All other uses- twenty (20) feet
14. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.

D. Minimum Rear Yard Setback

1. Essential Services, Class 1- None
2. Essential Services, Classes 2 and 3- fifty (50) feet
3. Animal kennels; riding stables- fifty (50) feet
4. All other uses- Forty (40) feet
5. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.

E. Minimum Lot Width (as measured at building setback line)

1. All uses- (except Essential Services, Class 1)- One-hundred (100) feet
2. Essential Services, Class 1- None

F. Maximum Building Height

1. All uses- thirty-five (35) feet except for towers and antennae and as provided in Section 8.8 of this Ordinance.



## Section 10.3

### **R-S Residential-Suburban District**

**PURPOSE:** The purpose of the R-S District is to encourage residential type development in portions of Lincoln County where one or more public utilities are currently in service or are anticipated to be installed in the future. In general, residential subdivision development has a greater chance of occurring in this district than in the R-R or R-T districts. Given that residential will be the major use of land in this area, careful attention must be given to the list of nonresidential uses which can take place in order to maximize aesthetics and the overall quality of life in such areas. Major subdivisions of over fifty (50) lots may only be created through a rezoning to a conditional Planned District classification.

#### **10.3.1. The following uses are permitted by right:**

- A. Single-family detached dwellings
- B. Family care homes
- C. Customary home occupations
- D. Elementary and secondary private and public schools
- E. Essential Services, Classes 1 and 2
- F. Small group day care centers
- G. Public recreation facilities
- H. Churches, having a sanctuary capacity of less than 500 seats
- I. Room renting provided that:
  - 1. The dwelling is owner-occupied
  - 2. No more than four rooms are rented per dwelling unit
  - 3. None of the rooms rented have private kitchen facilities
- J. Government facilities, not otherwise listed as a conditional use
- K. Private recreation facilities constructed pursuant to a permit authorizing the construction of a residential development and provided that these facilities are designed for the use and enjoyment of the residents thereof
- L. Stands for the in-season sale of produce grown on the premises where the product is being grown
- M. Two-family dwellings / duplexes
- N. Telecommunication / transmission towers and antennae with a maximum height of sixty (60) feet
- O. Church-owned and operated schools shall be allowed as a permitted use provided the school has an enrollment of less



than one-hundred eighty (180) students. The school may be operated on the same lot as the church. If so, the number of required off-street parking requirements shall be the greater of the two uses. No outdoor stadiums or other lighted ball fields shall be allowed. Setback requirements shall be determined separately for each church and school structure.

- P. Mobile homes-on a replacement basis only. A Class C mobile home may be replaced on a permitted use basis in accordance with the provisions contained in Section 7.12. The initial placement of a Class C mobile home on a lot shall require the issuance of a conditional use permit per Section 10.3.2 (L).
- Q. Private residential storage building on a lot two (2) acres in size or greater.
- R. On any lot of record in existence prior to April 22, 2002, and in any subdivision that was recorded or submitted to the Subdivision Administrator for preliminary approval prior to April 22, 2002, mobile homes, Class A, as defined in Section 2.4 (cited below), with the following restrictions:
  - The mobile home must be underpinned with brick or rock.
  - The mobile home must have vinyl siding.
  - The mobile home must have a shingle roof.
  - The mobile home must face the road.
  - The mobile home must be real property (tongue removed, title turned in and deed recorded).

### **Mobile Home, Class A**

A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development, that consists of two or more sections, and meets the following appearance criteria:

- (1) The home shall have a length not exceeding three times its width;
- (2) The pitch of the home's roof has a minimum vertical rise of 4 feet for each 12 feet of horizontal run (4/12 pitch), and has a minimum overhang of 12 inches. The roof shall be finished with a type of shingle that is commonly used in standard residential construction or a type of metal roof system that is commonly used in standard residential construction.
- (3) The home shall have vinyl siding.

- (4) The home shall be placed on the lot in harmony with the existing structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the street providing access to the site.
  - (5) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
  - (6) The home shall be set up in compliance with the standards set by the North Carolina Department of Insurance and shall have brick or rock underpinning, unpierced except for required ventilation and access.
  - (7) The home shall have a deck or porch not less than 36 square feet in area on all front and rear entrances.
- S. Public safety stations

**10.3.2**

The following uses are permitted subject to the issuance of a Conditional Use Permit by the Lincoln County Board of Commissioners or through a rezoning to a conditional R-S district:

- A. Bed and breakfast establishments
- B. Churches, having a sanctuary capacity of 500 or more seats
- C. Nursing Homes
- D. Rest Homes
- E. Total Care Facilities
- F. Private outdoor recreation facilities (excluding racetracks and shooting ranges) not otherwise listed as a permitted use
- G. Cemeteries, other than those which are owned and operated by church
- H. Package treatment plant
- I. Day care center
- J. Community Center
- K. Multi-family developments with the following densities:

1. If the development is connected or to be connected to neither public water nor sewer, a maximum density of six (6) dwelling units per acre is permitted:
  2. If the development is connected or to be connected to either public water or sewer, a maximum density of eight (8) dwelling units per acre is permitted.
  3. If the development is connected or to be connected to both public water and sewer, a maximum density of ten (10) dwelling units per acre is permitted.
- L. Mobile homes, Class A (other than those allowed as a permitted use by right), B, C and E - A conditional use permit shall be required for the initial placement of such a mobile home on a lot.
- M. Rural home occupations
- N. Church-owned and operated schools may be allowed as a conditional use if the school has an enrollment of one-hundred eighty (180) students or greater. Such school must have direct access onto a major or minor thoroughfare, as depicted on the most recently adopted version of the Lincoln County Thoroughfare Plan. Any church-owned and operated school having an outdoor stadium or lighted ball field shall be a conditional use.
- Such school may be located on a lot containing a church. If so, the number of required off-street parking requirements shall be the greater of the two users. Setback requirements shall be determined separately for the church and school structure.
- O. Deleted
- P. Private residential quarters
- Q. Private residential storage building on a lot less than two (2) acres in size.
- R. Telecommunication / transmission towers and antennae in excess of sixty (60) feet in height {with a maximum height of one-hundred(100) feet} provided that front, side, and rear yards each equal one-hundred ten (110) percent of the towers height.
- S. Land Clearing and Inert Debris Landfill
- T. Winery

In addition to any other conditions which may be imposed upon said use, the following criteria must be met:

1. The minimum area for any lot containing a winery shall be ten (10) acres.

2. The facility must be operated in association with an existing vineyard located on the same property or on adjoining properties under the same ownership. Associated uses, including but not limited to a tasting/sampling room, gift shop, dining and catering facilities and meeting rooms, may be permitted within or in conjunction with the winery.
3. All structures and storage areas associated with the winery must be located a minimum of one hundred (100) feet from all property lines or street right-of-ways.

**10.3.3 Yard Regulations (except as otherwise provided)**

- A. Minimum Lot Size
  1. All uses (except two-family dwellings, multi-family developments, government facilities and Essential Services) – Twenty two thousand five hundred (22,500) square feet if public water and sewer are available at the site; Thirty two thousand five hundred (32,500) square feet otherwise.
  2. Essential Services and Government Facilities- None
  3. Duplexes- Fifty (50) percent more than would be required for a single-family dwelling for that particular lot
  4. Multi-family development- One (1) acre
  5. Package Treatment Plant- None
- B. Minimum Front Yard Setback
  1. All uses (except Essential Services, Classes 1 and 2, and private residential storage buildings)- thirty (30) feet
  2. Essential Services, Class 1- None
  3. Package Treatment Plant- None
  4. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.
- C. Minimum Side Yard Setback (an additional ten (10) feet shall be provided on all side yards which abut a public street)

1. Single-family dwellings; two-family dwellings; Mobile Homes, Classes A, B and C- Ten (10) feet
2. Schools- Fifty (50) feet
3. Bed and breakfast establishments- ten (10) feet
4. Public safety stations- twenty-five (25) feet
5. Essential Services, Class 1- None
6. Essential Services, Class 2 - fifty (50) feet
7. Church- Twenty-five (25) feet
8. Rest home, nursing home and total care facilities- twenty-five (25) feet
9. Public and Private recreational facilities- fifty (50) feet
10. Cemeteries- twenty-five (25) feet
11. All other uses- twenty (20) feet
12. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.

D. Minimum Rear Yard Setback

1. Essential Services, Class 1- None
2. Essential Services, Class 2- forty (40) feet
3. All other uses- Forty (40) feet
4. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.

E. Minimum Lot Width (as measured at building setback line)

1. Essential Services, Class 1- None
2. All other uses- One-hundred (100) feet

F. Maximum Building Height

1. All uses- thirty-five (35) feet except for towers and antennae and as provided in Section 8.8 of this Ordinance.

## Section 10.4

### **R-SF Residential-Single Family District**

**PURPOSE:** The purpose of the R-SF District is to create traditional single-family subdivisions and/or maintain areas in Lincoln County for traditional single-family residential uses. Such areas, in general, do not presently contain mobile homes, duplexes or multi-family dwelling developments. As mobile homes and other types of residential dwelling units are accommodated in many of the other Residential (R) zoning districts, certain areas of the County can be set aside for exclusively for single-family purposes.

Unlike the R-S zoning district where public utilities are currently in place or expected to be in the near future, the provision of public utilities is not a factor in the location of R-SF districts. Thus, the R-SF district may be located in areas which have received both suburban and more rural types of development in the past.

Major subdivisions of over fifty (50) lots may only be created through a rezoning to a conditional Planned District classification.

#### 10.4.1

#### **The following uses are permitted by right:**

- A. Single-family dwellings
- B. Family care homes
- C. Customary home occupations
- D. Elementary and secondary private and public schools
- E. Essential services, Class 1 and 2
- F. Small group day care centers
- G. Public recreation facilities
- H. Churches, having a sanctuary capacity of less than 500 seats
- I. Government facilities, not otherwise listed as a conditional use
- J. Private recreation facilities constructed pursuant to a permit authorizing the construction of a residential development and provided that these facilities are designed for the use and enjoyment of the residents thereof
- K. Stands for the in-season sale of produce grown on the premises where the product is being grown.
- L. Public safety stations
- M. Telecommunication / transmission towers and antennae with a maximum height of sixty (60) feet

- N. Church-owned and operated schools shall be allowed as a permitted use provided the school has an enrollment of less than one-hundred eighty (180) students. The school may be operated on the same lot as the church. If so, the number of required off-street parking requirements shall be the greater of the two uses. No outdoor stadiums or other lighted ball fields shall be allowed. Setback requirements shall be determined separately for each church and school structure.
- O. Private residential storage building on a lot two (2) acres in size or greater.

**10.4.2**

The following uses are permitted subject to the issuance of a Conditional Use Permit by the Lincoln County Board of Commissioners or through a rezoning to a conditional R-SF district:

- A. Bed and breakfast establishments
- B. Churches, having a sanctuary capacity of 500 or more seats
- C. Private outdoor recreation facilities (excluding racetracks and shooting ranges) not otherwise listed as a permitted use
- D. Cemeteries, other than those which are owned and operated by a church
- E. Package treatment plant
- F. Community Center
- G. Rural home occupations
- H. Room renting, provided that:
  - 1. The dwelling is owner-occupied
  - 2. No more than four rooms are rented
  - 3. None of the rooms rented have private kitchen facilities
- I. Animals Kennels

In addition to any other conditions which may be imposed upon said use, the following criteria must be met:

- 1. For any animal kennel designed to accommodate fifteen (15) or fewer animals, no structure housing the animals, nor any outdoor animal runs or pens may be located closer than one-hundred (100) feet from any lot line.
- 2. For any animal kennel designed to accommodate greater than fifteen (15) animals, no structure housing the animals,

nor any outdoor animals runs or pens may be located closer than two-hundred (200) feet from any lot line.

3. Manure piles in association with the animal kennel may be located no closer than two-hundred (200) feet from any lot line.
4. The minimum area for any lot containing an animal kennel shall be three (3) acres.
5. Notwithstanding any other provision of this Ordinance, an animal kennel may be located on a lot which also contains a principal single-family residential use.
6. Screening, in the form of a Grade C screen, shall be provided whenever said lot abuts another lot located within a Residential (R) or Planned (P) zoning district.

#### J. Riding Stables

In addition to any other conditions which may be imposed upon said use, the following criteria must be met:

1. All stalls or designated riding areas must be located at least two-hundred (200) feet from any lot line.
2. All manure piles shall be located at least two-hundred (200) feet from any lot line.
3. The minimum area for any lot containing a riding stable shall be five (5) acres.
4. Adequate fencing must be placed on the lot to ensure that horses are prevented from roaming onto adjacent streets or lots.
5. Notwithstanding any other provision of this Ordinance, a riding stable may be located on a lot which also contains a principal single family residential use.
6. Screening, in the form of a Grade C screen, shall be provided whenever said lot abuts another lot located within a Residential (R) or Planned (P) zoning district.

#### K. Day Care Centers

1. For any day care center not located within a church, the following criteria (in addition to any other conditions which may be imposed upon said use) must be met:

- a. A day care center shall have a maximum certification capacity (as determined by the North Carolina Department of Human Resources) of twenty-five (25) enrollees.



- b. The principal structure housing the day care center shall be at least one-hundred (100) feet distant from any pre-existing principal residential structure.
  - c. The minimum lot area for a day care center shall be one (1) acre.
  - d. All outdoor play areas shall be located at least fifty (50) feet from any side or rear lot line.
  - e. A maximum of one (1) wall identification or free-standing sign shall be allowed. If a wall sign, it shall not be allowed to extend above the parapet of the building. If a free-standing sign, it shall be located behind the street right-of-way line. The maximum height of a free-standing sign shall be three (3) feet. The maximum area of any identification sign shall be fifteen (15) square feet.
  - f. Day care centers shall not be allowed to operate between the hours of 10:00 P.M. and 6:00 A.M.
2. Day care centers located within a church are also conditional uses, but are not subject to the performance criteria listed in Subsection (a)-(f) above.
- L. Telecommunication / transmission towers and antennae in excess of sixty (60) feet in height {with a maximum height of one-hundred (100) feet} provided that front, side and rear yards each equal one-hundred ten (110) percent of the tower's height.
  - M. Church-owned and operated schools may be allowed as a conditional use if the school has an enrollment of one-hundred eighty (180) students or greater. Such school must have direct access onto a major or minor thoroughfare, as depicted on the most recently adopted version of the Lincoln County Thoroughfare Plan. Any church-owned and operated school having an outdoor stadium or lighted ball field shall be a conditional use.
 

Such school may be located on a lot containing a church. If so, the number of required off-street parking requirements shall be the greater of the two users. Setback requirements shall be determined separately for the church and school structure.
  - N. Deleted
  - O. Private residential quarters
  - P. Private residential storage building on a lot less than two (2) acres in size.
  - Q. Land Clearing and Inert Debris Landfill

T. Winery

In addition to any other conditions which may be imposed upon said use, the following criteria must be met:

1. The minimum area for any lot containing a winery shall be ten (10) acres.
2. The facility must be operated in association with an existing vineyard located on the same property or on adjoining properties under the same ownership. Associated uses, including but not limited to a tasting/sampling room, gift shop, dining and catering facilities and meeting rooms, may be permitted within or in conjunction with the winery.
3. All structures and storage areas associated with the winery must be located a minimum of one hundred (100) feet from all property lines or street right-of-ways.

**10.4.3 Yard Regulations (except as otherwise provided)**

A. Minimum Lot Size

1. All uses – (except government facilities and essential services) – Twenty two thousand five hundred (22,500) square feet if public water and sewer are available at the site, Thirty two thousand five hundred (32,500) square feet otherwise.
2. Essential services and government facilities- None
3. Package treatment plant- None

B. Minimum Front Yard Setback

1. All uses (except Essential Services, Class 1 and private residential storage buildings)- Thirty (30) feet
2. Essential Services, Class 1- None
3. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.

C. Minimum Side Yard Setback (an additional ten (10) feet shall be provided on all side yards which abut a public street)

1. Single-family dwellings- Ten (10) feet
2. Schools- Fifty (50) feet

3. Bed and breakfast establishments- Ten (10) feet
4. Public safety stations- Twenty-five (25) feet
5. Public and private recreational facility- Fifty (50) feet
6. Cemeteries- Twenty-five (25) feet
7. Essential Services, Class 1- None
8. All other uses- Twenty (20) feet
9. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.

D. Minimum Rear Yard Setback

1. Essential Services, Class 1- None
2. All other uses- Forty (40) feet
3. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.

E. Minimum Lot Width (as measured at the building setback line)

1. Essential Services, Class 1- None
2. All other uses- One-hundred (100) feet

F. Maximum Building Height

1. All uses- Thirty-five (35) feet, except for **(i)** towers and antennae as herein provided; and **(ii)** as provided in Section 8.8 of this Ordinance

## Section 10.5

### **R-CR Residential And Commercial Recreational District**

**PURPOSE:** This district is somewhat different than the other Residential (R) districts contained in this Ordinance in that it allows residential uses on a permitted basis but also allows a somewhat wider array of commercial uses on a conditional basis. Such commercial uses tend to have large acreage requirements and are associated with outdoor recreation activities. The district is written recognizing the unique features which Lincoln County possesses such as **(i)** it being a rapidly suburbanizing area; and **(ii)** it possessing a large area which borders Lake Norman (and other streams and bodies of water) which lend themselves to the development outdoor recreational areas and communities. Major subdivisions of over fifty (50) lots may only be created through a rezoning to a conditional Planned District classification.

#### 10.5.1

##### **The following uses are permitted by right:**

- A. Single-family dwellings
- B. Family care homes
- C. Customary home occupations
- D. Elementary and secondary private and public schools
- E. Essential Services, Class 1 and 2
- F. Small group day care centers
- G. Public recreation facilities
- H. Churches, having a sanctuary capacity of less than 500 seats
- I. Room renting, provided that:
  - 1. The dwelling is owner-occupied
  - 2. No more than four (4) rooms are rented per dwelling unit
  - 3. None of the rooms rented have private kitchen facilities
- J. Government facilities, not otherwise listed as a conditional use
- K. Private recreation facilities constructed pursuant to a permit authorizing the construction of a residential development and provided that these facilities are designed for the use and enjoyment of the residents thereof
- L. Stands for the in-season sale of produce grown on the premises where the produce is being grown
- M. Public safety stations
- N. Telecommunication / transmission towers and antennae with a maximum height of sixty (60) feet

- O. Church-owned and operated schools shall be allowed as a permitted use provided the school has an enrollment of less than one-hundred eighty (180) students. The school may be operated on the same lot as the church. If so, the number of required off-street parking requirements shall be the greater of the two uses. No outdoor stadiums or other lighted ball fields shall be allowed. Setback requirements shall be determined separately for each church and school structure.
- P. Private residential storage building on a lot two (2) acres in size or greater.

**10.5.2**

The following uses are permitted subject to the issuance of a Conditional Use Permit by the Lincoln County Board of Commissioners or through a rezoning to a conditional R-CR district:

- A. Bed and breakfast establishments
- B. Churches, having a sanctuary capacity of 500 or more seats
- C. Commercial marinas
- D. Camping and Recreational Vehicle Park (provided any camping or recreational vehicle stand and all principal and accessory structures are located more than two-hundred (200) feet from an existing principal residential structure on another lot)
- E. Restaurants (provided all principal and accessory structures are located more than two-hundred (200) feet from an existing principal residential structure on another lot)
- F. Convenience stores (provided all principal and accessory structures are located more than two-hundred (200) feet from an existing principal residential structure on another lot)
- G. Private outdoor recreation facilities (excluding racetracks and shooting ranges) not otherwise listed as a permitted use
- H. Cemeteries, other than those which are owned and operated by a church
- I. Package treatment plants
- J. Multi-family dwellings
- K. Community Centers
- L. Motels, provided all principal and accessory structures are located more than two-hundred (200) feet from any principal residential structure on another lot
- M. Rural home occupations

- N. Church-owned and operated schools may be allowed as a conditional use if the school has an enrollment of one-hundred eighty (180) students or greater. Such school must have direct access onto a major or minor thoroughfare, as depicted on the most recently adopted version of the Lincoln County Thoroughfare Plan. Any church-owned and operated school having an outdoor stadium or lighted ball field shall be a conditional use.

Such school may be located on a lot containing a church. If so, the number of required off-street parking requirements shall be the greater of the two users. Setback requirements shall be determined separately for the church and school structure.

- O. Deleted
- P. Private residential quarters
- Q. Private residential storage building on a lot less than two (2) acres in size.
- R. Land Clearing and Inert Debris Landfill

### 10.5.3

#### **Yard Regulations (except as otherwise provided)**

- A. Minimum Lot Size
  - 1. Convenience stores- Twenty-two thousand five-hundred (22,500) square feet
  - 2. Restaurants- Twenty-two thousand five-hundred (22,500) square feet
  - 3. Camping and recreational vehicle parks- Five (5) acres
  - 4. Essential services and government facilities- None
  - 5. Multi-family dwellings- One (1) acre
  - 6. All other uses (except governmental facilities and essential services)- Fourteen-thousand (14,000) square feet if public water and/or sewer are available at the site; twenty-thousand (20,000) square feet if either public or community water or sewer are available at the site; twenty-two thousand five-hundred (22,500) square feet if neither public or community water or sewer are available at the site
  - 7. Motels- One (1) acre
  - 8. Package Treatment Plants- None

B. Minimum Front Yard Setback

1. All uses (except Essential Services, Class 1 and private residential storage buildings)- Thirty (30) feet
2. Essential Services, Class 1- None
3. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.

C. Minimum Side Yard Setback (an additional ten (10) feet shall be provided on all side yards which abut a public street)

1. Single-family dwellings- Ten (10) feet
2. Schools- Fifty (50) feet
3. Bed and breakfast establishments- Ten (10) feet
4. Public safety stations- Twenty-five (25) feet
5. Public and private recreational facility- Fifty (50) feet
6. Cemeteries- Twenty-five (25) feet
7. Convenience stores- Twenty-five (25) feet
8. Commercial Marinas- Fifty (50) feet
9. Camping and recreational vehicle park- Fifty (50) feet
10. Motels- Twenty-five (25) feet
11. Essential Services, Class 1- None
12. All other uses- Twenty (20) feet
13. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.

D. Minimum Rear Yard Setback

1. Essential Services, Class 1- None
2. All other uses- Forty (40) feet, except none for any principal or accessory structure which extends into Lake Norman.
3. Private residential storage building - Refer to Section 8.9.1 and table 8-1 of this ordinance.

E. Minimum Lot Width (as measured at the building setback line)

1. Essential Services, Class 1- None
2. All other uses- One-hundred (100) feet

F. Maximum Building Height

All uses- Thirty-five (35) feet, except for **(i)** towers and antennae as herein provided; and **(ii)** as provided in Section 8.8 of this Ordinance

G. Maximum Density

1. Multi-Family Dwellings- Ten (10) units per acre

H. Screening – Screening shall be provided in accordance with Section 8-2 of this Ordinance.





**Section 10.6**

**RL-14 Single-Family District**

This district shall serve primarily as a single-family residential district with lots having a minimum area of fourteen-thousand (14,000) square feet. As the purpose of this district is to maintain a low-density residential atmosphere, the number of uses permitted other than single-family dwellings is limited. Major subdivisions of over fifty (50) lots may only be created through a rezoning to a conditional Planned District classification.

**10.6.1**

**The following uses are permitted by right:**

- A. Single-family dwellings, excluding mobile homes
- B. Family care homes for up to six (6) clients and provided such home is not located within a one-half mile radius of an existing family care home
- B1 Government facilities, not otherwise listed as a conditional use
- C. Accessory structures and uses:

Minor uses or structures which are necessary to the operation or the enjoyment of a permitted use and are incidental and subordinate to any such use shall be permitted subject to the following:

1. All accessory structures shall be located within the rear yard and shall be located no closer than ten (10) feet to any side lot line. When the rear lot line does not abut Lake Norman, no accessory structure shall be located within ten (10) feet of the rear lot line.
2. No accessory use or structure shall be permitted that requires or involves any construction features which are not primarily residential in nature or character.
3. No accessory structure shall be used to house any animals except for domesticated pets.
4. Accessory structures (except satellite dish antennae) shall not exceed one (1) story in height. Accessory structures shall not exceed four-hundred (400) square feet in area except for swimming pools, garages designed primarily to house automobiles, piers and docks.
5. Piers and docks located on Lake Norman shall be subject to all regulations pertinent to Lake Norman found in Section 8.22 of this Ordinance.
6. A home office of convenience is allowable as an accessory use in a bona fide dwelling unit. It is the intent of this section to regulate the operation of a home office of convenience so that the average neighbor will be unaware of its existence. All home offices of convenience shall meet the following requirements:

- a. The office of convenience must be clearly incidental to the use of the dwelling as a residence.
  - b. No outdoor display or storage of materials, goods, supplies or equipment shall be allowed.
  - c. There shall be no changes in the exterior of neither the building nor any visible evidence that the residence contains an office of convenience.
  - d. A home office of convenience shall not generate nuisances such as on-street parking, noise, electrical interference or vibrations.
  - e. There shall be no more than one outside employee.
  - f. There shall be no signs displayed advertising the office of convenience.
- D. Non-commercial signs shall not be regulated. Commercial signs shall be regulated as follows:
1. Two "for rent" or "for sales" signs per lot are permitted. Each sign shall have a maximum size of two (2) feet by three (3) feet.
- E. Off-street parking, subject to the following regulations:
1. A minimum of two off-street parking spaces shall be provided for each single-family dwelling unit.
  2. A minimum of one (1) parking space per employee, plus one (1) space for each client room shall be provided in each family care home.
  3. Mobile homes may not be stored on the lot. Boats and recreational vehicles may, however, be stored on the lot. Inoperative passenger vehicles (i.e., vehicles which do not have a current license tag and/or which have parts missing) may either be stored in a garage or in such a manner so as to not be visible from any adjoining lot or public street.
- F. Yard Requirements (except as otherwise provided)
1. Minimum Lot Area- Fourteen-thousand (14,000) square feet
  2. Minimum Front Yard Setback- Thirty (30) feet
  3. Minimum Lot Width- One-hundred (100) feet as measured at the front yard setback. In no instance

shall the lot measured at the street right-of-way line be less than thirty-five (35) feet.

4. Minimum Side Yard Setback- Ten (10) feet except on corner lots where twenty (20) feet shall be provided.
  5. Minimum Rear Yard Setback- (except as permitted in Section 10.6.1(c)(1)- Thirty (30) feet
  6. Maximum Building Height- Thirty-five (35) feet
- G. Essential Services, Classes 1 and 2, under the following conditions:

There are no minimum lot area requirements for Essential Services, Class 1 and 2. There shall be no minimum setback requirements for Essential Services, Class 1. For Essential Services, Class 2, setbacks shall be as provided in Section 10.6.1 (F).

## 10.6.2 **Conditional Uses**

The following uses may be permitted by the Lincoln County Board of Commissioners only after a Conditional Use Permit has been issued in accordance with Chapter 6 of this Ordinance or through a rezoning to a conditional RL-14 district.

- A. House of Worship
  1. All houses of worship shall be located on lots a minimum of 2.5 acres in size. All buildings shall be a minimum distance of thirty (30) feet from any front or rear lot line and twenty (20) feet from any side lot line.
  2. Houses of worship shall be limited to sanctuaries, parish houses, Sunday school buildings and similar buildings. Pre-school facilities and elementary and secondary schools are permitted (on a conditional basis) provided they are housed in buildings whose primary use are for other religious purposes.
  3. Off-street parking shall be provided in the following amount- One (1) parking space for each three (3) seats plus one (1) space per church employee. Where seats consist of pews or benches, each twenty (20) inches of pew or bench shall be considered as one (1) seat.

4. Signs shall be limited to one (1) identification sign and one (1) bulletin board. The identification sign shall have a maximum area of thirty-two (32) square feet. The bulletin board shall have a maximum area of fifteen (15) square feet. Both signs may be lighted but not luminous.
5. Screening, per Section 8.23.1 shall be provided.

B. Country Clubs, Golf Courses

1. All buildings shall be located a minimum distance of fifty (50) feet from any abutting property line.
2. Off-street parking shall be provided as follows:  
  
Golf courses- One (1) space for the largest number of employees per shift plus four (4) spaces per hole plus one (1) space for each service vehicle, golf carts excluded.
3. There shall be a maximum of two (2) identification signs. Each sign may have a maximum area of thirty (30) feet. Both signs may be lighted but not luminous.

C. Amateur Radio Towers and Antennae

D. Land Clearing and Inert Debris Landfill

**Section 10.7**            **RL-20 Single Family District**

This district shall serve as a single-family residential district with the principal permitted uses limited to single-family dwellings. In order to promote the quality of life for local residents, certain other uses are permitted subject to the issuance of a Conditional Use Permit. These uses include golf courses and houses of worship. Major subdivisions of over fifty (50) lots may only be created through a rezoning to a conditional Planned District classification.

**10.7.1**            **Permitted Uses**

All permitted uses listed in the **RL-14** district subject to the requirements listed therein for each individual use except that the minimum lot area for any permitted use shall be twenty-thousand (20,000) square feet.

**10.7.2**            **Conditional Uses**

All conditional uses listed in the **RL-14** district subject to the requirements listed therein for each individual use.

Section 10.8

**RL-MF Multi-Family District**

This district allows a number of uses to be developed including multi-family developments. The purpose of this district is to promote higher density land use which, when developed, will be in harmony with surrounding land uses. Thus, density levels within this district range up to six (6) multi-family units per acre. In keeping with the height levels permitted in other RL zoning districts, height levels are restricted to a maximum of thirty-five (35) feet. Major subdivisions of over fifty (50) lots may only be created through a rezoning to a conditional Planned District classification.

**10.8.1 Permitted Uses**

All permitted uses listed in the **RL-14** district subject to the requirements listed therein for each use.

**10.8.2 Conditional Uses**

- A. Multi-family developments subject to the following conditions.
  - 1. Yard Requirements:
    - a. Minimum Area Per development- Four (4) acres
    - b. Maximum Density- Six (6) units per acre
    - c. Minimum Front Yard Setback at Project Boundary- fifty (50) feet
    - d. Minimum Side Yard Setback at Project Boundary- Thirty (30) feet
    - e. Maximum Building Height- Thirty-five (35) feet. No structure shall contain more than two (2) stories.
    - f. Minimum Unobstructed Open Space- Sixty-five (65) percent.
  - 2. Other Requirements:
    - a. Each ground entrance to every residential unit or building shall be located within one-hundred (100) feet of a public street, privately maintained street within the development or accessible parking area within the development.
    - b. Private streets within the development shall be so designed and constructed to carry vehicular traffic from public streets to parking or service areas within the development. All private streets shall meet the following requirements:

- private streets must have minimum width of 30 feet, exclusive of parking bay areas, and must have a minimum pavement width of twenty (20) feet, measured from edge of pavement to edge of pavement for two-way traffic, and a minimum pavement width of ten (10) feet for one-way traffic. Additional widths will be required where parallel parking is to be provided.

- at least two (2) parking spaces per unit shall be provided. Angled parking areas directly adjoining private streets will be permitted on one side of the street at a time only. Such parking areas may be alternated from one side of the street to the other. The combined length of such parking areas may not exceed 50 percent of the length of the adjoining roadway. All other angled parking areas must be clearly separated from the private street by at least a barrier island.

- the edge of any private street or parking area located within the development shall be located no closer than twenty (20) feet to any portion of a principal building. However, such streets or parking areas may be within five (5) feet of an accessory building.

- c. All piers and docks on Lake Norman shall be subject to all pertinent regulations found in Section 8.22 of this Ordinance.
- d. No more than eight (8) units per principal building shall be allowed. If all units have ground floor entrances, such principal building shall contain no more than six (6) units.
- e. Screening shall be as provided in Section 8.23 of this Ordinance.
- f. One (1) identification sign per multi-family development may be erected. Said sign shall be lighted, but not luminous, and shall have a maximum area of eighteen (18) feet.

B. Amateur Radio Towers and Antennae

C. Land Clearing and Inert Debris Landfill



## Section 10.9

### **RL-ZO Zero Lot Line District**

This is a district which allows all permitted uses of the RL-14 district as well as zero lot line developments. In order to maintain the area's relatively low density levels, zero lot line developments shall contain at least twenty-five percent common open space with individual lots containing at least six-thousand (6,000) square feet. Major subdivisions of over fifty (50) lots may only be created through a rezoning to a conditional Planned District classification.

#### 10.9.1

##### **Permitted Uses**

- A. All permitted uses listed in the RL-14 district subject to the requirements listed therein for each use.
- B. Zero lot line developments subject to the following conditions:
  1. Yard Requirements
    - a. Minimum Area (per development)- Four (4) acres
    - b. Minimum Individual Lot Area- Six-thousand (6,000) square feet
    - c. Minimum Front Yard Setback- Fifteen (15) feet for all interior lots
    - d. Minimum Side Yard Setback- One side yard may have a zero (0) lot line; the other side yard must be at least ten (10) feet
    - e. Minimum Rear Yard Setback- Twenty (20) feet. This provision will be waived for all lots whose rear yard abuts Lake Norman.
    - f. Minimum Lot Width-Thirty-five (35) feet as measured at the street right-of-way line.
    - g. Maximum Lot Coverage- The total lot coverage of all principal buildings and accessory structures shall not exceed fifty (50) percent of the lot area.
    - h. Accessory Structures- Accessory structures shall be located a minimum distance of thirty (30) feet from any front lot line and ten (10) feet from any side lot line.
    - i. Maximum Building Height- Thirty-five (35) feet.
    - j. Minimum Common Open Space- Twenty-five (25) percent of the gross area of the development. All common open space shall consist of accessible areas which are an integral part of the overall development design. Common open space areas need not be continuous in coverage;

however, only common open space areas which have a minimum area of one-thousand (1,000) square feet shall be considered as meeting the minimum requirement. No part of Lake Norman may be considered as common open space.

2. Other Requirements

a. The wall of the dwelling unit located on the lot line shall have no windows, doors, air conditioning units or any other types of openings.

b. Where adjacent zero lot line dwellings are not constructed against a common lot line, a perpetual wall easement of five (5) feet in width among the adjacent lot and parallel with such wall shall be provided. Roof overhangs may penetrate the easement on the adjacent lot a maximum of twenty-four (24) inches but the roof shall be so designed that water runoff from the dwelling placed on the lot line shall be limited to the easement area.

c. All common open space areas shall be maintained in a satisfactory manner without expense to Lincoln County.

d. Screening along the periphery of the development shall be required in accordance with Section 8.23.

e. Only one dwelling unit per lot shall be permitted.

f. All piers and docks on Lake Norman shall be subject to all pertinent regulations found in Section 8.22 of this Ordinance.

**Conditional Uses**

A. Amateur Radio Towers and Antennae

B. Land Clearing and Inert Debris Landfill

## Section 10.10

### **B-N Neighborhood Business District**

The purpose of this district is to accommodate a wide variety of commercial uses in local business centers. Unlike some of the other business zones, this district is established to serve relatively small trading areas. The standards established for these business areas are designed to promote sound permanent business development and to protect abutting or neighboring residential areas from undesirable effects of nearby business development.

These districts are located at accessible places with respect to traffic circulation in order to conveniently serve the trading population and to promote the grouping of several places of business at locations so designated. As this district is established to serve relatively small trading areas, certain gross floor area limitations have been established.

The B-N district will typically encompass a relatively small geographic area (as compared with the other Business (B) districts contained in this ordinance.

#### 10.10.1

##### **Permitted Uses**

- A. Offices, retail sales and business, financial, personal, recreational or educational services (except as may be prohibited or listed as a conditional use) provided the following conditions are met:
  - 1. No individual principal use shall have a gross floor area in excess of twenty-five thousand (25,000) square feet.
  - 2. A shopping center, office park or similar multi-tenant use which contains **(1)** any permitted use in the B-N District and **(2)** has a maximum gross floor area of fifty thousand (50,000) square feet.
  - 3. The following commercial uses shall not be allowed in the B-N District:
    - a. Junkyard, automobile salvage yards and similar uses of land where discarded or inoperable goods and items are stored in open areas predominate.
    - b. Outdoor racetracks, shooting ranges, amusement parks, bowling alleys and indoor skating rinks.
    - c. Oil and fuel bulk storage and/or distribution facilities,
    - d. Slaughterhouses and animal stockyards
    - e. Tire recapping facilities
    - f. Sawmills
- B. Government facilities, other than those listed as a conditional use

- C. Telecommunication / transmission towers and antennae with a maximum height of sixty (60) feet in height.
- D. Churches, including customary accessory uses, having a sanctuary capacity of up to one-thousand (1,000) seats
- E. Essential services, Classes 1 and 2
- F. Day care centers
- G. Civic, social and fraternal organizations
- H. Public safety stations
- I. Post office

10.10.2

**The following uses are permitted subject to the issuance of a Conditional Use Permit by the Lincoln County Board of Commissioners or through a rezoning to a conditional B-N district:**

- A. Farmer's market
- B. Flea market
- C. Auction sales (involving animals or conducted outdoors)
- D. Telecommunication / transmission towers and antennae in excess of sixty (60) feet in height, with a maximum of three hundred twenty-five (325) feet in height, provided that all front, side and rear yards are each at least one-hundred ten (110) percent of the structure's height
- E. Any shopping center, office park or similar multi-tenant development which **(1)** has a gross floor area of fifty-thousand (50,000) to one-hundred thousand (100,000) square feet and, **(2)** contains nonresidential uses which are permitted or conditional in the B-N District
- F. Animal kennels, animal shelters and riding stables
- G. Lumberyards
- H. Campgrounds, not owned and operated by a governmental agency
- I. Coliseums, meeting halls, stadiums and reception areas designed to seat or accommodate 1,000 or more persons
- J. Mini-marts
- K. Cemeteries, other than cemeteries which are accessory to a church

- L. Churches, including customary accessory uses, having a sanctuary capacity of over one-thousand (1,000) seats
- M. Motor vehicle, boat, farm equipment, and mobile home sales lots
- N. Land Clearing and Inert Debris Landfill
- O. Tattoo parlors/body-piercing studios

**10.10.3 Yard Requirements (except as otherwise provided)**

There shall be no minimum area or yard requirements for any Essential Services, Class 1 in the B-N district.

- A. Minimum lot size - Twenty-two thousand five-hundred (22,500) square feet
- B. Minimum lot width - Seventy (70) feet, as measured at the required front setback
- C. Minimum front setback- Thirty (30) feet, as measured from the edge of the street right of-way
- D. Minimum side setback- Ten (10) feet, except twenty (20) feet shall be required on all corner lots and lots which abut a Residential (R) district
- E. Minimum rear setback- Twenty (20) feet
- F. Maximum building height- Thirty-five (35) feet, except as permitted in Section 8.8 of this Ordinance





**Section 10.11**

**B-G General Business District**

The purpose of this district is to provide a wide array of retail and personal service uses for use by persons residing in and/or traveling through Lincoln County. Such uses shall be located and designed in such a manner so as to promote aesthetics, the safe and efficient movement of traffic and not unduly burden adjacent thoroughfares. Given the large amount of traffic generated by uses in such a district, any area so zoned shall have access onto an arterial or collector highway.

**10.11.1**

**The following uses are permitted by right:**

- A. Office, wholesale sales, retail sales and business, financial, personal, recreational or educational services (except as may be prohibited or listed as a conditional use) provided the following conditions are met:
  - 1. No principal use shall have a gross floor area in excess of fifty-thousand (50,000) square feet.
  - 2. A shopping center, office park or similar multi-tenant use which contains **(1)** any permitted use in the B-G District and **(2)** has a maximum gross floor area of one-hundred fifty thousand (150,000) square feet.
  - 3. The following commercial uses shall not be allowed in the B-G District:
    - a. Outdoor racetracks and outdoor shooting ranges
    - b. Slaughterhouses and animal stockyards
- B. Government facilities, not otherwise listed as a conditional use
- C. Telecommunication / transmission towers and antennae with a maximum height of sixty (60) feet
- D. Churches
- E. Essential Services, Classes 1 and 2
- F. Mini-Warehouses
- G. Civic, Social and Fraternal Organizations
- H. Public safety stations
- I. Laboratories: dental, medical, optical and research
- J. Auto repair garage
- K. Post office
- L. Hospitals



10.11.2

The following uses are permitted subject to the issuance of a Conditional Use Permit by the Lincoln County Board of Commissioners or through a rezoning to a conditional B-G district:

- A. Any permitted use in the B-G District (per Section 10.11.1) with a gross floor area in excess of fifty thousand (50,000) square feet
- B. Any shopping center, office park or similar multi-tenant development which **(1)** has a gross floor area in excess of one hundred fifty-thousand (150,000) square feet and **(2)** contains non-residential uses which are permitted or conditional in the B-G District
- C. Farmer's market
- D. Flea market
- E. Telecommunication / transmission towers and antennae in excess of sixty (60) feet in height with a maximum height of three hundred twenty-five (325) feet, provided that all front, side and rear yards are each at least one-hundred and ten (110) percent of the structure's height
- F. Animal kennels, animal shelters and riding stables
- G. Auction sales (involving animals or conducted outdoors) conducted on a regular basis
- H. Sawmills
- I. Oil and fuel bulk storage and/or distribution
- J. Lumberyards
- K. Mobile Home Parks, in compliance with Chapter 14
- L. Campgrounds, not owned and operated by a governmental agency
- M. Coliseums, meeting halls, stadiums and reception areas designed to seat or accommodate 1,000 or more persons
- N. Cemeteries, other than cemeteries which are accessory to a church
- O. Junkyard, automobile salvage yards and similar uses of land where discarded or inoperable goods which are stored in the open
- P. Machine shops
- Q. Land Clearing and Inert Debris Landfill
- R. Tattoo parlors/body-piercing studios

S. Nightclubs, subject to the following requirements:

1) No such establishment shall be located within two hundred (200) feet of residentially zoned property or within 500 feet of a church, elementary or secondary school, day care center, public park or public library, as measured from the nearest point of each property line.

2) No such establishment shall be located within 150 feet of any other such establishment as measured from the nearest point of each property line.

T. Adult establishments, subject to the following requirements:

1) No adult establishment shall be located within 500 feet of residentially zoned property or within 1,000 feet of a church, elementary or secondary school, day care center, public park or public library, as measured from the nearest point of each property line.

2) No adult establishment shall locate within 1,000 feet of any other adult establishment as measured from the nearest point of each property line.

3) No more than one adult establishment shall be located within the same structure, or portion thereof.

4) No other principal or accessory use may occupy the same structure, property, or portion thereof with any adult establishment.

5) No printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

6) Irrespective of the sign regulations contained in Chapter 13, no ground-mounted or free-standing signs for adult establishments shall be permitted. Wall signs shall not exceed 100 square feet in aggregate area. In no case, shall signage cover more than ten percent of the area of any wall.

7) Screening in the form of a Grade A screen shall be provided on the lot.

8) The Board of Adjustment shall have no authority to modify or grant variances from the separation requirements herein listed.

**10.11.3 Yard Requirements (except as otherwise provided)**

There shall be no minimum area or yard requirements for any Essential Services, Class 1 in the B-G district.

- A. Minimum lot size- None
- B. Minimum lot width- Seventy (70) feet, as measured at the required front setback
- C. Minimum front setback- Thirty (30) feet, as measured from the edge of the street right of-way
- D. Minimum side setback- Fifteen (15) feet, except thirty (30) feet shall be required on all corner lots and lots which abut a Residential (R) district
- E. Minimum rear setback- Twenty-five (25) feet
- F. Maximum building height- Thirty-five (35) feet, except as permitted in Section 8.8 of this Ordinance

**10.11.4 Screening**

Screening shall be provided in accordance with Section 8.2 of this Ordinance.

## **Section 10.12**      **I-G General Industrial District**

The purpose of this District is to allow for a wide variety of uses involved with the manufacturing, refining, processing, storage and assembly of goods. In addition, a number of non-industrial uses which are determined to be appropriate in an industrial setting and serve in a support capacity to the industrial uses are also allowed. Given the nature of this District and the intent of this Ordinance that most industrial-related uses be located in an industrial zone, a large variety of industrial uses are allowed on a permitted basis. Those uses which could have a significant impact on the environment, the provision of emergency management services, the County's water and sewer infrastructure, traffic volumes on public roads or impacts on adjacent properties which may not be located in the I-G district are shown as conditional uses. Any conditional use allowed in this district shall be properly cited and accommodated in such a manner so as to preserve the public's health, safety and welfare.

Given the nature of industrial activities in Lincoln County, tracts may be developed for industrial purposes which do not lie adjacent or in close proximity to other parcels which lie in an industrial district. In such instances, the Board of Commissioners may, if they deem it **(i)** to be in the public's best interest, and **(ii)** the public's health, safety and welfare are preserved, zone parcels to such a designation. Consideration should be given when making such decisions to the anticipated effect such rezoning would have on surrounding land uses, traffic volumes, environmental factors, and public utilities. In order to mitigate any potential negative effects resulting with such rezoning, parallel conditional rezoning of property to I-G should be considered.

It is the intent of this ordinance to allow any industrial use in the I-G district on either a permitted or conditional basis. In no instance, however, shall the following principal uses be allowed in the I-G district:

- A.      Nuclear waste storage facilities or depositories
- B.      Hazardous waste depositories or storage facilities

### **10.12.1**      **Permitted Uses**

The following uses are permitted by right:

- A.      Manufacturing, refining, processing, or assembly of goods or products subject to the following limitations (Note: The term "SIC" shall refer to the Standard Industrial Classification system as set forth in the SIC Manual published by the United States of America, Executive Office of the President, Office of Management and Budget and unless a use is defined in this Ordinance the SIC Manual shall be used to define, clarify or more specifically identify the uses and groups of uses listed under the I-G District. Provided however, while the SIC Manual uses the term "establishments primarily engaged in" in defining types of

manufacturing operations, this Ordinance shall be construed to mean that if the activity is conducted at all within the use and that activity is listed as conditional, then the entire use shall be deemed a "conditional use" as opposed to a "permitted use".):

1. Any manufacturing industry, except those listed as a conditional use in Section 10.12.2 of this Ordinance
  2. A planned multi-tenant development which contains any permitted use in the I-G district
- B. Agricultural equipment, sales and service
  - C. Automobile parking lots
  - D. Automobile painting, upholstering, repairs, reconditioning and body work
  - E. Automobile service stations
  - F. Bookbinding shops
  - G. Building materials and lumber sales
  - H. Cabinet, woodworking and upholstery shops
  - I. Churches
  - J. Commercial schools and schools providing training in any of the arts, sciences, trades and professions
  - K. Contractors storage and equipment yards
  - L. Convenience stores and mini-marts
  - M. Dry cleaning and laundry plants
  - N. Electric, plumbing, heating ventilating and air conditioning and construction supply houses
  - O. Essential Services, Classes 1 and 2
  - P. RESERVED
  - Q. Financial institution
  - R. Florist, wholesale
  - S. Food catering service and food vending supply
  - T. Freezer lockers
  - U. Government facilities not otherwise listed as a conditional use

- V. Ice plants
- W. Laboratories: dental, medical, optical and research
- X. Machinery repair
- Y. Manufactured home and recreational vehicle sales and service
- Z. Moving and storage facilities (including mini-warehouses)
- AA. Office-business, medical, optical and professional
- BB. Passenger bus terminal
- CC. Photo processing laboratories
- DD. Postal and parcel service processing facility
- EE. Post office
- FF. Product distribution plants
- GG. Public safety stations
- HH. Railroad terminals and yards
- II. Recycling deposit station
- JJ. Recycling sorting, shredding, cutting, and compacting facility
- KK. Restaurants, including fast-food restaurants
- LL. Roofing manufacturing, repair and installation facilities
- MM. Sign painting and manufacturing shops
- NN. Tin and sheet metal shops
- OO. Tire recapping shops
- PP. Towers and antennae one-hundred (100) feet or less in height
- QQ. Truck sales and repair
- RR. Union halls, fraternal and civic organization meeting facility
- SS. Vehicular and equipment outdoor storage (as a principal use) not for retail sales where:
  1. Such items are owned and/or operated by the owner of the lot upon which they are located.

2. Such items are in operating condition or intended to be operated.
- TT. Warehouses
- UU. Wholesaler, jobbers, bulk warehouses
- VV. Automobile sales lots
- WW. Retail sales as an accessory use with a manufacturing, assembly or distribution plant

### 10.12.2 **Conditional Uses**

The following uses shall be allowed upon the issuance of a Conditional Use Permit by the Board of Commissioners or through a rezoning to a conditional I-G district:

- A. The following manufacturing industries [as identified by their SIC Group Number or Industry Number(s)] shall be allowed subject to the issuance of a Conditional Use Permit by the Board of Commissioners:
1. Meat packing plants and poultry dressing plants (SIC #2011, 2015)
  2. Pickled fruits and vegetables (SIC #2035)
  3. Flour and other grain mill products, sugar refining (SIC #2041, 2061, 2062, 2063)
  4. Animal feeds and pet foods (SIC #2047, 2048)
  5. Fats and oils (SIC Group #207)
  6. Beer/malt beverages, wines, brandy, distilled and blended liquors, roasted coffee (SIC #2082, 2083, 2084, 2085, 2095)
  7. Processing and packing of canned, cured, fresh, or frozen fish and seafood (SIC #2091, 2092)
  8. The following manufacturing listed under (SIC #2099):
    - (a) Yeast
    - (b) Molasses and sweetening syrups
    - (c) Vinegar
  9. Tobacco products (SIC Major Group #21)

10. Dying and finishing textiles, except wool fabrics and knit goods (SIC Group #226) and under SIC #2231, 2253, 2252, 2251, the dying and finishing of wool and similar animal fibers
11. Coated fabrics, rubberized and not rubberized; canvas and related products (SIC #2295, 2394, 3069)
12. Sawmills and planing mills, general (SIC #2421)
13. Wood building and mobile homes (SIC Group #245)
14. Wood preserving; reconstituted wood products; pulp mills; paper mills; paperboard mills (SIC #2491, 2493; SIC Group #261; SIC Group #262; SIC Group #263)
15. Industrial inorganic chemicals; plastic materials, synthetic resins and rubber, cellulosic and other manmade fibers, except glass (SIC Group #281; SIC Group #282)
16. Soaps, detergents and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC Group #284)
17. Paints, varnishes, lacquers, enamels and allied products (SIC Group #285)
18. Industrial organic chemicals; agricultural chemicals (fertilizers, pesticides, etc.) (SIC Group #281; SIC Group #287)
19. Miscellaneous chemical products (all products listed under SIC Group #289) (e.g., adhesives, sealants, explosives, printing ink, carbon black, and "other chemical and chemical preparations" listed in SIC #2899)
20. Petroleum refining (SIC Group #291)
21. Asphalt paving and roofing materials (SIC Group #295)
22. Lubricating oils and greases (SIC #2992)
23. Products of petroleum and coal classified under SIC #2999
24. Tires and inner tubes (SIC Group #301)
25. Plastic products found under SIC Group #308 when resins are made at the same facility
26. Leather tanning and finishing (SIC Group #311)
27. Flat glass; glass and glassware; (SIC Group #321; SIC Group #322)
28. Cement, hydraulic (SIC Group #324)



29. Structural clay products (SIC Group #325)
30. Pottery and related products (SIC Group #326) except handmade pottery arts and crafts involving no more than 1,000 cubic feet of kiln space
31. Concrete gypsum and plastic products; Cut stone and stone products (SIC Group #327; SIC Group #328)
32. Abrasive products; asbestos products; mineral wool; (SIC #3291; SIC #3292; SIC #3296)
33. Minerals and earth's, ground or otherwise treated (SIC #3295)
34. Non-clay refractories (SIC #3297)
35. Miscellaneous nonmetallic mineral products listed under SIC Code #3299
36. Steel works, blast furnaces, and rolling and finishing mills; iron and steel foundries; primary and secondary smelting and refining of nonferrous metals; rolling, drawing and extruding of nonferrous metals; nonferrous foundries; (SIC Group #331; SIC Group #332; SIC Group #333 and 334; SIC Group #335; SIC Group #336)
37. Metal heat treating; metal forging -iron, steel and nonferrous; coating and engraving of metals and allied services (SIC #3398, SIC #3462 and 3463; SIC Group #347)
38. Manufacture of other primary metal products listed under SIC #3399
39. Manufacture of ordinance (arms, ammunition, etc.) and accessories except vehicles and guided missiles (SIC Group #348)
40. Power, distribution and specialty transformers (SIC #3612)
41. Electrical industrial carbon and graphic products (SIC #3612)
42. Storage batteries; primary batteries, dry and wet (SIC #3691; SIC #3692)
43. Motor vehicles; truck, bus and passenger car bodies; truck trailers; motor homes;(SIC #3711, 3713; SIC #3715; SIC #3716)
44. Railroad equipment (SIC #3743)

- 45. Motorcycles (SIC #3751) except bicycles and bicycle parts
  - 46. Aircraft; guided missiles and space vehicles and parts (SIC #3721; SIC Group #376)
  - 47. Under SIC #3792 - camping trailers
  - 48. (Military) tanks (and related armored vehicles) (SIC #3795) but not tank components
  - 49. Under SIC #3861 - all photographic supplies but not photographic equipment
  - 50. Under SIC #3952 all inks, paints, oils, enamels, and crayons
  - 51. Carbon paper and inked ribbons (SIC #3955)
  - 52. Linoleum, asphalt - felt-base, and other hard surface floor covering listed under SIC #3996)
  - 53. Mining (all of SIC Division B)
- B. RESERVED
  - C. Abattoirs
  - D. Privately owned airports and air strips/airplane sales, services and fuel and rentals
  - E. Animal kennels
  - F. Animal shelters, operated by a public agency or on a not-for-profit basis
  - G. Auctions, outdoors and/or livestock
  - H. Correctional Facilities
  - I. Day care center as a principal use (Note: accessory day care centers are permitted as an accessory use by right in the I-G district).
  - J. Essential Services, Class 3
  - K. Farmers' markets
  - L. Flea markets
  - M. Fuel oil distribution facilities
  - N. Fish hatcheries
  - O. Junkyard, automobile graveyards and scrap salvage yards

- P. Military Reserve Center/National Guard Armory
- Q. Outdoor storage of vehicles and/or equipment which are not for retail sale as a principal use which does not meet on or more criteria listed in Section 10.12.1 (SS) of this ordinance
- R. Race tracks
- S. Septic tank cleaning service
- T. Telecommunication / transmission towers and antennae in excess of sixty (60) feet with a maximum of three hundred twenty-five (325) feet in height with the following minimum setbacks:
  - a. One hundred (100) feet for all sides abutting industrial and business districts;
  - b. One hundred (100) percent of tower's height for all sides abutting residential districts.
- U. Construction, Demolition, and Landclearing Inert Debris Landfill
- V. Land Clearing and Inert Debris Landfill
- W. Adult Establishments, subject to the following requirements:
  - 1) No adult establishment shall be located within 500 feet of residentially zoned property or within 1,000 feet of a church, elementary or secondary school, day care center, public park or public library, as measured from the nearest point of each property line.
  - 2) No adult establishment shall locate within 1,000 feet of any other adult establishment as measured from the nearest point of each property line.
  - 3) No more than one adult establishment shall be located within the same structure, or portion thereof.
  - 4) No other principal or accessory use may occupy the same structure, property, or portion thereof with any adult establishment.
  - 5) No printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.
  - 6) Irrespective of the sign regulations contained in Chapter 13, no ground-mounted or free-standing signs for adult establishments shall be permitted. Wall signs shall not exceed 100 square feet in aggregate area. In no case, shall signage cover more than ten percent of the area of any wall.

7) Screening in the form of a Grade A screen shall be provided on the lot.

8) The Board of Adjustment shall have no authority to modify or grant variances from the separation requirements herein listed.

**10.12.3 Yard Regulations (except as otherwise provided)**

There shall be no minimum area or yard requirements for any Essential Services, Class 1 in the I-G district. For all governmentally owned airports there shall be a minimum 50' setback from all exterior property lines and there shall be no minimum lot size requirement and height requirement shall also be exempt provided they are in compliance with all FAA guidelines. Otherwise the following shall apply:

- A. Minimum lot size - none.
- B. Minimum lot width - one hundred (100) feet (as measured at the required front setback).
- C. Minimum front setback - fifty (50) feet (as measured from the edge of the street right-of-way line).
- D. Minimum side setback - twenty (20) feet, except fifty (50) feet shall be required on all lots which abut a Residential (R) District.
- E. Minimum rear setback - thirty (30) feet, except that fifty (50) feet shall be required on all lots which abut a Residential (R) District.
- F. Maximum Building Height- Fifty (50) feet

**10.12.4 Screening and Landscaping:**

Screening shall be required as provided in Section 8.2 of this Ordinance.



## **10.13**      **I-L Light Industrial District**

The purpose of this district to allow for the concentration of a variety of light industrial uses which, by their nature, would not likely have a significant negative environmental or land use impacts upon surrounding properties (e.g., such uses would not emit significant amounts of light, noise, or dust; the uses would generate significant amounts of traffic, etc.). Like other industrial districts, it is likely that the placement of this zoning district will not always be contiguous to other industrial or commercial areas. Thus, although all of the uses listed in the zoning district are on a use-by-right basis, wherever appropriate, the initial zoning of land to this zoning district should be on a parallel conditional use zoning basis. A limited number of non-industrial uses which frequently locate in proximity to industrial operations are included in this district. The outdoor storage of raw materials in this zoning district is precluded.

### **10.13.1**      **Permitted Uses**

The following uses are permitted by right:

- A. Any manufacturing industry or assembly or goods or products [as referenced and listed in the Standard Industrial Classification (SIC) Manual], except those which are listed as a conditional use in Section 10.2. of this Ordinance.
  - 1. A planned multi-tenant development which contains any permitted use in the I-L district
- B. Churches
- C. Commercial schools and schools providing training in any of the arts, sciences, trades, and professions
- D. Essential Services, Classes 1 and 2
- E. Government facilities
- F. Laboratories: dental, medical, optical and research
- G. Machinery Repair
- H. Moving and Storage Facilities (including mini-warehouses)
- I. Postal and parcel service processing facilities
- J. Post offices
- K. Product distribution plants
- L. Warehouses
- M. Wholesaler, jobbers, and bulk warehouses

- N. Public safety stations
- O. Restaurants, including fast-food restaurants
- P. Civic, Social and Fraternal Organizations
- Q. Retail sales as an accessory use with a manufacturing, assembly or distribution plant

**10.13.2 Conditional Uses**

- A. Land Clearing and Inert Debris Landfill
- B. Telecommunication/transmission towers and antennae (parallel conditional use rezoning). The maximum height allowed in this district is three hundred twenty-five (325) feet.

**10.13.3 Yard Regulations (except as otherwise provided)**

There shall be no minimum area or yard requirements for any Essential Services, Class 1 in the I-L district.

- A. Minimum Lot Size - None
- B. Minimum Lot Width - One-hundred (100) feet, as measured at the required front setback.
- C. Minimum Front Setback - Fifty (50) feet, as measured from the edge of the street right-of-way line.
- D. Minimum Side Setback - Twenty (20) feet, except fifty (50) feet shall be required on all lots which abut a Residential (R) district.
- E. Minimum Rear Setback - Thirty (30) feet, except fifty (50) feet shall be required on all lots which abut a Residential (R) district.
- F. Maximum Building Height - Fifty (50) feet

**10.13.4 Screening and Landscaping**

Screening shall be required as provided in Section 8.2 of this ordinance.

## CHAPTER 11:

### PLANNED DISTRICTS

#### **Section 11.1**      **Purpose**

A number of "planned" zoning districts are established in this zoning ordinance where large-scale developments of a unified nature can take place. Such developments shall be established so as to be in harmony with surrounding land uses, provide for the efficient flow of traffic both to the development and within the development, provide for adequate screening and landscaping between the development and adjoining land uses, and enhance the aesthetics of Lincoln County. This shall be accomplished by creating planned districts which contain land uses which are compatible with each other as well as those uses which abut the area contained in the planned district. In establishing a planned district, problems associated with unplanned, uncoordinated and unscheduled growth can be minimized or eliminated.

In view of the substantial public advantages of planned development, it is the intent of these regulations to promote and encourage development in this form where appropriate in location and character. The end result of this process is to **(1)** create new residential, commercial, industrial or mixed-use communities which are well-planned and aesthetically pleasing, **(2)** establish a framework for future growth and development in Lincoln County and **(3)** create new and exciting communities and neighborhoods where people can work and/or live in Lincoln County.

The planned district concept also provides a number of incentives to the developer. First and foremost it allows for the creation of developments which would not otherwise be able to be accommodated in Lincoln County. In such planned developments, both residential and commercial uses can be simultaneously accommodated. This is generally not allowed in the various general zoning districts. In addition, planned developments free the developer from following the various bulk and yard requirements found in the general zoning districts. Thus incentives are given for the creation of more imaginative, creative and well-designed developments which can be created in response to market conditions.

Given the nature of a Planned Zoning District and the pattern of development which has heretofore occurred in Lincoln County in certain instances uses which may be allowed in a certain planned district may be distinctly different from those which surround the properties located in such district. For instance, an area included in a planned industrial district may be located in a portion of the County which has witnessed little or no development. It is therefore specifically intended that when a planned district is created, specific safeguards are included in the action of the Board of Commissioners to maximize the compatibility of the district with surrounding land uses.

#### **Section 11.2**      **Designation**

Planned districts contained in this Ordinance shall be assigned a "P" classification. The following planned districts are hereby established:

- A.      **P-I**      **Planned Industrial District**
- B.      **P-O**      **Planned Office District**



- C. P-MU Planned Mixed Use District
- D. P-R Planned Residential District

**Section 11.3 Relationship of Planned District Regulations to Other Zoning and Subdivision Regulations**

The Planned District regulations herein contained shall apply to the initiation and regulation of all Planned Development Districts. Where there are conflicts between the Planned District regulations and general zoning, subdivision, or other regulations or requirements, these Planned District regulations shall apply in Planned Zoning Districts unless the Board of Commissioners find, in the particular case, that provisions herein do not serve public purposes to a degree at least equivalent to such general zoning, subdivision, or other regulations or requirements.

Where the actions or design of a Planned District proposed by the applicant are not literally in accord with applicable Planned District regulations, but the Board of Commissioners makes a finding, in the particular case, that public purposes are satisfied to an equivalent or greater degree, the Board of Commissioners may make specific modification of the regulations in the particular case. However, the Board of Commissioners shall not have the ability to modify, in a particular case, any regulations concerning the following items:

- A. Uses permitted in a particular planned zoning district
- B. Maximum floor area ratio per lot or per development
- C. Maximum impervious surface ratio per lot or per development

Except as herein indicated, the procedures outlines in this section shall pertain only to the various Planned Districts contained in this Ordinance and not to any other general or overlay district. All major residential subdivisions must be created within a Planned Residential or Planned Mixed-Use district and will be reviewed using the criteria specified in this chapter and Section 308 of the Lincoln County Subdivision Ordinance.

**Section 11.4 Creation of Planned Districts**

A Planned Zoning District may hereafter be established by amendment to the Zoning Map and related amendatory action, changing the designation of one or more contiguous lots from their existing zoning classification to one of the several Planned Districts contained in this Ordinance. Such zoning change may only be made by the Board of Commissioners where it has been determined that the area is suitable in location and character for the uses and structures proposed are to be planned and developed on a unified basis, according to the requirements and procedures set forth herein.

Planned Districts shall be appropriately located with respect to intended functions, to the pattern and timing of development, in accord with the adopted Land Use Plan, and to public and private facilities existing or to be available by the time the development reaches the stage where they will be needed.

All major residential subdivisions must be created within a planned residential or planned mixed use district and will be reviewed using the criteria specified in this chapter and section 308 of the Lincoln County Subdivision Ordinance.

## Section 11.5

### **Special Requirements for Areas Included in a Planned District**

#### A. Relationship to Road Network

A Planned Zoning District created pursuant to this Ordinance shall have access to and from a collector or arterial road (as designated on the latest edition of the Lincoln County Thoroughfare Plan). In no instance, however, shall any lot within such district access directly upon such arterial or collector road. Access to all lots within a Planned Zoning District shall be via internal roads designed to channel traffic into and out of the area contained in the Planned Zoning District.

Roads which provide public access but are privately maintained (i.e., private roads) may be allowed in a planned development. All such roads, however, shall be subject to meeting all applicable minimum NCDOT road specifications and standards.

#### B. Physical Character of the Site

The parcel(s) located in a Planned Zoning District shall be suitable for development in the manner proposed without hazards to persons or property, on or off the tract, free from the probability of flooding, erosion, subsidence or slipping of the soil, or other dangers. Conditions of soil, ground water level, drainage, and topography shall all be appropriate to both the kind and pattern of use intended. If appropriate to the form of planned development, lands to be included in Planned Zoning Districts may be divided by streets, alleys, rights-of-way, or easements, but shall be so located, dimensioned, and arranged as to permit unified planning and development and to meet all requirements in connection therewith, as well as to provide necessary protection against adverse relationships between uses in the district and uses in surrounding areas.

#### C. Size

Any Planned Residential, Industrial, Mixed Use, or Office Zoning District created shall consist of one or more tracts whose aggregate area shall be a minimum of fifteen (15) acres. Once a Planned Zoning District has been created, the Board of Commissioners shall have the authority to enlarge the size of the district, provided that all reasonable safeguards are taken to ensure that all enlargements serve to enhance the unity and coordination of the project with regard to physical design and layout and compatibility of land uses within and surrounding the boundaries of the district.

## Section 11.6

### **Procedures for Obtaining Planned District Zoning**

In addition to the requirements for Parallel Conditional Use rezoning indicated in Chapter 4A, the following items shall be submitted and procedures followed for securing the rezoning of one or more contiguous parcels to a Planned Zoning District classification.

## 11.6.1

### **Submittal of Project Proposal to the Zoning Administrator**

The following items shall be submitted to the Zoning Administrator with regard to the establishment of a Planned Zoning District in Lincoln County.

#### A. Report

A report shall be submitted which identifies all property ownerships and beneficial interests within the boundaries of the proposed Planned District and giving evidence of unified control of its entire area. The report shall state agreement of all present owners and holders of beneficial interest:

1. To proceed with the proposed development according to regulations existing when the map amendment creating the Planned Development District is passed, with such conditions as may be set by the Board of Commissioners; and
2. To conform in the process of development to the preliminary development concept plan, and to proposals for staging of development, according to requirements herein indicated; and
3. To provide such bonds, dedications, easements, guarantees, agreements, deeds of trusts, contracts, and/or covenants acceptable to the Board of Commissioners as may be reasonably necessary to protect the public interest in completion of such development according to approved plans, and for provision and continuing operation and maintenance of such areas, facilities, and functions as are not to be provided, operated, or maintained at general public expense, and to provide such dedications, contributions, or guarantees as are required for provision of needed public facilities and services.

#### B. Survey

A survey of the proposed Planned Development District showing property lines and ownership's; and existing features, including streets, alleys, easements, utility lines, existing land use, general topography, and physical features.

#### C. Preliminary Development Concept Plan

A Preliminary Development Concept for the Planned Zoning District, indicating:

1. The name of the proposed planned development, and the names of the developer(s) and professional planner(s).
2. Scale, date, north arrow.
3. Location, height, floor area, and use of existing structures, if any, and approximate location, orientation, height, floor area, and use of proposed structures or portions of structures.
4. Points of ingress and egress for principal pedestrian, private automotive, and waterway traffic, and circulation patterns within the Planned Zoning District.
5. Location, character, and scale of parking and service facilities, such as area and number of spaces in parking lots, character of structural parking, and the like; location of principal service areas for major structures or complexes. Such shall not be required for developments, or portions thereof, containing single and two-family dwelling units.
6. Relation of abutting land uses and zoning districts, including, where view protection is an objective, location of principal public viewpoints into or through the proposed Planned Zoning District.
7. Existing lots and blocks, if any, and general pattern of proposed lots and blocks, if any.
8. Type, location and character of existing and/or proposed public or private areas and/or facilities located within the development.
9. Restrictions, if any, on type or mix of land uses proposed for the Planned Zoning District.
10. Proposed floor area ratios, impervious surface ratios and common open space areas, as required by this Ordinance. Methods of how such open space areas shall be maintained; or proposals for conveyance of such open space areas to a public body.

The Preliminary Development Concept Plan is required for determination as to internal relationships between or among uses and activities proposed and their supporting systems and facilities, and relation to surrounding uses, activities, systems, and facilities.

With respect to Preliminary Development Concept Plans, it is the intent of these regulations that such plans shall include all data reasonably necessary for determining whether the proposed development meets the specific requirements, limitations, and intent of a particular type of Planned Development District. Therefore, information in addition to that specified above may be

requested by the Zoning Administrator when necessary to make such determinations with respect to a particular Planned Development District. Such information shall be provided, if reasonably necessary to make such determinations, before processing proceeds.

D. Special Surveys, Approvals, or Reports Required Where Development is Dependent on such Surveys, Approvals, or Reports

Special surveys, approvals, or reports required by law in the circumstances of a particular Planned Development proposal are required where development of a major element of the proposal or the entire proposal is dependent upon such special surveys, approvals, or reports.

E. Indications as to Nature and Succession of Staging

Where a Planned Development is to be constructed in stages, indications as to the nature of the Planned Development, uses, location, and floor areas or residential densities to be developed, and timing of the beginning and end of development of the first stage; and similar information on succeeding stages; provided, that in lieu of an indication of specific timing on succeeding stages, the initiation of succeeding stages may be made dependent upon completion of all or substantial portions of the first stage, within the time limits provided.

F. Proposals on Provision and Continuing Operation and Maintenance of Facilities for Common Use

Proposals describing provisions to be made concerning establishment and continuing operation and maintenance of such areas, facilities, and improvements as will be for common use by some of all of the occupants of the district and persons visiting the district, but which will not be provided, operated, or maintained at general public expense. These proposals shall give adequate assurance to the County that such areas, facilities and improvements will be continued, operated, and maintained without future expense to the taxpayers of Lincoln County.

G. Proposals Concerning Restrictive Covenants

Proposals concerning any restrictive covenants to be recorded with respect to property included in the Planned Zoning District.

H. Traffic Impact Study

A study prepared by a qualified transportation or traffic engineer or planner, including the following information:

1. Existing traffic conditions within the study area boundary.

2. Estimated traffic volumes to be generated by the proposed development, including the morning peak, and afternoon or evening peak.
3. Analyses of the capacities of intersections located with the study area boundary.
4. Recommendations for improvements to mitigate traffic impacts.

#### **11.6.2 Zoning Administrator Review**

On receipt of the items listed in Subsection 1(A-G), the Zoning Administrator shall review such items and circulate to other appropriate County and State agencies such documents to determine conformity with any adopted land use regulations, plans or studies applicable in the case. Unless delays occur caused by actions above and beyond the capacity of the Zoning Administrator, the applicant shall have the initial review of the documents submitted to him within sixty (60) days of their submittal. If such delays occur, the applicant shall be notified by first class mail prior to the expiration of the sixty day period. Such notification shall explain the cause of the delay and an approximate date when the review is anticipated to be completed. If more than sixty (60) days otherwise goes by without comment by the Zoning Administrator, the application shall automatically be placed on the agenda of the Planning Board's next regularly scheduled meeting.

#### **11.6.3 Notification to Applicant**

Following the review by the Zoning Administrator and others, the applicant shall be notified by first class mail by the Zoning Administrator concerning the suitability of the proposed development and any steps (if any) needed to be taken by the applicant to bring the development into conformity with all existing rules, regulations, adopted plans or comments made by persons reviewing the materials submitted. The Zoning Administrator shall also indicate that the applicant shall have thirty (30) days (from the date such notification is written) to confer with him in person concerning the proposed development. Should said thirty (30) day period pass and no further modifications to the materials submitted by the applicant are made, the Zoning Administrator shall make a report concerning the proposed Planned Zoning District to the Planning Board.

If the applicant joins in such conferences with the Zoning Administrator, changes may be made in the original proposal, further conferences may be held, and additional material may be requested to guide in determinations. If the applicant joins in such conferences with the Zoning Administrator, the normal period specified for Zoning Administrator study of amendments shall be waived by the applicant, so that sufficient time may be available for the conferences.

In the course of such preliminary conferences, recommendations for changes shall be recorded in writing along with the reasons therefore, and shall become part of the record in the case. Applicants shall indicate, in writing, their agreement to such recommendations or their disagreement and the reasons therefore; such response by applicants shall also be included in the record.

#### **11.6.4 Notification to Planning Board**

At such time as further conferences appear unnecessary, or at any time upon request of the applicant prior to or after the expiration of the thirty (30) day review period, the Zoning Administrator shall prepare a written report to the Planning Board, containing the following findings:

- A. As to the suitability of the tract for the general type of Planned Zoning District proposed, physical characteristics of the land, and relation of the proposed development to surrounding areas and existing and probable future development;
- B. As to relation to major roads, utilities and other facilities, and services;
- C. As to the adequacy of evidence on unified control and suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guarantees, or other instruments, or the need for such instruments, or for amendments in those proposed;
- D. As to the suitability of proposed plans and the desirability of amendments;
- E. As to the adherence of Planned District or general regulations or as to desirable specific modifications in planned development or general regulations as applied to the particular case, based on determination that such modifications are necessary or justified in the particular case by demonstration that the public purposes of planned development or other regulations would be met to at least an equivalent degree by such modifications;
- F. As to the suitability of the proposed time for the beginning and the completion of the Planned District.

Based on such findings, the Zoning Administrator shall recommend approval of the planned development amendment proposed, approval conditioned on specific modifications, or disapproval, with recorded reasons therefore.

#### **11.6.5 Planning Board and Board of Commissioners Review**

The Planning Board and Board of Commissioners shall both review the materials submitted and the comments of the Zoning Administrator and other persons reviewing said materials in accordance with Sections 4A.5 and 4A.6 of the Zoning Ordinance. Once a public hearing is called for by

the Board of Commissioners (in accordance with Section 4.7), the Board of Commissioners can render a decision on the application in accordance with Section 4A.7.

**11.6.6 Board of Commissioners' Action**

If the petition to rezone the parcel(s) in question to a Planned Zoning District is granted, the Board of Commissioners shall, in its amending action, approve the Preliminary Development Concept Plan submitted by the applicant or indicate required modifications. Such approved plan, with required modifications, if any, shall be binding in determinations concerning final development plans.

If the amendment is granted, the development shall be required to be in accord with final development plans meeting the requirements of these and other regulations, as supplemented or modified by the Board of Commissioners in the particular case as part of the amending action, and shall conform to any time limitations established by the Board of Commissioners on beginning and completion of the development as a whole, or in specified stages.

Before development may proceed, agreements, contracts, deed restrictions, sureties, and other instruments involved shall be in a form approved by appropriate officer(s) or agencies.

**11.6.7 Issuance of Zoning Permits**

After a Planned Zoning District has been established, no zoning permit shall be issued therein unless and until the Zoning Administrator has approved final plans and reports for the development as a whole or for stages or portions thereof deemed satisfactory in relation to total development.

Approval of final plans and reports shall be based on compliance with regulations applying at the time the land was zoned to a Planned Zoning District status, including such specific modifications as were made by the Board of Commissioners in its amending action.

Final plan approval is an administrative action. No public notice or hearing is required in connection with approval proceedings on final plans or changes in approved plans. The Zoning Administrator may hold meetings, with such notice as he deems appropriate, in connection with such actions.

Except as provided below, final plans and reports approval shall be binding on the applicants and any successors in title, so long as planned zoning classification applies to the land.

Changes in approved preliminary plans may be permitted by the Zoning Administrator on application by the original applicant or successors in interest, but only upon making a finding that such changes are in accord with the development concept plan approved by the Board of Commissioners when creating said Planned Zoning District along with



any conditions placed on the development in said Planned Zoning District.

In reaching his decision as to whether or not the change is substantial enough to require reference to the Planning Board (for review) and Board of Commissioners (for amendment to the zoning classification to permit such changes), the Zoning Administrator shall use the following criteria:

- A. Any increase in intensity of use shall constitute a modification requiring Board of Commissioners' action. An increase in intensity of use shall be considered to be any of the following: **(i)** an increase in usable floor area (in either principal or accessory structures) by greater than five (5) percent, or; **(ii)** an increase in the number of dwelling or lodging units by greater than five (5) percent, or; **(iii)** an increase in outside land area devoted to sales, displays, or demonstrations by greater than five (5) percent.
- B. Any change in parking resulting in an increase of five (5) percent or more in the number of spaces approved shall constitute a change requiring Board of Commissioners action.
- C. Structural alternations significantly affecting the basic size, form, and style of building, as shown on the approved plan, shall be considered a change requiring consideration by the Board of Commissioners.
- D. A decrease of more than five (5) percent in the amount of open space or any substantial change in the location or characteristics of open space, shall constitute a change requiring consideration by the Board of Commissioners action.
- E. A change of greater than five (5) percent in the mix of any particular dwelling type within the planning district containing residential uses.
- F. Any change in use from one use group to another shall constitute a change requiring consideration by the Board of Commissioners. In addition, a request to change a use to a use which has been specifically excluded from the development by the Board of Commissioners shall require Board of Commissioners action.
- G. Substantial changes in pedestrian or vehicular access or circulation shall constitute a change requiring consideration by the Board of Commissioners.

#### **11.6.8 Expiration of Time Limits of Planned Zoning Districts**

If actions required in any amendment establishing a Planned Zoning District are not taken within the time limit set, the Zoning Administrator shall review the circumstances and recommend to the Planning Board and Board of Commissioners:

- A. That the Planned Zoning District for the entire area be continued with revised time limits; or

- B. That the Planned Zoning District be continued for part of the area, with or without revised time limits, and the remainder be rezoned to an appropriate category; or
- C. That the entire district be rezoned from a Planned District to an appropriate general zoning district.

**Section 11.7**                    **P-R Planned Residential District**

The Planned Residential District is hereby established in order to accommodate the development of residential communities that may incorporate a full range of housing types and limited commercial uses that primarily serve the residents of the planned residential community. In order to encourage high-quality design and innovative arrangements of buildings and open space uses throughout the project site, this district provides substantial flexibility from the conventional use and dimensional requirements found in the general residential zoning districts.

The purpose for special regulations for planned residential developments is to promote variety, innovation, and flexibility in development by allowing certain variations in lot sizes, dwelling unit types and use or design requirements which:

- A. Permit a creative approach to the development of residential land;
- B. Accomplish a more desirable environment than would be possible through the strict application of minimum requirements of the Zoning Ordinance;
- C. Provide for an efficient use of land;
- D. Enhance the appearance of neighborhoods through preservation of natural features;
- E. Provide for recreational areas and open space; and
- F. Provide an opportunity for new approaches to living environment and provide an environment of stable character compatible with surrounding residential areas.

**11.7.1**                    The following uses may be allowed within a P-R district:

- A. **Permitted Uses**
  - 1. Single-family detached dwellings
  - 2. Two-family dwellings
  - 3. Multi-family dwellings
  - 4. Town houses, patio homes, lot line homes, atrium homes
  - 5. Family care homes
  - 6. Essential Services, Class 1 and 2

7. Retail establishment, offices, health facilities, educational institutions, churches and governmental buildings provided that:
  - a. The total project area for development in the P-R District is at least 100 acres;
  - b. Such uses shall be directed and operated primarily for the service and convenience of the residents of the project area. The burden shall be on the petitioner for reclassification to a P-R District to show beyond a reasonable doubt that office and business uses are intended to serve primarily the residents of the project area;
  - c. Lots containing such uses shall not constitute more than one (1) acre per one-hundred (100) dwelling units located in a P-R District.
  - d. The area to be occupied by such uses shall be planned and designed as an integral part of the total project area;
  - e. Vehicular access to such uses shall only be made on a local street within the P-R District;
  - f. No part of any building designed for or intended to be used for such uses shall be constructed prior to the construction of at least fifty (50) percent of the dwelling units proposed for the project area, or 200 dwelling units, whichever is less;
  - g. Such uses shall require a Grade C (see Figure 8-3) screen on any side or rear lot line which borders a residential use within the P-R District. A Grade C screen shall be required on any side or rear lot line which separates an office or retail use and another Residential (R) District. An opaque wall or fence (per Section 8.2.3) may be substituted for a Grade C screen.
  - h. No such use shall be open for business between the hours of 11:00 P.M. and 5:30 AM;
  - i. No direct beams of light from outdoor lighting fixtures, signs, or vehicles maneuvering on the site of the use will shine into any principal residential structures.
8. Accessory Marinas, provided that:

- a. The marina shall be designed to accommodate the boats belonging to residents of the PR District and their guests.
  - b. A restaurant may be associated with the marina provided the P-R District contains a minimum of two hundred (200) dwelling units.
  - c. A commercial boat service operation in conjunction with the marina may not be permitted.
- 9. Country clubs
  - 10. Noncommercial social, recreational and cultural facilities designed to be used by residents of the P-R District including community centers, libraries, swimming pool, tennis courts, athletic fields, etc.
  - 11. Golf courses
  - 12. Bed and breakfast establishments
  - 13. Private residential quarters

**11.7.2 Yard Requirements**

- A. Minimum project area – 15 acres
- B. Perimeter setback - No building or structure shall be located within one-hundred (100) feet of any street right-of-way line which defines the outer boundary of a P-R District unless a Grade 3 Screen is placed on the property so as to screen said building from said right-of-way.
- C. Nonresidential use setbacks - any nonresidential use located in a P-R District shall meet all setback regulations as governed in the B-G District.
- D. Maximum building height - fifty (50) feet.
- E. Common Open Space- Common open space, based on the total acreage included in the property(ies) proposed for zoning to a PR district (and any subsequent additions to such zoned areas) shall be provided in the following manner:

<u>Gross Area of Site</u>	<u>% of Site in Common Open Space</u>
15 - 149.9 Acres	12.5 Percent
150+ Acres	10.0 Percent, with a minimum of 18.75 acres

- 1. All common open space shall be set aside and improved no later than the date on which certificates of occupancy are issued for the first fifty (50) percent of the total number of dwelling units to be constructed within the project area.

2. No more than fifty (50) percent of all common open space shall be covered by water.
  3. Any fully enclosed structure located in any common open space area shall be accessory to the recreational use of the development and such structures shall, in total, not cover more than ten (10) percent of all common open space areas.
  4. Common open space areas (including recreational facilities) shall not be operated on a for-profit basis.
  5. The required open space shall be situated generally in or through the center of the project area or along the streets bounding the project area and shall be designed and improved so that they are accessible and usable by persons living in the project area.
  6. Common open space areas, as required by this section, shall be so counted if they contain a minimum area of five-hundred (500) square feet.
  7. All of the required open space shall be conveyed to the trustees of a homeowners association or similar joint ownership organization created for the project area, or to Lincoln County (subject to the approval of the Board of Commissioners).
- F. Phasing - Each phase of a multi-phase project within a P-R District should be able to stand as an independent project. At no point in the development of a multi-phase project shall the density of residential development in a completed phase of the project area exceed the maximum density herein established.
- G. Access - Any area proposed for PR zoning shall have at least two hundred (200) feet of frontage on an arterial or collector road (as designated on the most recent Lincoln County Thoroughfare Plan). There shall be no direct access from any existing public road to any lot located in the P-R District except via an internal road within the development. No two points of access onto an existing collector or arterial road shall be located closer than two hundred (200) feet apart.
- H. Screening - A Grade A screen (see Figure 8-1), as a minimum, shall be required along any rear or side lot line separating multi-family dwellings (and accessory parking and service areas) and other residential dwellings located in the PR District or in an abutting Residential (R) Zoning District. A Grade C (see Figure 8-3) screen, as a minimum, shall be required along any side or rear lot line separating any residential use in the P-R District from an abutting nonresidential zoning district. An opaque wall or fence (per Section 8.2.3) may substitute for either required

Screen. Screening, as required, in this subsection, shall be located on the lot contained on the P-R District.

- I. Off-Street Parking and Loading- Off-street parking and loading shall be provided as required in Chapter 9 of this Ordinance.
- J. Utilities- All electrical and telephone service lines within a P-R District shall be located underground.
- K. Signs- Signs shall be in accordance with Chapter 13.

## **Section 11.8**      **P-I Planned Industrial District**

The purpose of this district is to create a planned industrial area which provides for one or more principal industrial uses to be located in the development. Such development shall take place in one or more programmed series of development operations and provide for employment opportunities for local residents to be developed in an orderly manner. In order to accommodate potentially large traffic flows, an P-I District shall have direct access to an arterial highway (or collector road, if said collector road intersects with an arterial road one (1) mile or less from the point of ingress of egress of the P-I district) and shall not be located so as to create and heighten traffic problems along adjoining existing minor streets or in adjoining residential areas. Public utilities (i.e., sanitary sewers, water lines, storm and surface drainage systems) shall also be provided on site to adequately serve the development.

Development within an P-I District may take place on one or more lots so zoned. All development within a particular P-I District shall take place in a planned and coordinated manner. Once an P-I District is created the Board of Commissioners may elect to add additional properties to the district so long as said properties are abutting and related to the existing P-I District. A fifteen (15) acre minimum lot size is required for the establishment of an P-I District. Subsequent additions to an P-I District shall be of parcels which contain one (1) or more acres of land.

Given the nature of the District, industrial uses are encouraged. However, certain non-industrial uses which may act in a support capacity to the development may be allowed. Such uses may, at no time, constitute more than ten (10) percent of the gross floor area of any portion of a particular P-I District developed.

A wide array of uses are permitted in an P-I District. In approving the establishment of such a District, certain uses may be denied by the Board of Commissioners if they are not deemed to be compatible with the character of the surrounding area and/or compatible with the other uses located in the P-I District.

The P-I District shall serve as an alternative to the I-G District for industrial uses to be located. Rezoning to a P-I District shall be voluntary on the part of the applicant. The P-I District is viewed as a sound means of introducing industrial developments in portions of Lincoln County which may not have witnessed industrial development in the past while at the same time protecting property values of surrounding properties.

### **11.8.1**      **Permitted Uses**

- A. Manufacturing, storage, warehousing, refining, processing, or assembling of goods. The following manufacturing industries (as identified by their Standard Industrial Classification number) shall be permitted in a P-I District:

1. Any manufacturing industry (as identified by its SIC Group Number or Industry Number) which is allowed on a permitted basis in the I-G district.
- B. Office buildings containing public and/or private offices
- C. Convenience stores
- D. Banks, savings and loan institutions and credit unions
- E. Governmental buildings
- F. Restaurants
- G. Essential Services, Class 1 and 2
- H. Business, professional, labor, civic, social, and fraternal meeting facilities
- I. Day care centers (including accessory day care centers)

#### 11.8.2

#### **Yard and Development Requirements**

- A. Minimum Area - the establishment of an P-I District shall be on one or more parcels having a combined area of at least fifteen (15) acres. Additional parcels (or portions thereof) may be added to a P-I District provided any such additions contain at least one (1) acre.
- B. Minimum Lot Area - any lot (other than a lot containing an Essential Service) within a P-I District shall have a minimum area of at least one (1) acre.
- C. Development Frontage - at least two hundred (200) feet of frontage on an arterial or collector road (as designated on the most recent Lincoln County Thoroughfare Plan) shall be required in any P-I District.
- D. Perimeter Setbacks - all principal and accessory structures shall be set back at least one hundred (100) feet from any public road which borders the perimeter of a P-I District. A fifty (50) foot setback shall also be required along any lot line which separates a P-I District from any other District.
- E. Internal Setbacks - the following setbacks shall be observed within an P-I District on all lot lines which do not border a public road or another zoning district:
  1. Front Setback - forty (40) feet
  2. Side Setback - twenty (20) feet
  3. Rear Setback - forty (40) feet

- F. Maximum Building Height - Fifty (50) feet
- G. Bulk Requirements - bulk requirements for any individual lot within an area located in a P-I District shall be calculated based on the aggregate area of the tract(s) used to determine the boundaries of the P-I District. Such calculations shall be as follows:

<u>Aggregate Area of Tract(s) Located in an P-I District</u>	<u>Maximum Floor Area Ratio</u>	<u>Maximum Impervious Surface Ratio</u>
15 - 249 Acres	0.30	0.55
250+ Acres	0.35	0.60

The following shall serve as an example of how this Table is to be read:

If a particular P-I District had an aggregate area of 180 acres, the maximum amount of development which could take place on the site is 2,352,240 square feet of gross floor area. Similar the maximum amount of impervious surface area within the entire site would be 4,312, & 440 square feet. At no time during any phase of construction shall these maximum ratios for the development be exceeded.

- H. Off-Street Parking and Loading - Off-street parking and loading shall be as provided in Chapter 9 of this Ordinance. In no instance, however, shall off-street parking or loading take place within one hundred feet of any public road which borders the perimeter of an P-I District nor within any required setback.
- I. Utilities - all electrical and telephone service lines within any P-I District shall be located underground.
- J. Vehicular Access - There shall be no direct access from any existing public road to any lot or principal use within a P-I district except via an internal road within the development. Any two points of access onto an existing public road from the development shall be five-hundred (500) feet or more apart.
- K. Signage - signage for all uses within a P-I District shall be in accordance with Chapter 13 of this Ordinance.
- L. Screening - A Grade C (see Figure 8-3) screen plus an opaque wall or fence shall be required along side and rear property lines which form the outer perimeter of a P-I District.



**Section 11.9**

**P-O Planned Office District**

The purpose of this District is to create areas in the County where planned office developments can be located. Like the other planned (i.e., "P") zoning districts included in this Ordinance, all development within a particular P-O District shall take place in an orderly and planned manner. In order to minimize any potential traffic problems both within the development and on roads leading to the development, all aspects of ingress and egress and traffic flow must be approved prior to the Board of Commissioners approval.

It is recognized that in today's market, certain non-office types uses have a need to be located in the environs of a planned office area. This Ordinance recognizes that fact and makes provisions for the establishment of a limited number of non-office uses in any particular P-O District. Such non-office uses include general retail uses. The P-O District should not be viewed as a district in which "shopping centers" and similar clusters of retail uses are allowed to develop. Retail uses, allowed in such developments should serve in an ancillary capacity to other office-type uses.

**11.9.1**

**Permitted Uses**

- A. Offices - public and private
- B. Banks, savings and loan institutions, credit unions
- C. Educational institutions
- D. Day care centers (including accessory day care centers within any permitted use)
- E. Business, professional, labor, civic, social and fraternal meeting facilities
- F. Health institutions
- G. Governmental buildings
- H. Retail uses
- I. Warehouses
- J. Wholesaling establishments
- K. Essential Services, Class 1 and 2
- L. Hotels (including accessory restaurants, meeting facilities, etc. which are located internally within the hotel)
- M. Restaurants

## 11.9.2

### Yard And Development Requirements

- A. Minimum Development Area - the total project area for a development to be located in a P-O District shall be a minimum of fifteen (15) acres. Additional parcels (or portions thereof) may be added to an existing P-O District provided that each such addition contain an aggregate area of at least one (1) acre.
- B. Minimum Gross Floor Area Per Use - none
- C. Maximum Gross Floor Area Per Use - none, except that any retail use or restaurant (not located within a motel or hotel) located in an P-O District may have a gross floor area of up to ten thousand (10,000) square feet. In addition, the combined gross floor area of all retail uses, restaurants, and hotels (including all accessory uses within the hotel) shall not exceed ten (10) percent of the gross leasable building area within any P-O District.
- D. Development Frontage - at least two hundred (200) feet of frontage on an arterial or collector road (as designated on the most recent Lincoln County Thoroughfare Plan) shall be required in any P-O District.
- E. Perimeter Setbacks - all principal and accessory structures shall be set back at least one hundred (100) feet from any public road which borders the perimeter of an P-O District. A fifty (50) foot setback shall also be required along any lot line which separates an P-O District from any Residential (R) District; otherwise a thirty (30) foot setback shall be required along any lot line which separates a P-O District from any other zoning district.
- F. Internal Setbacks - the following minimum building setbacks shall be observed on all internal streets within a P-O District:
  - 1. Front Setback - forty (40) feet
  - 2. Side Setback - twenty (20) feet
  - 3. Rear Setback - forty (40) feet
- G. Maximum Building Height - none
- H. Bulk Requirements - bulk requirements for the area located within a P-O District are herein provided. Such requirements shall be based on the aggregate amount of development within an entire P-O District. While maximum floor area ratios and impervious surface ratios on any lot may exceed the figures herein indicated, at no time shall these figures be exceeded for the development as a whole.

<u>Aggregate Area of Parcel(s) Located in an P-O District</u>	<u>Maximum Floor Area Ratio</u>	<u>Maximum Impervious Surface Ratio</u>
15 - 99 Acres	0.30	0.65
100+ Acres	0.35	0.70

The following shall serve as an example of how this Table is to be used:

A P-O District may consist of a 20-acre office park containing office condominiums and a warehouse facility. The maximum amount of development which can take place on the site is 217,800 square feet. Similarly, the maximum amount of impervious surface area within the entire site shall be 522,720 square feet. At no time during any phase of construction shall these maximum ratios for the development be exceeded.

- I. Off-Street Parking and Loading - Off-street parking and loading shall be as provided in Chapter 9 of this Ordinance. In no instance, however, shall off-street parking or loading take place within one hundred feet of any public road which borders the perimeter of an P-O District nor within any required setback.
- J. Utilities – All electrical and telephone service lines shall be located underground.
- K. Vehicular Access - There shall be direct access from any existing public road to any lot located in a P-O district. Access to any P-O District shall be via an arterial or collector road. Access to all such lots and principal uses shall be provided by internal roads within the development. Any two points of access onto the same arterial or collector road from a P-O District shall be two hundred (200) feet or more apart.
- L. Phasing - Each phase of a multi-phase project within a P-O District should be able to stand as an independent project. At no point in the development of a multi-phase project shall the density of development in a completed phase of the project area exceed the maximum density levels herein established.
- M. Screening - A Grade A screen, as a minimum, shall be required along any rear or side lot line separating the P-O district from a Residential (R) zoning district.
- N. Outdoor Storage - Outdoor storage of goods in a P-O District is prohibited.
- O. Signage - Signage shall be in accordance with Chapter 13 of this Ordinance.

**Section 11.10**      **P-MU Planned Mixed Use District**

The purpose of this District is to allow a variety of complimentary residential, office and commercial uses in a planned and orderly layout. Unlike most other zoning districts in this Ordinance, the P-MU District allows for commercial and residential areas to be interspersed and developed adjacent to each other in one integral unit in either a horizontal or vertical manner. It is intended that this District help create mixed use complexes in which mutually supporting residential, commercial and office complexes are scaled, balanced and located so as to result in a more homogenous environment than if such uses were developed individually. The end result of this process should be that housing will be provided in close proximity to shopping and employment destinations and traffic can be better channeled within such a development rather than along the existing highway network.

In order to promote good design, the safety of pedestrians and motorists, and efficient usage of land, the following criteria shall be addressed and incorporated into all areas proposed for P-MU zoning:

- A. That residential uses be so separated from major vehicular traffic flows and other disquieting influences as to protect privacy and tranquillity; and
- B. That general commercial and service uses be concentrated for maximum pedestrian convenience and located for easy accessibility by residents of the district, workers within the district, and that commercial frontage is uninterrupted by residential or office uses; and
- C. That major employment uses be so located as to be convenient to collector or arterial streets.
- D. Where such Districts adjoin residential neighborhoods, it is intended that arrangement of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potential adverse effects.

**11.10.1**      **Permitted Uses**

- A. Single-family dwellings
- B. Two-family dwellings
- C. Multi-family dwellings
- D. Townhouses, lot line homes, atrium homes, patio homes
- E. Offices - private and public
- F. Banks, savings and loans and credit unions
- G. Day care centers (including accessory day care centers)
- H. Retail establishments, provided that there be no outdoor storage of goods or display of items
- I. Hotels and motels

- J. Churches
- K. Indoor recreation facilities including (but not limited to) theaters, bowling alleys, skating rinks and video arcades
- L. Government buildings and facilities, provided that there be no outdoor storage
- M. Essential Services, Class 1 and 2
- N. Business, professional, labor, civic , social and fraternal meeting facilities
- O. Restaurants (including fast-food restaurants)

**11.10.2 Yard Requirements**

- A. Minimum Area - an area proposed to be zoned P-MU must initially contain a minimum of fifteen (15) acres. The Board of Commissioners may subsequently increase the size of any created P-MU District. Any area proposed to be added to an existing P-MU District must contain a minimum of one (1) acre.
- B. Maximum Gross Floor Area Per Use - none
- C. Access - An area proposed for P-MU zoning shall contain at least two hundred (200) feet of frontage on an arterial or collector road (as designated on the most recent Lincoln County Thoroughfare Plan) shall be required in any P-MU District. There shall be no direct access from any existing public road to any lot located in the P-MU district except via an internal road within the development. No two points of access onto an existing collector or arterial road shall be located closer than two-hundred (200) feet apart.
- D. Perimeter Setbacks - all principal and accessory structures shall be set back at least one hundred (100) feet from any public road which borders the perimeter of a P-MU District. A fifty (50) foot setback shall be required along any side or rear lot line separating a lot containing a principal nonresidential use and a Residential (R) District; otherwise, a thirty (30) foot setback along a rear or side lot line shall be maintained.
- E. Maximum Building Height - none
- F. Off-Street Parking and Loading - Off-street parking and loading shall be as provided in Chapter 9 of this Ordinance. In no instance, however, shall off-street parking or loading take place within one hundred feet of any public road which borders the perimeter of an P-MU District nor within any required setback.
- G. Utilities - All electrical and telephone service lines within a P-MU District shall be located underground.
- H. Common Open Space - Common open space, based on the total acreage included in a P-MU District (and any subsequent

additions to such zoned area) shall be provided in the following manner:

<u>Gross Area of Development Site</u>	<u>% of Project Area to be Devoted to Common Open Space</u>
15 - 99.9 Acres	10 Percent
100+ Acres	8 Percent, with a minimum of ten (10) acres

1. All common open space shall be set aside and improved no later than the date on which certificates of occupancy are issued for the first 50 percent of the total number of dwelling units to be constructed within the project area.
  2. No more than 50 percent of all common open space shall be covered by water.
  3. Any structures located in any common open space shall be accessory to recreational use of the space and shall cover no more than ten (10) percent of all common open space.
  4. Common open space and common recreational facilities shall not be operated as a for-profit enterprise.
  5. To the extent possible, the required common open space shall be situated generally in or through the center of the project area or along the streets bounding the project area and shall be designed and improved so that it is accessible to and usable by persons living in the project area.
  6. Common open space areas, as required by this section, shall be so counted if they contain a minimum of five hundred (500) square feet.
  7. All of the required common open space shall be either conveyed to Lincoln County, if the Board of Commissioners agrees to accept ownership of and to maintain any or all of such space, or conveyed to the trustees of a homeowners association or similar joint ownership organization created for the project area.
- I. Phasing- Each phase of a multi-phase project within a P-MU district should be able to stand as an independent project. At no point in the development of a multi-phase project shall the amount of common open space required be deficient in size.
  - J. Signage - Signage shall be in accordance with Chapter 13 of this Ordinance.
  - K. Screening - Screening, in the form of a Grade C screen (see Figure 8-3) shall be required along any side or rear yard which forms the outer perimeter of a P-MU District. If an industrial use

adjoins said outer perimeter, an opaque wall or fence (per Section 8.2.3) shall also be required. Screening within the P-MU district may also be required between residential and nonresidential uses.

- L. Nonresidential use setbacks - any nonresidential use located in a P-MU District shall meet all setback regulations as provided in the B-G District.

## CHAPTER 12:

### OVERLAY DISTRICTS

Overlay Districts are established to provide for certain additional requirements for properties located in one or more general zoning districts. Thus, in addition to the requirements of the underlying general zoning district, the provisions of the Overlay District would also prevail in the areas so zoned. The initial zoning of areas to an Overlay District and/or any subsequent rezoning may be initiated by an individual, agency of Lincoln County, or member of the Planning Board or Board of Commissioners. A zoning map change either establishing or changing any Overlay District shall be subject to the same procedures and requirements as any other zoning map change. In certain areas of Lincoln County, two or more Overlay Districts may apply. In any such instance where there are conflicting provisions, the more stringent requirements shall apply. **(NEW "16" & "321" – NO DRIVE WAY CUTS)**

#### **A. DH Corridor Highway Overlay District**

The purpose of the DH District is to preserve and enhance the streetscape along "designated special highways" and "designated corridor roads" in Lincoln County. A DH District may exist along the entire length of a roadway or along an identifiable segment of a roadway of at least one-thousand linear feet in length (as measured along one side of the road).

A "designated special highway", in general, is a road where the preservation of aesthetics and enhancement of development potential of properties near and abutting said highway need to be maximized through the use of sound land use regulations. Roads which are so designated will frequently be new roads which have not previously witnessed a significant amount of development. Such roads may or may not be of the limited access variety. A "designated special highway" may also be found in the vicinity of an interchange of a limited access highway.

A "designated corridor road" will most often be a road whose primary purpose is to provide access to abutting properties and to facilitate inter-County travel. Such roads may contain more than two lanes and may be divided. Both existing and new roads may receive such designation. These roads, in general, will not be of the limited access variety.

Although designated special highways and corridor roads may vary in character, particular aspects of development along those roads raise common concerns. They, therefore, should be managed in a manner which preserves and/or enhances aesthetics, promotes the safe flow of travel, and enhances the landscape. Where a DH District is approved by the Board of Commissioners, it shall consist of all lots fronting on the special highway or corridor road in the area so zoned. The actual depth of a particular DH District (the distance measured perpendicularly from said road) shall be as determined by the Board of Commissioners for each particular DH District approved. As an overlay, the DH District supplements the standards established elsewhere in this Ordinance for development in the underlying zoning district. Certain uses which may be permitted in the underlying zoning district are prohibited in the DH District. In that respect, such uses shall not be allowed to develop in any area which has received DH overlay zoning by the Board of Commissioners. Any other permitted or conditional use, allowed in the underlying zoning district, shall meet all applicable regulations of the DH District.



## **B. WS Water Supply Watershed Overlay District**

Certain land use types, intensities and arrangements are deemed to be incompatible with the public's need to protect water supply watershed areas. The WS Water Supply Watershed Overlay District is thereby established for the purpose of imposing on land that lies within existing or planned water supply watersheds certain requirements (beyond those applicable to comparable property outside such watershed areas) designed to preserve and protect existing and potential watershed areas from degradation by point and non-point source pollution and incompatible development. Land that lies within this district may be developed or used only in accordance with the regulations of both the underlying zone and those of the WS Zoning District.

## **C. HO Historic Overlay District**

This shall be an additional zone established pursuant to Part 3C of Chapter 160A of the General Statutes of North Carolina, which may overlay other zoning districts on the official zoning map. That portion of any zoning district to which the HO District shall apply shall also be delineated on the official zoning map. The HO District is intended as an area in which conservation, preservation, restoration and development of historic character and significance can be fostered and maintained. No historic district or districts shall be designated until:

1. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared; and
2. The State of North Carolina Department of Cultural Resources, acting through the State Historic Preservation Officer or his designee shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the Board of Commissioners within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County of any responsibility for awaiting such analysis, and the Board of Commissioners may at any time thereafter take any necessary action to adopt or amend the Zoning Ordinance.

## **Section 12.1 DH Designated Highway Overlay District**

### **12.1.1 Location**

Any DH District shall initially contain at least one-thousand (1,000) contiguous linear feet of frontage along a designated special highway or corridor road. Once a DH zoning district is placed on the zoning map, future increments of any linear length along the designated special highway or corridor road may be approved by the Board of Commissioners. The depth of any particular DH District (i.e., the distance measured perpendicular to the designated special highway or corridor road shall be as determined by the Board of Commissioners for each particular DH District in question.

## 12.1.2

### Permitted and Conditional Uses

Except as herein indicated, the uses allowed in a DH District shall be limited to those permitted and conditional uses listed in the underlying general zoning district. In no case, however, shall any of the following uses be allowed in any limited access Designated Special Highway or any frontage road which runs parallel to a limited access Designated Special Highway:

- A. The following manufacturing industries identified by their SIC Group Number, Division or Industry Number(s):
1. Meat packing plants and poultry dressing plants (SIC #2011, 2015)
  2. Paints, varnishes, lacquers, enamels and allied products (SIC Group #285)
  3. Industrial organic chemicals; agricultural chemicals (fertilizers, pesticides, etc.) (SIC Group #281; SIC Group #287)
  4. Miscellaneous chemical products (all products listed under SIC Group #289) (e.g., adhesives, sealants, explosives, printing ink, carbon black, and "other chemical and chemical preparations" listed in SIC #2899)
  5. Petroleum refining (SIC Group #291)
  6. Asphalt paving and roofing materials (SIC Group #295)
  7. Lubricating oils and greases (SIC #2992)
  8. Products of petroleum and coal classified under (SIC #2999)
  9. Tires and inner tubes (SIC Group #301)
  10. Plastic products found under (SIC Group #308) when resins are made at the same facility
  11. Leather tanning and finishing (SIC Group #311)
  12. Flat glass; glass and glassware; (SIC Group #321; SIC Group #322)
  13. Cement, hydraulic (SIC Group #324)
  14. Structural clay products (SIC Group #325)
  15. Pottery and related products (SIC Group #326) except handmade pottery and arts and crafts operations involving no more than 1,000 cubic feet of kiln space

16. Concrete, gypsum and plastic products; cut stone and stone products (SIC Group #327; SIC Group #328)
17. Abrasive products; asbestos products; mineral wool; (SIC #3291; SIC Group #3292; SIC Group #3296)
18. Minerals and earth's, ground or otherwise treated (SIC #3295)
19. Flour and other grain mill products, sugar refining (SIC #2041, 2061, 2062, 2063)
20. Animal feeds and pet foods (SIC Group #2047, 2048)
21. Fats and oils (SIC Group #207)
22. Processing and packing of canned, cured, fresh, or frozen fish and seafood (SIC Group #2091, 2092)
23. The following manufactured uses listed under (SIC Group #2099):
  - a. Yeast
  - b. Molasses and sweetening syrups
  - c. Vinegar
24. Sawmills and planing mills, general (SIC Group #2421)
25. Wood preserving; reconstituted wood products; pulp mills; paper mills; paperboard mills (SIC Group #2491, 2493; SIC Group #261; SIC Group #262; SIC Group #263)
26. Industrial inorganic chemicals; plastic materials, synthetic resins and rubber, cellulosic and other manmade fibers, except glass (SIC Group #281; SIC Group #282)
27. Soaps, detergents and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC Group #284)
28. Non-clay refractories (SIC #3297)
29. Miscellaneous non-metallic mineral products listed under (SIC Code #3299)
30. Steel works, blast furnaces, and rolling and finishing mills; iron and steel foundries; primary and secondary smelting and refining of nonferrous metals; rolling, drawing and extruding of nonferrous metals; nonferrous foundries; (SIC Group #331; SIC Group #332; SIC Group #333 and 334; SIC Group #335; SIC Group #336)

31. Metal heat treating, metal forging-iron, steel and nonferrous; coating and engraving of metals and allied services (SIC Group #3398; SIC Group #3462 and #3463; SIC Group #347)
32. Manufacture of other primary metal products listed under (SIC Group #3399)
33. Electrical industrial carbon and graphic products (SIC #3624)
34. Storage batteries; primary batteries, dry and wet (SIC #3691; SIC Group #3692)
35. Under SIC Group #3952, all inks, paints, oils, enamels, and crayons
36. Carbon paper and inked ribbons (SIC #3955)
37. Linoleum, asphalt - felt-base, and other hard surface floor covering listed under (SIC #3996)
38. Mining (All of SIC Division B)
39. Primary metal products and secondary smelting processes (SIC # 331, 332, 333, 334, 335, 336)

- B. Abattoir
- C. Adult establishments
- D. Amusement park
- E. Auction facility, livestock
- F. Auto body shop
- G. Auto repair shop (as a principal use)
- H. Reserved
- I. Reserved
- J. Contractors storage and equipment yards
- K. Farmers' market
- L. Firing range, outdoors
- M. Flea market
- N. Junkyards, automobile graveyards
- O. Manufactured home parks

- P. Movie theater, outdoors
- Q. Racetrack
- R. Tire recap facility
- T. Off-premise advertising signs with the following exception:  
 Seasonal farm agricultural businesses may use up to four temporary off premises signs in the D-H District with the following restrictions:
  - a. Must have authorization permits from the County
  - b. Must have landowner's written permission to post signs
  - c. Must be in a definite location established for the purpose of selling vegetables or fruit produced by the seller and which is located in the D-H District
  - d. Signs may not be more than thirty-two (32) square feet in size
  - e. Signs are to be permitted for only ninety (90) days each calendar year, have no lights, and are to be removed during the off-season.
- U. Sanitary landfills
- V. Reserved
- W. Lumber/timber storage yards associated with lumber mills and sawmills
- X. Livestock feed lot and sales facilities
- Y. Unenclosed scrap and salvage metal storage and recycling facilities
- Z. Quarries
- AA. Coal sales and storage yards
- BB. Fuel oil distribution facilities
- CC. Mobile home sales lots
- DD. Moving and storage facilities
- EE. Radio, television, microwave or telecommunication towers exceeding 300 feet
- FF. Roofing repair and installation facilities

Any other permitted or conditional use allowed in the underlying general zoning district, or parallel conditional use district shall be permitted in the DH District. Any conditional use in the underlying zoning district shall be permitted in accordance with the regulations outlined in Chapter 6. All such permitted and conditional uses shall also meet all requirements of the DH District. Where the requirements of the DH District are more

restrictive than in the underlying district, the regulations of the DH District shall prevail.

**12.1.3 Minimum Lot Size:**

The lot size requirements of the underlying zoning district shall apply.

**12.1.4 Yard Requirements:**

A. The following requirements shall apply to all lots which either abut a limited access Designated Special Highway or abut a frontage road which runs parallel to a limited access Designated Special Highway: Note: Front and rear setbacks of any residential lot lying in a Designated Highway overlay district (primarily where a Designated Special Highway or Designated Corridor Road are involved) will be the same as the underlying zoning district. The more restrictive setbacks will apply to all commercial zoning districts.

1. Minimum Front Yard Setback

Fifty (50) feet, except as follows:

- a. One-hundred (100) feet shall be required if the front yard lies adjacent to a right-of-way of a limited access Designated Special Highway.
- b. If a frontage road lies between a limited access Designated Special Highway and the principal building, a fifty (50) foot setback from the edge of the right-of-way of the frontage road shall be required.
- c. If the lot is a residential lot, then the underlying zoning district front setbacks will apply.

2. Minimum Side Yard Setback

As per the underlying zoning district except as follows:

- a. If the side yard lies adjacent to a right-of-way of a limited access Designated Special Highway, a one-hundred (100) foot setback shall be required.
- b. If the side yard is adjacent to a frontage road which lies between the principal building and the limited access Designated Special Highway, a fifty (50) foot setback shall be required from the edge of the right-of-way of the frontage road.

3. Minimum Rear Yard Setback

Fifty (50) feet, except as follows:

- a. If the rear yard lies adjacent to a right-of-way of a limited access Designated Special Highway, a one-hundred (100) feet setback shall be required.
- b. If a frontage road lies between the principal building and a limited access Designated Special Highway, a fifty (50) foot setback shall be required as measured from the edge of the right-of-way of the frontage road.
- c. If the lot is a residential lot, then the underlying zoning district rear setbacks will apply.

B. The following regulations shall apply to all lots which abut any other Designated Special Highway or which abut a Designated Corridor Road: Note: Front and rear setbacks of any residential lot lying in a Designated Highway overlay district (primarily where a Designated Special Highway or Designated Corridor Road are involved) will be the same as the underlying zoning district. The more restrictive setbacks will apply to all commercial zoning districts.

1. Minimum Front Setback

All lots containing any use (other than a single-family or two-family dwelling) shall observe a minimum front setback of fifty (50) as measured from the edge of the road right-of-way.

2. Minimum Side Setback

All structures shall be set back from the side lot line as per the requirements of the underlying zoning district, or no less than ten (10) feet, whichever is the most restrictive.

3. Minimum Rear Setback

All structures shall be set back at least twenty-five (25) feet from any rear lot line.

**12.1.5 Minimum Lot Width**

Deleted.

**12.1.6 Maximum Floor Area Ratio**

Deleted.

**12.1.7 Ingress and Egress Points**

The following regulations shall apply to any lot (other than one which

contains a single-family or two-family dwelling as its sole principle use) which abuts and accesses a non-limited access Designated Special Highway or a Designated Corridor Road:

The points of ingress and egress must meet the requirements of the North Carolina Department of Transportation (NCDOT) and this must be shown by submitting a copy of the driveway permit issued by the NCDOT for the project.

**12.1.8      Landscaping**

Deleted.

**12.1.9      Usage of Yard and Setback Areas**

Deleted.

**12.1.10     Signs**

Deleted.

**12.1.11     Special Regulations Along Old Highway 16**

The following regulations shall apply to new development on any lot in a business or industrial district or commercial section of a planned mixed-use development which abuts old Highway 16 and to any lot which abuts old Highway 16 and which is rezoned from residential to business or industrial:

1.      Landscaping

Landscaping shall be provided along the length of the first eight (8) feet of the front yard as measured perpendicular from the edge of the road right-of-way. Such landscaped area shall consist of any combination of trees, shrubs, grass or other decorative or vegetative ground cover provided, however, that a minimum of one small tree per twenty-five (25) feet of linear road frontage be planted. No portion of this landscaped area shall contain bare soil. No impervious surface shall be allowed in this area except for driveways connecting the lot to the point of ingress and egress, sidewalks, boundary fences or walls, mailboxes, newspaper boxes, school bus shelters, and fountains. Landscaping shall comply with N.C. Department of Transportation sight triangle provisions for street intersections and driveways.

2.      Fences

No chain link fences shall be allowed between the edge of the road right-of-way and the front of the principal building. Any fences placed in this area shall be made of vinyl,



wrought iron or other material approved by the Zoning Administrator or his designee.

3. Driveways and Parking Areas

Driveways shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion and dust. The same requirement shall apply to parking areas required to have more than five parking spaces.

4. Building Facades

Metal siding shall not be allowed on the front of a building except for use as trim. Buildings shall be required to have a façade of brick, stone, wood or other material approved by the Zoning Administrator or his designee.

**Section 12.2**      **Reserved**

**Section 12.3**      **WS Water Supply Watershed District**

(RESERVED)

**Section 12.4**      **HO Historic Overlay District**

**12.4.1**      **Purpose:**

The Lincoln County Historic Overlay District, hereinafter referred to as the "District" is established for the purpose of protecting and conserving the heritage of Lincoln County, North Carolina; for the purpose of safeguarding the character and heritage of the District by preserving the District as a whole and any individual property therein that embodies important elements of its social, economic, cultural, political, or architectural history; for the purpose of promoting the conservation of such District for the education, pleasure and enrichment of residents of the District and Lincoln County, and the State as a whole; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values throughout the District as a whole, thus contributing to the improvement of the general health and welfare of Lincoln County and the residents of the District.

**12.4.2 Historic District Establishment**

The Lincoln County Historic Overlay District is hereby established as a district which overlaps and overlays existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map of

Lincoln County. The boundaries of the Lincoln County Historic Overlay District are as shown on the official zoning map.

The requirements of the (HO) Historic Overlay District shall be additional to other zoning district requirements and when in conflict with other zoning district requirements, shall prevail over other requirements of any zoning district or portions thereof which are within the designated (HO) District.

**12.4.3 Permitted Uses:**

The HO District may contain one or more underlying general zoning districts. All uses permitted in any such district, whether by right or as a conditional use, are allowed in the HO District according to the procedures established for such uses.

**12.4.4 Required Conformance to Dimensional Regulations; Exceptions**

Structures within the HO District shall observe the dimensional and other regulations of this ordinance, except as follows:

- A. No structure or part thereof shall extend nearer to or be required to be set back further from the front lot line than the average distance of the setbacks of the nearest principal buildings within one hundred (100) feet on each side of such building and fronting on the same side of the street.
- B. Height (reserved).
- C. Side yard (reserved).
- D. Rear yard (reserved).

It is the intent of this section to supersede, within the HO District, the dimensional regulations of the basic districts applying to the property.

**12.4.5 Authentic Restoration or Reconstruction**

**12.4.5.1 Permitted, Subject to Approval of Historic District Commission and Board of Adjustment, Although not Complying with Dimensional Regulations**

Where it is found by the Historic District Commission that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of historic and/or architectural significance to the Historic District, such activity may be approved by the Board of Adjustment, following approval by the Historic District Commission.

**12.4.5.2 Approval Subject to Conditions**

The Board of Adjustment, in approving such authentic reconstruction or restoration, may attach reasonable and

appropriate conditions to the approval, such that the public health, safety and general welfare shall be protected.

**12.4.5.3 Approval, Limitation On**

The Board of Adjustment shall not be authorized, in action undertaken by this section, to approve a use of property which is not a use permitted by right or for which a Conditional Use Permit is required to be granted by the Board of Commissioners.

In addition to any other conditions the Board of Adjustment may make regarding such authorization, any items restored, reconstructed, or maintained on, over, or within a public sidewalk, public alley area, or other such public way shall be the responsibility of the owner, his heirs and assigns. The owner's restoration, reconstruction, or maintenance of any such item within such area shall constitute the owner's agreement to protect and hold Lincoln County blameless against any and all liability, cost, damage, or expense suffered by Lincoln County as a result of or growing out of the restoration, reconstruction, or maintenance thereof. Such items, so approved, may be lawfully restored, reconstructed, or maintained. The Board of Adjustment shall not have the power to grant permission for the construction of any structure which would project over a public street (paved roadway) and nothing in this section shall be construed to grant such authority to the Board of Adjustment.

**12.4.6 Parking Waiver**

Where the Historic District Commission, in considering an application for a Certificate of Appropriateness, shall find that the number of off-street parking spaces required by the zoning regulations for a building or structure for which a building permit is requested would render the building incongruous with the historic aspects of the District, it shall recommend to the Board of Adjustment a waiver, in part or in whole, of the off-street parking requirements. The Board of Adjustment may authorize a lesser number of off-street parking spaces, provided: (1) the Board finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking, and (2) will not constitute a threat to the public safety.

**12.4.7 Historic District Commission Recommendation on Conditional Use Applications**

All use applications within the Historic Overlay District shall be reviewed by the Historic District Commission at its next regular meeting after the application has been submitted but in no case longer than thirty-one (31) days following the submission of the application, in accord with the requirements of this ordinance. The Historic District Commission shall forward its comments and recommendations within seven (7) days prior to the public hearing on the conditional use application as set forth in

Section 6.3 of this Ordinance. The recommendations shall be submitted to the Board of Commissioners along with other documents related to the Conditional use Permit application.

## **12.4.8 Certificate of Appropriateness**

### **12.4.8.1 Required**

No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of advertising sign shall be erected, altered, restored, moved or demolished within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Historic District Commission except as provided for in Section 12.4.16. For the purpose of this Section "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, landscaping and natural features, the size and scale of the building and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. Provided however, a certificate of appropriateness shall not be required when the only change in exterior appearance is the painting of existing painted surfaces regardless of the color of paint to be applied.

A Certificate of Appropriateness must be issued by the Commission prior to the issuance of either a zoning or building permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Section. A Certificate of Appropriateness shall be required whether or not a building permit is required. Any building permit, zoning permit or such other permit not issued in conformity with this section shall be invalid.

Lincoln County and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the Lincoln County or public utility companies.

### **12.4.8.2 Required Procedures**

#### **A. Application Submitted to Zoning Administrator**

An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the Zoning Administrator. An application for a Certificate of Appropriateness shall be considered by the Historic District Commission at its next regular meeting, but in no

case longer than thirty-one (31) days following the submission of the application, provided it has been filed, complete in form and content, at least seven (7) calendar days before the regularly scheduled meeting of the Commission; otherwise consideration shall be deferred until the following meeting.

B. Contents of Application

The Commission shall, by uniform rule in its Rules of Procedure, require information as is reasonably necessary to determine the nature of the application. An application for a Certificate of Appropriateness shall not be deemed complete until all required information has been submitted. Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.

C. Notification of Historic District Commission

Upon receipt of an application, the Zoning Administrator shall notify the Historic District Commission at least four (4) calendar days before its regularly scheduled or specially called meeting.

D. Notification of Affected Property Owners

Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall take such action as may reasonably be necessary to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard.

E. Public Hearing

In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

F. Commission Action on Application

The Commission shall take action on the application and in doing so shall apply the Review Criteria, contained in Section 12.4.9 of this Ordinance.

The Commission's action on the application shall be approval, approval with modifications, or disapproval.

Prior to final action on an application, the Commission, using the guidelines in Section 12.4.9, shall make findings

of fact indicating the extent to which the application is or is not congruous with the historic aspects of the district.

No member or alternate member shall vote on any matter concerning an application for a certificate of Appropriateness (COA) unless that member or alternate shall have been present during the hearing and deliberations concerning said application.

G. Reasons for Commission's Actions to Appear in Minutes

The Commission shall cause to be entered into the minutes of its meeting the reasons for its actions, whether it be approval, approval with modifications, or denial.

H. Time Limits

If the Commission fails to take final action upon any application within sixty (60) days after the completed application is submitted to the Zoning Administrator, the application shall be deemed to be approved. The sixty (60) day period may be extended through mutual written agreement between the Commission and the applicant. The extension may be no longer than thirty (30) days and may be renewed.

I. Submission of New Application

If the Commission determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving; unless a period of one (1) year has elapsed since said denial and in such case the same application may be re-submitted.

**12.4.9 Review Criteria**

**12.4.9.1 Intent**

It is the intention of these regulations to insure, insofar as possible, that buildings or structures in the historic overlay district shall be in harmony with other buildings or structures located therein. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of same or to impose architectural styles from particular historic periods. In considering new construction, the Commission may encourage

contemporary design which is harmonious with the character of the District.

In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure as well as the effect of such change or additions upon other structures in the vicinity.

#### **12.4.9.2 Exterior Form and Appearance**

The following criteria shall be considered, when relevant, by the Commission in reviewing applications for a Certificate of Appropriateness. These criteria shall serve as guidelines to determine whether the construction or alteration as proposed in the application for Certificate of Appropriateness is compatible to those properties within the HO-Historic Overlay District:

- A. Lot coverage, defined as the percentage of lot area covered by primary structures.
- B. Setback, defined in Chapter 2 of this Ordinance.
- C. Building or structure height, the maximum height of all new buildings permitted in the Historic Overlay District shall be thirty-five (35) feet unless the Historic District Commission authorizes a height above thirty-five (35) feet. However, such authorized height shall not exceed ten (10) percent of the average height of existing adjacent buildings. Chimneys, steeples, spires, cupolas and the like, not intended for human occupancy, shall be reviewed on an individual basis and shall be subject to the requirements stipulated by the Historic District Commission Certificate of Appropriateness for that particular project.
- D. Spacing of buildings, defined as the distance between adjacent buildings (i.e., the recurrent relationship of building masses to the spaces between them.)
- E. Exterior building materials, the predominant material shall be brick, stone, stucco, wood siding, or such other material that shall be compatible to those properties within the Historic Overlay District.
- F. Proportion, shape, positioning, location, pattern and sizes of any elements of windows and other such openings.
- G. Surface textures, the predominant texture may be smooth (stucco) or wrought (brick) or horizontal wood siding, or other such texture as shall be compatible to those properties within the Historic Overlay District.
- H. Roof shapes, forms and materials.

- I. Use of local or regional architectural traditions.
- J. General form and proportions of buildings and structures, and relationship of any additions to the main structure.
- K. Expression of architectural detailing, such as lintels, cornices, brick bond pattern, and foundation materials.
- L. Orientation of the building to the street.
- M. Scale, determined by the size of the units of construction and architectural details in relation to the size of man and also by the relationship of buildings and structures.
- N. Ratio of height to width of the total building facade.
- O. Effect of trees and other landscape elements.
- P. Appurtenant fixtures and other features such as lighting.
- Q. Structural condition and soundness.
- R. Walls - physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, building facades, or combinations of these.
- S. Color - the predominant color may be that of a natural material or a painted one and shall be compatible to those properties within the Historic Overlay District; as used in this paragraph, "compatibility" shall also include original colors of structure, colors which the structure had at any time during which the style(s) of the structure were a prominent style for new construction, or any color schemes generally representative of the original or modified architectural style(s) of the structure and the neighborhood as determined by historical research.
- T. Ground covers plants and other such organic materials and paving, paving block and bricks, and other such materials.
- U. Maintenance of pedestrian scale and orientation as well as provision for safe pedestrian movement.

12.4.9.3 **Reserved**

12.4.9.4 **Reserved**

12.4.9.5 **Interior Arrangement Not Considered**

The Historic District Commission shall not consider interior arrangement.



**12.4.10**      **Certain Changes Not Prohibited**

Nothing in Section 12.4 of this Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Historic District which does not involve a substantial change in design, material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the Building Inspector or similar official shall certify in writing to the Commission is required by the public safety because of an unsafe or dangerous condition.

Nothing in Section 12.4 of this Ordinance shall be construed to prevent a property owner from making any use of his property that is not prohibited by other law. Nothing in Section 12.4 of this Ordinance shall be construed to prevent the **(a)** maintenance, or **(b)** in the event of an emergency, the immediate restoration of any existing ground utility structure without approval of the Historic District Commission.

**12.4.11**      **Delay in Demolition of Buildings Within Historic District**

An application for a Certificate of Appropriateness authorizing the demolition of a building, structure or site within the Historic Overlay District may not be denied. However, the effective date of such a certificate may be delayed for a period of up to one hundred and eighty (180) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the Historic District Commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the Historic District Commission finds that a building or site has no particular significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

**12.4.12**      **Review of Application by Commission**

As part of its review procedure, the commission may view the premises and may seek the advice of the State of North Carolina Department of Cultural Resources or such other expert advice as it may deem necessary under the circumstances.

**12.4.13**      **Appeal of Decision**

An appeal may be taken to the Board of Adjustment from the commission's action in granting or denying any certificate, which appeals (i) may be taken by any aggrieved party, (ii) shall be taken within times prescribed by the Historic District Commission by general rule, and (iii) shall be in the nature of certiorari. Any appeal from the Board of Adjustment's decision in any case shall be made in accordance with Section 5.3 of this Ordinance.

**12.4.14**      **Compliance**

Compliance with the terms of the Certificate of Appropriateness shall be enforced by the Zoning Administrator. Failure to comply with a Certificate of Appropriateness shall be a violation of the zoning ordinance. The discontinuance of work or the lack of progress toward achieving compliance with a Certificate of Appropriateness for a period of six (6) months shall be deemed as a failure to comply with a Certificate of Appropriateness. The Certificate of Appropriateness shall be effective for twelve (12) months from the date of issuance by the Zoning Officer. If all necessary work or progress has not been completed within 60 days of the end of the certificate's time limit, the applicant may apply for an extension from the Historic District Commission. Such application must be made 30 days prior to the end of the certificate's time limit.

Nothing contained in this ordinance shall prohibit, impair, or limit in any way the power of Lincoln County to prevent the construction, reconstruction, alteration, restoration, or removal of buildings, structures, appurtenant fixtures, or outdoor signs in the Historic District in violation of the provisions of this ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

**12.4.15 Unsafe or Dangerous Conditions**

The construction, reconstruction, alteration, restoration, moving or demolition of any exterior architectural features, which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition, shall not be prevented by the requirements pertaining to the Historic Overlay District.

**12.4.16 Review and Approval of Minor Works**

The Zoning Administrator shall have the authority to issue a Certificate of Appropriateness if an application or inquiry falls under one of the following categories of minor works:

- A. Storm windows (providing color matches window trim);
- B. Normal size television and radio antennas (citizen band and ham operators shall require a Certificate of Appropriateness issued by the Historic District Commission);
- C. Roof and basement ventilators; and
- D. Window air conditioning units, or outdoor portions of single or two-family residential central air conditioning or heating units;

If the Zoning Administrator does not issue a Certificate of Appropriateness, he shall advise the applicant to make a formal application to the Historic District Commission. The Zoning Administrator is not required to issue any Certificate of Appropriateness and may at his discretion refer any matter to the Historic District Commission.

No application for a Certificate of Appropriateness may be denied without formal action by the Historic District Commission.



## CHAPTER 13:

### SIGNS

#### **Section 13.1            General Intent**

The purpose and intent of this Article is to support and complement the various land uses allowed in Lincoln County by the adoption of policies and regulations concerning the placement of signs.

The Lincoln County Board of Commissioners does hereby find and declare that outdoor placement of signs to be a legitimate use of private property but that the erection of signs should be controlled and regulated in order to promote the health, safety, welfare and convenience and enjoyment of travel on and protection of the public investment in streets and roads in Lincoln County and to promote the reasonable, orderly and effective display of such signs, displays and devices. It is also the intent of this Ordinance to prevent signs from dominating the visual appearance of the area in which they are located.

#### **Section 13.2            Sign Illumination**

- A.     The letter "N" means that the sign shall not be lighted.
- B.     The letter "L" means that the sign may be illuminated.
- C.     All lighted signs shall have their lighting directed in such a manner as to illuminate only the face of the sign.
- D.     No sign (other than a ground-mounted sign) located within 100 linear feet of a pre-existing residential principal structure may be illuminated between the hours of 12:00 midnight and 6:00 a.m. A residence shall be deemed "pre-existing" for purposes of this subsection if it had received a certificate of occupancy prior to the installation of such signage. Any residential structure constructed prior to the effective date of this Ordinance shall also be considered "pre-existing".

#### **Section 13.3            Unsafe Signs**

Any sign which is determined by the Zoning Administrator as being insecure, in danger of falling or otherwise endangering the public safety shall be immediately removed by its owner unless it is repaired and made to otherwise comply with the requirements of this Ordinance.

#### **Section 13.4            Sign Area (Advertising Signs Only)**

Refer to Section 13.13.3(6)(a)

**Section 13.5****Sign Area (For Signs Other Than Advertising Signs)**

The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. In the case of signs mounted back-to-back, only one side of the sign is to be included in the area. Otherwise, the surface area of each sign is to be separately computed. In the case of cylindrical signs, signs in the shape of cubes, or other signs which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces is included in computations of area.

In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material is to be computed separately (according to the method described immediately above in this Section) as part of the total surface area of the sign.

Examples Of How Sign Area Is To Be Computed Are As Follows:

**Section 13.6**            **Sign Height**

The height of a sign shall be measured from the highest point of a sign to the point of ground surface beneath it.

**Section 13.7**            **Permit Required**

Except as otherwise provided in Section 13.8 of this Ordinance, it shall be unlawful for any person to erect, construct, enlarge, move or replace any sign or cause the same to be done, without first having obtained a sign permit for such sign from the Zoning Administrator as required by this Ordinance. A fee, in accordance with a fee schedule adopted by the Board of Commissioners, shall be charged for each sign permit issued.

Notwithstanding the above, changing or replacing the copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign such as to render the sign in violation of this Ordinance.

All signs requiring a permit shall be constructed in accordance with the North Carolina Building Code and its appendices.

**Section 13.8**            **Signs Not Requiring Permit** (In all zoning districts except the RL-14, RL-20, RL-MF and RL-ZO Districts)

The following types of signs are exempt from permit requirements of Section 13.7 of this Ordinance and may be placed in any zoning district subject to Section 13.2(D). Such signs shall otherwise be in conformance with all applicable requirements contained in this Ordinance. There shall be no limit as to the number of such signs on any lot, except as herein prescribed. All such signs (except government signs) shall be located outside a road right-of-way.

- A. Government signs.
- B. Memorial signs, plaques or grave markers which are noncommercial in nature.
- C. Flags, pennants, insignia, or religious symbols of any government, non-profit or not-for-profit organization when not displayed in connection with a commercial promotion or as an advertising device.
- D. Integral decorative or architectural features of buildings; works of art; so long as such features or works do not contain letters, trademarks, moving parts or moving lights.
- E. Public interest signs.
- F. RESERVED
- G. Identification signs for residential uses not exceeding four (4) square feet in area (one (1) only per premises).
- H. Incidental signs.
- I. Campaign and election signs provided that:

1. Each sign shall not exceed thirty-two (32) square feet in area.
  2. All such signs shall be removed within seven (7) days after the election for which they were made.
  3. Property owner shall be held responsible for any violations resulting from the enforcement of this Ordinance.
  4. Such signs shall be placed outside of any street right-of-way.
- J. Temporary real estate signs advertising a specific property for sale, lease, rent or development shall be located as follows:
1. One sign per street frontage advertising real estate "For Sale", "For Rent", "For Lease" or "For Development" not greater than thirty-two (32) square feet in area may be located on the property being advertised so long as said sign is located behind the street right-of-way line. If the property so advertised lies on a corner lot or double frontage lot, then a second sign may be permitted along the second street so long as the two signs are at least one hundred (100) feet apart as measured by the shortest straight line.
  2. In addition to the on-site real estate sign(s), a maximum of three (3) off-premise directional signs, each not exceeding four (4) square feet in area, shall be permitted off the subject premises. The message of said signs shall be limited to the name of the property or development being advertised, a directional arrow, mileage to the subject property, and the terms "Lot/Home For Sale", "For Rent", "For Lease", "For Development", etc. All of these signs shall be located off the street right-of-way. The provisions regarding directional signs found in Section 13.14 of this Ordinance shall not apply herein.
  3. All such temporary signs shall be removed within seven (7) days after the property has been sold, rented, leased, etc.
  4. No sign allowed under this subsection shall be lighted.
- K. Permanent subdivision identification signs not exceeding thirty-two (32) square feet.
- L. Temporary construction signs provided that:
1. Signs in conjunction with any residential use shall not exceed ten (10) square feet each.
  2. Signs in conjunction with all nonresidential uses shall have a maximum area of thirty-two (32) square feet each.
  3. Only one (1) such sign per street front per premises shall be erected. Any two such signs located on the same premises shall be located at least one hundred (100) feet apart by the straight short line.
  4. Such signs shall not be illuminated.
  5. Such signs shall only appear at the construction site.

6. Such signs shall be removed within seven (7) days after a certificate of occupancy for any portion of the project has been issued.
- M. Temporary farm product signs provided that:
1. One on-premises sign may be used. Said sign shall be located off the street right-of-way and at least ten (10) feet away from any side lot line. Such sign shall have a maximum area of fifteen (15) square feet and may not be illuminated.
  2. A maximum of two off-premise signs shall be permitted. Said off-premise signs may be no greater than four (4) square feet apiece and shall not be illuminated. No such sign shall be allowed in the street right-of-way.
- N. Temporary special event signs or banners for religious, charitable, civic, fraternal or similar non-profit or not-for-profit organizations provided that:
1. Signs shall be erected no sooner than thirty (30) days and removed no later than seven (7) days after the event.
  2. No such sign shall exceed thirty-two (32) square feet.
  3. No such sign shall be illuminated.
  4. All such signs shall be located off the street right-of-way.
- O. Other temporary signs or banners for a nonresidential use located in a nonresidential district, provided that::
1. Only one temporary sign shall be allowed per parcel of property; except in the case of a shopping center or other multi-tenant development, one sign per tenant shall be allowed.
  2. No such sign shall exceed eight (8) square feet in sign area and five (5) feet in height.
  3. No such sign shall be illuminated.
  4. All such signs shall be located off the street right-of-way.
  5. For a continuous period not to exceed fourteen (14) days, on-premises banners; balloons and other inflatable objects; pennants; and flags for special events and grand openings are permitted so long as said sign objects are not located in a street right-of-way. Within any calendar year, any use may be permitted temporary signs of this nature for no greater than three (3) fourteen (14) day periods.
- P. One (1) on-premise and three (3) off-premises yard sale signs per yard sale. All such signs shall be removed within twenty-four hours after the yard sale has been terminated. No such sign shall be greater than four (4) square feet in area. All such signs shall be located off the street right-of-way.



- Q. On bulletin boards (i.e., church and school bulletin boards) which contains information of a non-commercial nature. Such bulletin boards and signs may have a maximum area of fifty (50) square feet.
- R. Deleted
- S. Signs of a non-commercial nature erected by a public utility firm.
- T. Signs proclaiming religious, political, or other non-commercial messages which do not exceed thirty-two (32) square feet in area (provided, however, that such signs are not placed in any street right-of-way).

**Section 13.9            Prohibited Signs**

- A. Any sign which obstructs the view of bicyclists or motorists using any street, approach to any street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal shall be prohibited.
- B. Illuminated, highly reflective signs or spot lights which hampers the vision of motorists or bicyclists.
- C. Signs, other than government signs, which contain lights, rotating disks, words and other devices not erected by a public authority which may be erroneously construed as government signs or emergency warning signs. An example of this is a sign which contains a picture of a traffic sign plus the word "Stop", "Yield", etc.
- D. Any sign located outdoors which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air.
- E. Any sign (other than a government sign) placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other surface located on, over, or across any public street or right-of-way.
- F. Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign.
- G. Flashing signs, signs with reflective disks, and signs with flashing lights or lights of changing degree of intensity or color or signs with electrically scrolled messages (except government signs and signs which give time and temperature information). If a time and temperature sign alternates between a time message and a temperature message it shall continuously show one message a minimum of three (3) seconds in time before switching to the other message.
- H. Portable signs.
- I. Vehicular signs.
- J. Other signs not expressly permitted by this Ordinance.

- K. Rotating signs, other than on-premise rotating identification signs which contain a logo and/or business name on it.
- L. (Off-premise) advertising signs.

**Section 13.10**      **Signs Permitted In Residential (R) Districts including the P-R district and residential portions of any other P (Planned) district. Such regulations shall not apply in the RL-14, RL-20, RL-MF and RL-ZO Districts. (See Sections 10-6, 10-7, 10-8 and 10-9 for these regulations).**

Signs allowed without a permit are listed in Section 13.8 of this Ordinance. Directional signs are allowed per Section 13.14. The following signs may be placed in such districts subsequent to the issuance of a permit by the Zoning Administrator. All other signs shall be prohibited. Additional specifications for sign placement are found in Section 13.12.

- A. Signs on premises of camping and travel trailer park, multi-family developments, total care facilities, and mobile home parks are regulated as follows:
  - 1. Types of sign permitted: Identification (wall or free-standing)
  - 2. Permitted number of signs: One (1) per premises per public street front. No two signs identifying the same use shall be located closer than one hundred (100) feet from each other measured by using a straight line distance
  - 3. Maximum area of signs: Thirty-two (32) square feet apiece
  - 4. Permitted illumination: L, N
  - 5. Maximum height: Ten (10) feet
  
- B. Signs on premises of customary home occupations, rural home occupations, small group day care centers, rooming houses, and bed and breakfast facilities are regulated as follows:
  - 1. Types of sign permitted: Identification (wall or free-standing)
  - 2. Permitted number of signs: One (1) per establishment
  - 3. Maximum area of signs: Four (4) square feet
  - 4. Permitted illumination: L, N
  - 5. Maximum height: Five (5) feet
  
- C. Signs on premises of churches, colleges, schools, public utility facility, community center, public safety station, airports, airstrips, auto body shop, auto repair shop, machine shops, wood-working shops, manned collection facilities, rest homes, nursing homes, public library, museum, post office, military reserve center:

1. Types of sign permitted: Identification (wall or free-standing)
  2. Permitted number of signs:
    - a. One per street front provided that no two signs are located within a straight line distance of one hundred (100) feet
    - b. In addition, for any use (except auto body shops, woodworking shops, auto repair shops and machine shops), which contains more than one (1) principal structure, one free-standing identification sign may be placed within twenty (20) feet of each building provided that building does not contain any wall identification signs
  3. Maximum area of signs: Thirty (30) square feet per Section 13.10(c)(2)(a); Fifteen (15) square feet per Section 13.10(c)(2)(b)
  4. Permitted illumination: L, N
  5. Maximum height:
 

Wall. Sign shall not be allowed to extend above the parapet of the building

Free-standing. Ten (10) feet
- D. Signs on premises of animal kennels, riding stables, convenience store, marinas, restaurants, hotels, publicly or privately owned and operated outdoor recreation facilities, aircraft sales and service;
1. Types of sign permitted: Identification (Wall or Free Standing).
  2. Permitted number of signs: One (1) only per street front provided that no two signs are located within a straight line distance of one hundred (100) feet
  3. Maximum area of signs: Fifty (50) square feet, except sixty-four (64) square feet in the R-CR district
  4. Permitted illumination: L, N
  5. Maximum height:
 

Wall. Signs shall not be allowed to extend above the parapet of the building

Free-standing. Ten (10) feet

**Section 13.11**

**Reserved**

**Section 13.12**

**Signs Permitted In Business (B) And Industrial (I) Districts and Non-Residential portions of any (P) (Planned) District**

**13.12.1**

The following are regulations for all wall signs and free-standing signs for all uses except that such regulations shall not be applicable to free-standing pole signs in shopping centers, business parks, office buildings and other multi-tenant developments. Said regulations are found in Section 13.12.2 of this Ordinance. Signs allowed without a permit are found in Section 13.8 of this Ordinance. Directional signs are allowed as indicated in Section 13.14. Advertising signs in excess of thirty-two square feet in area are permitted per Section 13.13.3 of this Ordinance. All other signs shall be prohibited.

- A. Types of sign permitted: Business, Identification
- B. Permitted number of signs: Wall. No limit  
 Ground-mounted. No limit  
 Pole-signs. One (1)
- C. Maximum area of signs: Wall. A maximum of ten (10) percent of the wall area of any wall on the building. Except as provided herein and in Section 13.13.1, in no instance shall any principal use, be allowed to have an aggregate wall sign area in excess of one-hundred (100) square feet.  
 Pole Signs. One hundred ten(110) square feet  
 Ground-mounted Signs. Per lot, maximum aggregate area of all ground-mounted signs (excluding directional signs) of sixty-four square feet. No individual sign shall have an area in excess of forty (40) square feet.
- D. Permitted illumination: L, N
- E. Maximum height: Wall. Signs shall not be allowed to extend above the parapet of the building.  
 Pole signs.  
 Twenty-five (25) feet.  
 Ground-mounted signs. Three and one-half (3 1/2) feet.

**13.12.2** Shopping center and other multi-tenant free-standing identification signs.

- A. Types of sign permitted: Identification
- B. Permitted number of signs:
  - a. A shopping center or planned mixed use development either of which contains two (2) or more principal non-residential uses located in a unified building or group of buildings may have a maximum of two free-standing pole signs giving the name of the development and/or the name of the businesses and other uses occupying the development. Such signs shall be located a minimum distance of one-hundred (100) feet apart as measured by the shortest straight line connecting the signs.
  - b. Notwithstanding Section 13.12.2(2)(a), if the development consists of (i) two or more multi-tenant principal buildings, and (ii) access to each tenant in a building is made by a common entrance, and (iii) no wall signs identifying any of the buildings tenants are placed on the building; then one ground sign which identifies the tenants of the building may also be placed within twenty (20) feet from the edge of the building
- C. Maximum area of signs: One hundred ten(110) square feet except twenty-five (25) feet for any sign allowed per Section 13.12.2(2)(B)
- D. Permitted illumination: L, N
- E. Permitted height: Twenty-five (25) feet except five (5) feet for any sign allowed per Section 13.12.2(2)(B)

**Section 13.13      Specifications For Signs Requiring A Permit**

The following are general specifications applicable to the various permitted signs. Additional specifications regarding size, number, location, and permitted types of signs are set forth in the individual zoning districts.

**13.13.1      Wall Sign**

A. The maximum permitted aggregate area of wall signs per premises may be increased beyond that which is normally allowed using either (but not both) of the following methods:

1. If a free-standing identification sign is not used on the premises, the aggregate area of wall signs may be increased by a maximum of fifty (50) percent per premises.
2. The aggregate area of all wall signs per premises may be increased based on the distance, the principal building is set back from the required front setback line. Said increase shall be in accordance with the following Table:

<u>Principal Building Distance Setback From The Required Front Setback</u>	<u>Allowed Aggregate Wall Sign Area Increase</u>
0 - 49 Feet	0 Percent
50 - 99 Feet	25 Percent
100 - 149 Feet	50 Percent
150 - 199 Feet	75 Percent
200 - 249 Feet	100 Percent
250 - 299 Feet	125 Percent
300 - 349 Feet	150 Percent
350 - 399 Feet	175 Percent
400 Feet or More	200 Percent

B. No wall sign shall project more than 18 inches from the building wall. Further, no wall sign or its supporting structure shall cover any window or part of a window.

C. Canopy and awning signs may be substituted for part or all of the allowable wall signage per premises. Signs may be painted or printed onto a canopy or awning. In no instance shall a canopy or awning sign extend into a street right-of-way.

D. A projecting sign may be substituted for part or all of the allowable wall signage per premises. A projecting sign shall not project more than four feet from a building. In no instance shall a projecting sign extend into a street right-of-way.

**13.13.2 Pole and Ground Signs**

- A. All signs shall be located behind the street right-of-way. Any such sign greater than three (3) feet in height as measured from the grade of the road upon which it fronts shall be located outside the required sight distance triangle as indicated in Section 13.6 of this Ordinance.
- B. The bottom of all pole signs which are located within fifteen (15) feet of the street right-of-way shall be at least ten (10) feet in height as measured from the grade.
- C. No pole or free-standing sign shall be located closer than ten (10) feet to any adjacent side lot line. A twenty (20) foot side yard setback shall be required if the side lot line abuts a lot in a Residential (R) District.
- D. Any premise permitted to display a pole sign may do so only if the principal building containing the use being advertised is set back at least thirty (30) feet from the edge of all immediately adjacent street rights-of-way. This requirement shall be waived for any pole sign located in a multi-tenant development.
- E. Any two pole signs located on the same lot (or within the same multi-tenant development) shall be located a minimum distance of one-hundred (100) feet apart as measured by connecting the two signs with the shortest straight line.

**13.13.3 (Off-Premise) Advertising Signs**

The regulations established herein shall be applicable to all existing advertising signs.

- A. Permitted Location  
No new advertising signs shall be permitted in any zoning district.
- B. Maximum Size  
Three-hundred (300) square feet
- C. Maximum Permitted Height  
Thirty (30) feet as measured from the grade of the road surface
- D. Permitted Illumination
  - 1. Advertising signs may either be lighted or luminous.
  - 2. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving parts, lights, or light shall be prohibited.



3. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the road or on any residential dwellings and which are of such intensity or brilliance as to cause flare and to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
4. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

E. Permitted Spacing

All advertising signs shall be located at least seven hundred-fifty (750) feet from any portion of the lot containing the use advertised.

F. Other Advertising Sign Regulations

1. The area of an advertising sign shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire sign. The area shall include any border or trim but shall exclude the base or apron supports and other structural devices. If an advertising message appears on the base or apron, it will not be excluded from the area dimensions.
2. An advertising sign may have displays on two sides but not more than one principal message board per side shall be allowed. Side by side signs structurally attached to the same base shall be prohibited.
3. Signs displaying copy on two sides with the two sides joined in a "V" configuration are deemed to be one advertising sign provided the two sign display boards are located within fifteen (15) feet of each other at their farthest point.
4. Sign setbacks shall be required as follows:  

Advertising signs - a twenty-five (25) foot setback shall be maintained between an advertising sign and any adjoining rights-of-way or property lines.
5. All advertising signs shall be free-standing signs. Portable signs shall be prohibited.
6. Where the provisions of this Ordinance are in conflict with the North Carolina Department of Transportation's Outdoor Advertising Manual, it is the intent of this Ordinance that the stricter of the two shall apply.

Directional signs are permitted in any zoning district provided that following conditions are met:

- A. An individual or multi-use directional sign shall not block the view of any other sign or principal structure. Such signs shall not impair the vision of any motorist.
- B. All directional signs shall neither be lighted nor luminous.
- C. All directional signs shall be free-standing. Portable directional signs shall be prohibited.
- D. All directional signs shall be located off the road right-of-way.
- E. An individual directional sign may be supported by either one or two poles. Each said sign may have a maximum area of six (6) square feet. Said signs shall have a maximum height of five (5) feet, however, there shall be a minimum clearance of one (1) foot between the bottom of the sign and the ground below it.
- F. Multiple-use directional signs may be supported by either one or two poles. The maximum height of said sign shall be five (5) feet, however, there shall be a minimum clearance of one (1) foot between the bottom of the individual signs composing a multi-use directional sign and the ground below it. The aggregate height of the individual signs composing a multi-use directional shall not exceed four (4) feet; the aggregate width of said signs shall not exceed eight (8) feet. An individual sign on a multi-use directional sign shall have a maximum height of sixteen (16) inches and a maximum width of forty-eight (48) inches. More than one use may be advertised on an individual sign. The individual signs composing a multi-use directional sign shall each be constructed of the same materials and be compatible in appearance to each other.
- G. There may be a maximum of two (2) individual directional signs located at a street intersection or one individual directional and one multi-use directional sign located at that street intersection. The shortest horizontal distance between any portions of any two directional signs shall be five (5) feet.



## CHAPTER 14:

### **MOBILE HOME PARK REQUIREMENTS**

#### **Section 14.1      Purpose**

The purpose of this ordinance is to provide for the proper and orderly development of mobile home parks in Lincoln County. It is recognized that mobile home parks are a popular commercial use which provide an alternative to conventional single-family structures and that the placing of mobile homes in mobile home parks is a means to provide for these structures in an attractive and affordable setting. These regulations are designed to insure that mobile home parks in Lincoln County are designed to promote the safety and welfare of their residents and to insure that mobile home parks are properly designed and do not create negative impacts on adjoining properties.

#### **Section 14.2      Design Standards**

Any mobile home park constructed or expanded shall be constructed or expanded in conformance with this Ordinance. All improvements required by this Ordinance within a new or expanded mobile home park shall have first been installed prior to occupancy of any mobile homes within such areas. The owner of an existing mobile home park or developer of a proposed mobile home park seeking to expand or develop such a mobile home park shall first submit to the Zoning Administrator detailed plans of the expansion or development. Such plans shall be in conformance with the following criteria:

##### **A.      Applications**

1. Prior to submittal of a complete application, applicants are encouraged to submit to the Zoning Administrator of a sketch plan of the proposed mobile home park or mobile home park expansion. The purpose of the sketch plan is to familiarize the Zoning Administrator with the proposed development and point out to the applicant what changes (if any) are needed to bring the proposed development in compliance with this Ordinance. The sketch plan need not be drawn to scale but should include, as a minimum, the following information:
  - a. The location of the proposed development in relation to abutting pieces of property and, if an expansion of an existing mobile home park is proposed, the location of such park on the tract.
  - b. The boundaries of the tract upon which the development is proposed.
  - c. The total acreage on the tract.
  - d. For a mobile home park expansion, the total number of mobile home park spaces within the existing mobile home park.
  - e. The proposed number of mobile home spaces.
  - f. Proposed points of ingress and egress.
  - g. Location of proposed screened areas.

- h. Location of waste dumpsters (if applicable).
- i. Location and size of proposed recreation areas (if applicable).
- j. Location of community parking areas (if applicable).

The applicant should also indicate to the Zoning Administrator the proposed means of providing water and sewer services to the mobile home park. The Zoning Administrator shall review the sketch plan for general compliance with the requirements of this Ordinance and any other applicable regulations. The Zoning Administrator shall advise the applicant of any discrepancies and/or improvements which need to be made in order to bring the proposed development into compliance with all such requirements. The Zoning Administrator shall also advise the applicant pertaining to the procedures to be followed in the preparation and submittal of a formal application.

- 2. All plans for mobile home parks shall be submitted in triplicate and drawn at a scale of not smaller than one inch equals fifty (50) feet and shall show, as a minimum, the following information:
  - a. The name of the mobile home park, the names and addresses of the owner(s) and the designer of the park, date, approximate north arrow, scale, gross acreage of the site and the boundary lines of the park with accurate linear and angular dimensions drawn to scale.
  - b. The locations of all existing and platted property lines, streets, buildings, water courses, wells, septic tanks, bodies of water, railroads, floodplains, bridges, culverts, drainpipes, any marked or designated gravesite areas and any utility easements on the land to be developed as a mobile home park. The names of the owners of all adjoining parcels of land shall also be shown.
  - c. The names, locations and dimensions of proposed streets, drainage facilities, driveways, entrances, exits, walkways, easements, parking areas, recreation areas, parks and other open spaces, mobile home spaces, required yards, required screening areas and turn-around within the park.
  - d. Plans of proposed utility layouts (sewer lines, water lines, well sites, septic tanks, storm drainage, etc.) showing feasible connections to existing and proposed utility systems; plans for electric lighting; the location and number of trash dumpsters and mail boxes.
  - e. The location of all mobile home park identification signs.
  - f. Proposed phasing of the development of the mobile home park, if any.
  - g. A plan showing identification numbers for each proposed mobile home space.
- 3. At least one copy submitted to the County shall be on reproducible material.
- 4. Completed soil and site evaluation data prepared by the Lincoln County Health Department. All such data shall also be submitted in triplicate.

**B. Minimum Size**

All mobile home parks shall have a minimum gross land area of at least five (5) acres.

**C. Mobile Home Spaces**

All mobile homes within the park shall be located in designated mobile home spaces. There must be at least three (3) improved mobile home spaces available at first occupancy to qualify as a mobile home park under the provisions of this Ordinance.

**D. Density**

Maximum gross density of the mobile park (i.e., number of mobile home spaces per gross acre) shall be calculated based on the method of providing potable water and wastewater services. The maximum gross density of any mobile home park is shown on Table 1.

**Table 1  
Gross Density Regulations**

	Individual Septic Tanks	Package Treatment Plant	Public Sewer System	
Individual Water Wells	2	4	X	
Community Water Systems	4	5	6	
Public Water Systems	4	6		8

**NOTES:**

1. All densities are shown in terms of the number of mobile home spaces per gross acre within the mobile home park.
2. The densities indicated are maximum permitted densities. Any density level approved by the Lincoln County Board of Commissioners shall be made with any recommendations by the Lincoln County Planning Board, Lincoln County Health Department, North Carolina Department of Natural Resources or North Carolina Department of Human Resources taken into consideration.

**E. Road Frontage**

All mobile home parks shall have at least thirty-five (35) feet of public road frontage.

**F. Yard Requirements**

**1. Between Mobile Homes and Public Street Right-of-Way or Other Property Line**

The minimum setback for any structure within a mobile home park shall be sixty (60) feet from the public road centerline or thirty (30) feet from the edge of the public road right-of-way, whichever is greater.

The minimum setback for any mobile home within a mobile home park from any property line which is not a public road right-of-way line shall be thirty (30) feet.

**2. Internal Yards Within the Mobile Home Park**

Front Yard (i.e., between the edge of the internal mobile home road and the edge of a mobile home) - twenty (20) feet

Side Yard (i.e., side yard separation distance on two adjoining mobile home spaces) - ten (10) feet

Rear Yard (i.e., rear yard separation distance on two adjoining mobile home spaces) - twenty (20) feet

**G. Accessory Structures**

1. Any accessory structure within a mobile home park shall be located **(1)** at least ten (10) feet from any property line and **(2)** at least sixty (60) feet from the public road centerline or thirty (30) feet from the edge of the public road right-of-way, whichever is greater. Structures accessory to a particular mobile home shall be located only on the space containing that mobile home. All such structures shall be residential in character.
2. Accessory structures of benefit to all residents of the mobile home park shall be permitted elsewhere within the park. In addition to the spacing requirements listed in Section 6(G)(1), said structures (e.g., community pools, club houses, etc.) shall be located at least twenty (20) feet from any internal street and thirty (30) feet from any mobile home located within the park. Any garbage dumpster available for use by two (2) or more dwelling units within the park shall be located no closer than fifty (50) feet to any mobile home space and shall be screened (i.e., an opaque wall and or fence).
3. Any accessory structure shall be located at least ten (10) feet from the mobile home located on the same mobile home space.

**H. Steps, Pads and Decks**

All mobile homes within the park shall be equipped with two (2) sets of steps. All mobile home spaces shall contain a concrete mobile home pad or deck constructed of pressure treated wood. The pad or deck shall be at least eighty (80) square feet in area and shall be located at the front entrance or porch to each mobile home.

**I. Mobile Home Placement**

Each mobile home shall be set up and installed on a mobile home space within the mobile home park in accordance with all applicable State of North Carolina regulations for the installation of mobile homes adopted and published by the North Carolina Department of Insurance.

**J. Off-Street Parking Requirements**

Two (2) off-street parking spaces with not less than four (4) inches of stone on a well compacted sub-base shall be provided and maintained for each mobile home space. Required parking spaces may be included within the minimum required lot area for each mobile home space and may be located in the required front yard for each space. Alternatively, community off-street parking areas may be provided within the mobile home park.

**K. Public Street Access**

No mobile home space within a mobile home park shall directly access a public road. Access to all mobile homes and accessory structures within the mobile home park shall be made using internal streets.

**L. Internal Street Standards**

Mobile home parks containing twenty (20) or more mobile home spaces shall pave all internal streets to a minimum width of eighteen (18) feet for two-way streets. Two-way streets shall be used throughout the mobile home park except in instances where one-way streets would serve as a better means to channel vehicular traffic in the mobile home park. Such one-way streets shall have a minimum paved width of ten (10) feet. All streets within the mobile home park shall be privately owned and maintained. Paved streets shall be constructed to the following minimum standards:

1. A base course of at least 4 inches of compacted crushed stone must be applied for the entire required paved width of internal streets.
2. A surface course of at least 1.5 inches of plant mixed asphalt or Class "A" bituminous surface must be applied for the entire required paved width of internal streets in conformance with North Carolina State DOT specifications.

It will be the responsibility of the developer to have a practicing engineer licensed in the State of North Carolina to certify that these minimum road standards have been met.

Mobile home parks containing less than twenty (20) mobile home spaces may not be required to have paved internal streets. Such streets may be well-maintained and contain a graveled surface to a width of at least eighteen (18) feet.

All parking within the mobile home park shall take place within designated parking areas only. All internal streets within the mobile home park shall be equipped with adequate and suitable drainage facilities.

Maintenance of all internal streets and drainage facilities shall be the responsibility of the owner of the mobile home park. Such streets shall be maintained in a manner to be free from pot holes, breaks in the pavement, rough surfaces, pounding of water during rainy periods, excessive washing of drainage ditches, and other associated problems which would impede or cause hazards to motor vehicles.

Speed reduction bumps on paved internal streets are permissible, but they shall be painted and appropriate signs indicating the bump must be placed along the street.

**M. Ingress and Egress**

Mobile home parks shall not be located on through lots unless the park is designed in a manner which does not encourage motorists from using the park as a means of traveling from one public street to another.

Mobile home parks with twenty (20) or more mobile home spaces shall have at least two (2) separately designated areas which contain both an entrance and exit to the mobile home park. All mobile home parks containing less than twenty (20) mobile home



spaces shall have at least one area containing both an entrance and an exit to the mobile home park. Mobile home parks requiring only one entrance and exit area shall provide at least one permanent turn-around within the park.

In addition, all dead-end streets which provide access to five (5) or more mobile homes shall be provided with a permanent turn-around. All such required turn-arounds shall have a minimum diameter of fifty (50) feet.

**N. Street Names and Signs**

Permanent street names shall be assigned to all internal streets. Such street names shall not be similar in name to any existing road name in Lincoln County. Permanent street name signs which are clearly visible shall also be installed at all street intersections within the park.

At least one identification sign, clearly visible both day and night shall face each public road upon which the mobile home park fronts. Said sign shall be located off the road right-of-way and have a maximum area of thirty-two (32) square feet.

The cost for the purchase and installation of all street name and identification signs within the mobile home park shall be borne entirely by the developer.

**O. Mobile Home Space Numbering**

Each mobile home space shall have a site number, a minimum of three (3) inches in height, of permanent lettering attached or painted on the electrical service, placed at the driveway entrance or affixed to the mobile home and said site number shall be visible from the internal street serving the space.

**P. Skirting and Underpinning**

All mobile homes shall have continuous brick, cinder block, concrete block, stucco, stone, pressure-treated wood, wood lattice or vinyl lattice, or other masonry-type underpinning or other skirting specifically manufactured for mobile homes, unpierced except for required ventilation and an access door.

**Q. Screening**

All mobile home parks shall be screened from all adjoining developed lots. Such screening shall be located within the mobile home park and shall materially screen all structures within the mobile home park from all adjacent developed properties. For purposes of this Ordinance, a lot shall be considered developed if it contains at least one (1) principal structure used for commercial purposes other than a mobile home park or for any industrial, institutional, governmental, or residential purpose and is located within three-hundred (300) feet of the lot line separating it from the mobile home park.

Screening may be in the form of natural planting or an opaque wall or fence. When screening is in the form of natural vegetation, a buffer strip at least ten (10) feet in width shall be planted. This strip shall be free of all encroachment by buildings, parking areas or impervious coverage. Shrubs and/or trees may be used as natural screening provided that when trees are used, only varieties which bear limbs and foliage down to

within one (1) foot of ground level shall be allowed. Trees installed as a planted screen shall be evergreen and of a variety which are a minimum of one (1) foot when planted and which can be expected to reach a height of at least six (6) feet within four (4) years from planting.

Shrubs, which shall be arranged in at least one row, shall be a minimum of one (1) foot high at planting and expected to reach six (6) feet within 4 years, and shall be spaced not more than five (5) feet apart. When the screening provided is in the form of a wall or fence, such wall or fence shall be opaque and shall be composed only of natural materials, wood or brick. The wall or fence shall be a minimum of six (6) feet in height as measured from the ground up along the adjoining property line. Grassed and/or landscaped berms may be used as screening provided that such berms are at least six (6) feet in height. Any combination of these methods may be employed to achieve the intent of this section. It shall be the responsibility of the mobile home park owner to functionally maintain any screening required by this Ordinance. No designated mobile home spaces shall include any areas required for screening in accordance with this Ordinance.

Mobile home hitches shall either be removed or landscaped with fencing or shrubbery so as to materially screen them from the view of any adjoining mobile home spaces and internal streets within the mobile home park.

**R. Recreation**

In mobile home parks containing a gross density equal to or greater than six (6) mobile homes per acre, on-premise recreation areas shall be provided. The amount of required recreation area shall equal or exceed six-hundred (600) square feet per mobile home space.

Unimproved wooded areas shall not be used for determining the required amount of recreational space as herein provided. All recreation areas shall be maintained in a good condition at all times by the mobile home park owner.

**S. Mailboxes**

Spaces within the mobile home park shall be provided for cluster mailboxes. Subject to their approval by the United States Postal Service cluster mailboxes shall be used. They shall be located at convenient places within the park deemed suitable by the United States Postal Service. Individually owned and located mailboxes shall not be allowed. All cluster mailboxes shall be located within the mobile home park and shall not front directly on any public road. At least one (1) mailbox per mobile home space shall be provided and the residents of the mobile home occupying that space shall be provided with a key to open and close the corresponding mailbox.

**T. Utility and Storage Lots**

Utility lots designated for the storage of campers, boats, etc. may be located within the mobile home park in designated areas. No such utility lot shall be located in any required screening or recreation areas.

**U. Grounds Maintenance**

The grounds of a mobile home park shall be kept free of trash, litter and debris. Grounds, buildings and storage areas shall be properly maintained to prevent the infestation of rodents, vermin and insects.

It shall be the responsibility of the mobile home park owner to maintain the mobile home park in accordance with these standards at all times.

**V. Utility Lines**

All utility lines shall be placed underground, when feasible, in all mobile home parks from internal streets within the mobile home park to each mobile home space.

**W. Sewage Facilities**

1. Adequate and safe sewage disposal facilities shall be provided in all mobile home parks. Collection systems and sewage treatment plants complying with the requirements of the NC Division of Environmental Management and the County Health Department shall be provided.

Individual septic tank systems are permissible in accordance with the requirement of the County Health Department's Sewage Disposal Regulations. There shall be no more than one (1) mobile home connected to an individual septic tank.

2. Public sewage disposal systems (i.e., package plants), as permitted by the State of North Carolina, shall be an acceptable method of disposal of residential sewage for mobile home parks within the jurisdiction of this ordinance when connection to a publicly owned and maintained sewer system is not possible. When connection to such a public sewer system is possible, at the time of development all mobile homes within the mobile home park shall be connected to said system. The following information must be submitted when a sewage package plant is proposed:

- a. The developer shall indicate on the plans that a sewage package plant is being proposed for the mobile home park, and show on the preliminary plan the following:

- (1) Size and location of the package treatment plant.
- (2) All proposed sewer lines, including:
  - location and line size of gravity lines
  - location and line size of force main
  - location and size of pump stations
- (3) Location of discharge point into surface water stream.
- (4) All associated easements and rights-of-way.

- b. The developer shall provide a copy of the State Permit Application to the County at the time of application.

- c. The developer shall submit at the time an application for a permit is submitted to the State, the following information:
- (1) Name of owner and licensed operator of the plant and name of the licensed firm which will operate the package plant, if different from the owner.
  - (2) Amount of liability insurance required for operation of the system.
  - (3) Name of owner and responsibility party for the package plant.
  - (4) Other pertinent information.
- d. The developer shall submit the following, upon completion:
- (1) A set of as built plans and drawings, certified by the project engineer for the package treatment plant and all sewer lines, pump stations and other devices used in the sewer system.
  - (2) Operation and maintenance agreements for:
    - the package treatment plant
    - the sewer lines and other devices which are a part of the sewer system
  - (3) Copy of the executed and notarized agreement(s) for the ownership and maintenance of the package plant and sewer lines.
  - (4) Copy of insurance liability riders, required by the State, pertaining to the operation of the package plant.
  - (5) Copy of the approved State Permit, along with any and all conditions set forth in the operating permit.
  - (6) Copies of other agreements and information for plans pertaining to the maintenance and operation of the sewer system.
- e. The package plant shall be operated and maintained in accordance with the approved permit from the State of North Carolina. In addition to the operational requirements of the State Permit, the owner or operator of the package plant shall maintain a daily inspection log of visits to the package plant and shall include the following:
- (1) Date and time of inspection.
  - (2) Signature of operator making inspection.
  - (3) Notation of any problem and corrective action taken.
- A copy of this log shall be submitted monthly to the Lincoln County Health Department by the tenth (10th) day of the following month. Failure to submit the log report will be considered a violation of this Ordinance.
- f. Mobile home park sewer systems using package plants as the main treatment facility should be designed to accommodate the eventual

connection to a public sewer system at the time that main outfall lines are placed in areas serving the mobile home park.

**X. Water Facilities**

An adequate and safe supply of water shall be readily available for each mobile home park space. This requirement shall be deemed to have been met by: **(1)** when an approved connection is made to a public water system, or **(2)** when an independent water supply capable of furnishing three-hundred (300) gallons of water per day per available mobile home space and which has been approved by the County Health Department as a safe supply of drinking water is available at the mobile home park. Wells must be constructed according to North Carolina Department of Environment Health water-well standards.

**Y. Electricity**

Each mobile home located in a designated mobile home space must have an individual metered connection to an electric supply and must have an approved fused service disconnect at the metered location. All wire connections from the meter to the mobile home must comply with all applicable national, State and local codes.

**Z. Lighting**

Mobile home parks which contain twenty (20) or more mobile homes spaces or contain more than one internal street shall contain lights throughout the mobile home park at **(1)** intervals of no greater than five-hundred (500) feet, **(2)** at all intersections of internal streets within the park and **(3)** at the intersection of an internal street with a public road.

**AA. Trash Removal**

Trash removal shall be accommodated by one of the following methods in mobile home parks which contain twenty (20) or more mobile home spaces:

1. The owner of the mobile home park shall contract with a private trash hauler for removal of trash from within the park.
2. The owner of the mobile home park shall provide centralized trash dumpsters at convenient locations within the mobile home park. (refer to Section 6(F) for placement requirements of dumpsters.)
3. The owner of the mobile home park shall provide each mobile home space with one or more covered trash containers trash containers having a minimum capacity of twenty-four gallons either individually or in combination.

If alternatives 2 or 3 are chosen, it shall be the responsibility of the mobile home park owner to insure that trash from said containers or dumpsters is picked-up at least once per week. Similarly, if trash removal is contracted with a private firm, such trash shall also be picked up at last once per week. All trash picked up from the mobile home park shall be disposed of in accordance with all County and State regulations.

**BB. Floodplains**

Each mobile home space shall be located on ground not located within the one hundred (100) year floodplain as shown on the appropriate Flood Insurance Rate Maps for Lincoln County. Sufficient documentation must be presented to the Zoning Administrator by the applicant in order to make such determination.

**CC. Administrative Offices**

One mobile home located in a designated mobile home space within the mobile home park may be used as an administrative office.

**DD. Mobile Home Standards**

All mobile homes in mobile home parks shall Class A, B or C mobile homes. All new mobile homes placed in existing parks subsequent to the effective date of this ordinance shall also meet this requirement. Class D mobile homes shall not be allowed in mobile home parks.

**Section 14.3 Review and Approval**

**A. Administrative Approval**

Chapter 10 of the Zoning Ordinance permits the Zoning Administrator to administratively approve mobile home parks containing less than 20 mobile home spaces in certain zoning districts. Approval of such a new or expanded mobile home park by the Zoning Administrator Board shall constitute approval of a proposed site plan. Actual occupation of the mobile home park may only occur, however, after both a Certificate of Zoning Compliance and Certificate of Occupancy have been issued, as herein provided, by the appropriate County officials. Final plan revisions shall have been approved by either the or the Zoning Administrator.

The Zoning Administrator shall only have authority to approve any new or expanded mobile home parks as provided in Chapter 10. Such mobile home parks shall be approved as herein provided. Chapter 10 provides that all other mobile home parks be approved through the Conditional Use Permit process provided in Chapter 6. Said process shall be followed except that the information listed in Section 14.2 (A) shall substitute for that required to be included in the Conditional Use Permit application.

The Zoning Administrator shall have the authority to administratively approve additions to existing mobile home parks if the total number of mobile home spaces in the mobile home park after the proposed expansion occurs does not exceed nineteen (19). The Zoning Administrator may also approve expansions of certain nonconforming mobile home parks per Section 7.11 of this Ordinance.

The Zoning Administrator shall review all applications for mobile home parks to insure compliance with all regulations of this Ordinance. All applications shall be complete prior to review by the Zoning Administrator. The Zoning Administrator in his discretion may request that additional information be submitted necessary to insure a thorough and complete review of the application. All applications shall be submitted with a non-

refundable fee in accordance with a fee schedule adopted by the Lincoln County Board of Commissioners.

The Zoning Administrator shall have forty-five (45) days after the completed application was submitted to approve or disapprove the application. Failure to do so within said time frame shall constitute grounds for the applicant to petition directly to the Planning Board for approval. The Zoning Administrator may, in his discretion prior to the expiration of the forty-five (45) day period, submit the application to the Planning Board for their review in cases where he feels that full Planning Board review is necessary.

The Zoning Administrator may either approve or disapprove the application as presented. If approved, it shall be noted on all copies of the application and two (2) copies shall be retained by the County. The third copy shall be returned to the applicant. If disapproved, the reasons for such disapproval shall be specified in writing on each copy of the application. Two (2) such copies shall be retained by the County and a third copy returned to the applicant. The applicant may make the recommended changes and submit a revised application to the Zoning Administrator for review.

An additional fee shall not be charged for resubmittal to bring the mobile home park into compliance so long as the resubmittal for the same mobile home park occurs within sixty (60) days of the original date of denial.

**Section 14.4            Permit**

Once a mobile home park has been approved by the Zoning Administrator, he shall issue a permit authorizing development of the mobile home park as approved. Issuance of said permit shall allow the developer to proceed with the plans approved by the County. Minor deviations from the approved plan may be permitted so long as said deviations are in conformance with the site design regulations of this Ordinance and provided also that such changes are first submitted to the Zoning Administrator for his review and approval. Said permit shall expire and be canceled unless the work authorized by it shall have begun within six (6) months of its date of issue or if the work authorized by it is suspended or abandoned for a period of one (1) year. Said permit shall not give the developer the right to have mobile home spaces occupied within the park. Such shall only be allowed after both a Certificate of Zoning Compliance and Certificate of Occupancy have been issued by the County as herein provided.

**Section 14.5            Certificate of Zoning Compliance**

When the developer has completed the construction of the entire mobile home park or any phase of it, he shall make application to the Zoning Administrator for a Certificate of Zoning Compliance. Prior to its issuance, an on-site inspection to verify the proper installation of the improvements and conformance to the approved plan will be made by the County.

- A.     If the construction conforms with the approved plan, the Zoning Administrator shall issue the Certificate of Zoning Compliance.
- B.     If the construction does not conform with the approved plan, the Zoning Administrator shall delay issuance of the Certificate of Zoning Compliance until it

comes into conformity. The Zoning Administrator shall inform the developer in writing of deficiencies in the construction and advise him as to actions needed to be in compliance with the approved plan.

- C. Once a Certificate of Zoning Compliance has been issued by the Zoning Administrator, the developer can then apply for a Certificate of Occupancy through the Lincoln County Building Inspections Department.
- D. The certificate of occupancy issued to the developer shall constitute authority to lease or rent spaces in the mobile home park.
- E. When a mobile home park is to be developed in phases, the proposed park plan may be submitted for the entire development, and application for Certificates of Zoning Compliance and Occupancy may be made for each phase of development upon completion.

#### **Section 14.6            Inspection**

The Zoning Administrator and any other personnel or agencies designated by the County Manager are hereby authorized, and directed to make such inspections as are necessary to determine satisfactory compliance with this ordinance. It shall be the duty of the owners of the mobile home park to give free access too such premises at reasonable times for the purpose of inspection.

- A. Should a mobile home park under the jurisdiction of this Ordinance be found in violation of provisions herein set forth, the owner shall be notified in writing by the Zoning Administrator. The written notification shall state the specific violations and set forth reasonable time limits in which the violations shall be corrected. Should the owner not correct the violations in the specified time limit, the Zoning Administrator shall notify the owner by certified mail that the certificate of occupancy for said park will be revoked at the close of five (5) business days from the date of the written notice.
- B. Should the owner of a mobile home park in violation of this ordinance correct said violations before the loss of the certificate of occupancy, the owner shall request that the Zoning Administrator conduct an inspection of the mobile home park. Should said inspection indicate that the violations have been corrected, then the Zoning Administrator shall notify the owner that the certificate of occupancy will continue. If the violations have not been corrected, then the certificate of occupancy shall be revoked as stated in the notification.
- C. In cases where the certificate of occupancy for a mobile home park has been revoked, the following shall occur:
  - 1. The owner shall not rent or lease any vacant spaces until violations have been corrected and the certificate of occupancy is reinstated.
  - 2. For spaces which are leased or rented and occupied by a mobile home, the owner shall cease to lease or rent these spaces at the end of the contract period which shall not exceed one (1) year from the date of the loss of the certificate of occupancy.
  - 3. The owner shall notify each lessee of a space within the park, within ten (10) days after written notification, that the certificate of occupancy has been revoked and that their lease shall be terminated at the end of the



specific contract period. The owner shall provide a signed statement by each lessee that notice from the owner of the lease termination has been made.

- D. The Zoning Administrator shall act to revoke a certificate of occupancy for violations of any part of this Ordinance, except for violations that fall in the areas regulated by the County Health Department or County Inspections Department. In these cases, the Zoning Administrator shall work in cooperation with the aforementioned agencies regarding the revocation of the certificate of occupancy.
- E. The owner or operator of a mobile home park which has lost its certificate of occupancy, may make application to the Zoning Administrator for reinstatement of the certificate of occupancy. The Zoning Administrator shall reinstate the certificate of occupancy when the mobile home park is in compliance with the regulations for which it was revoked.

## CHAPTER 15:

### HISTORIC DISTRICT COMMISSION

#### **Section 15.1**            **Creation**

There is hereby established the Lincoln County Historic District Commission, hereafter referred to as the "Historic District Commission" or "Commission", to consist of five (5) regular members and two (2) alternate members. Members are appointed by the Lincoln County Board of Commissioners. The Commission shall serve without compensation.

Alternate members shall serve in the absence of regular Commission members. Such alternate members, while attending any regular or special meeting of the Commission and serving in the absence of any regular member, shall have and exercise all of the powers and duties of such regular member so absent. No member or alternate member of the Historic District Commission shall vote on any matter concerning an application for a Certificate of Appropriateness unless that member or alternate shall have been present during the hearing and deliberation concerning said application.

#### **Section 15.2**            **Tenure**

Members of the Historic District Commission shall serve overlapping terms of three (3) years. Initially, however, the following appointments shall be made:

- A. Two (2) regular members and one (1) alternate member shall be appointed for a term of one year a piece; and
- B. Two (2) regular members and one (1) alternate member shall be appointed for a term of two (2) years a piece; and
- C. One (1) regular member shall be appointed to a term of three (3) years.

Thereafter, all appointments shall be for a term of three (3) years. A member may be reappointed for up to two (2) consecutive three-year terms. However, if a member serves for six (6) consecutive years or after the expiration of the member's second appointment to the Commission, whichever comes first, a member shall be ineligible for reappointment until one calendar year has thereafter elapsed.

#### **Section 15.3**            **Qualifications**

All members of the Historic District Commission shall be residents of the territorial zoning jurisdiction of Lincoln County and a majority of the regular members and both of the alternate members shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields.

**Section 15.4            Meetings**

The Historic District Commission shall establish a meeting time, and shall meet at least quarterly and more often as it shall determine and require. All meetings of the Commission shall be open to the public and reasonable notice of the time and place thereof shall be given to the public. All meetings shall conform to the North Carolina Open Meetings Law (G.S. 143-33C).

**Section 15.5            Attendance of Meetings**

Any member of the Historic District Commission 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 Commission and shall be replaced or reappointed by the Board of Commissioners. Absence due to sickness, death or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the Commission except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

**Section 15.6            Rules of Procedure**

The Historic District Commission shall adopt and make available to the public rules of procedure for the conduct of its business.

**Section 15.7            Annual Report, Required**

An annual report shall be prepared and submitted by the first day of March of each year to the Board of Commissioners. Such report shall include a comprehensive and detailed review of the activities, problems and actions of the Commission, as well as any budget requests and/or recommendations.

**Section 15.8            Meeting Minutes**

The Commission shall keep permanent minutes of all its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations and actions.

The minutes of the Commission shall be a public record.

**Section 15.9            Commission Powers**

**15.9.1                General Responsibilities of the Commission**

The Commission shall seek to promote, enhance and preserve the character of the Historic District provided the Commission shall not require the reconstruction of individual or original buildings or structures or portions thereof.

**15.9.2 Specific Authority and Powers**

The Historic District Commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this Ordinance and Part 3C, Article 19 of Chapter 160A of the General Statutes of the State of North Carolina.



## CHAPTER 16:

### ZONING ADMINISTRATION

#### **Section 16.1      Zoning Administrator**

**16.1.1**      The provisions of this Ordinance shall be administered by the Zoning Administrator and any other officials designated by the Board of Commissioners for the administration of this Ordinance.

#### **16.1.2      Zoning Inspection: Duties Specified**

If the Zoning Administrator finds that any of the provisions of the Ordinance are being violated, he shall cause notification, in writing, to the owner of the property upon which such violation is located, indicating the nature of the violation and order that necessary actions be taken to correct the deficiency. He shall order discontinuance of illegal uses of land, buildings, or structures, removal of illegal buildings or structures or of illegal additions, alterations or structural changes and discontinuance of any illegal work being done. The Zoning Administrator shall take any other action authorized by this Ordinance to insure its compliance.

Additional written notices of violation may be sent by the Zoning Administrator at his discretion. The final written notice (such final notice may be the initial written notice) shall state the action which the Zoning Administrator intends to take if the violation is not corrected and shall advise that the Zoning Administrator's decision may be appealed to the Board of Adjustment in accordance with Section 5.3 of this Ordinance.

#### **Section 16.2      Zoning Permit**

No building, sign or other structure (except as otherwise specified in this Ordinance) shall be erected, moved, extended or enlarged or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the Zoning Administrator has issued a zoning permit for such work in accordance with a fee schedule established by the Board of Commissioners. An application for a zoning permit shall not be accepted or processed for any proposed multi-family development that includes more than five (5) dwelling units or any site plan for a proposed nonresidential use of 2,500 square feet or more unless a Determination of Adequacy has been issued in accordance with the Lincoln County Adequate Public Facilities Program or it has been determined that the provisions of the Adequate Public Facilities Program do not apply.

#### **A.      Expiration of Zoning Permit**

Any zoning permit issued in accordance with this Ordinance will lapse and become invalid unless the work for which it was issued is started within six (6) months of the date of issue, or if the work authorized by it is suspended or abandoned for a period of at least one (1) year.

#### **B.      Records**

The Department of Building and Land Development shall maintain a record of all zoning permits on file at that office, and copies shall be made available on request to interested parties.

**C. Conditions for Approval**

Zoning permits issued on the basis of dimensional plans approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction which differ from that authorized shall be deemed a violation of this Ordinance and shall be punishable as indicated under Section 16.7 of this Ordinance.

**D. Zoning Permit Not Required**

Notwithstanding any other provisions of this Ordinance, no zoning permit is necessary for the following uses:

1. Street construction or repair
2. Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way
3. Signs, as indicated in Section 13.8 of this Ordinance

**Section 16.3 Certificate Of Occupancy**

No structure hereafter erected, moved, structurally altered or changed in use shall be used or occupied until a certificate of occupancy has been issued by the Lincoln County Building Inspections Department. Any certificate of occupancy issued shall state that the structure or portion of a structure is in compliance with the information stated on the zoning permit and with all applicable provisions of this Ordinance. A record of all certificates of occupancy shall be kept on file in the office of the Lincoln County Zoning Administrator and copies shall be furnished, on request, to all interested parties. If a certificate of occupancy is denied, the reasons for such denial shall be specified in writing and provided to the applicant.

A certificate of occupancy can only be issued by the Inspections Department after the Zoning Administrator has first issued a Certificate of Zoning Compliance. The Zoning Administrator may only issue a Certificate of Compliance having first determined that all applicable portions of this Ordinance have been met.

**Section 16.4 Right Of Appeal**

If a request for a zoning permit is disapproved or if a ruling of the Zoning Administrator is questioned, any aggrieved party may appeal such ruling to the Board of Adjustment in accordance with Section 5.3 of this Ordinance.

**Section 16.5 Remedies**

In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this Ordinance as herein provided, an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation may be instituted by **(i)** the Zoning Administrator; or **(ii)** any other appropriate County Official; or **(iii)** any person who may be violated by such violation.



**Section 16.6                    Complaints Regarding Violations**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Any written complaint stating fully the cause and basis thereof shall be filed with the Zoning Administrator who shall properly record such complaint, immediately investigate, and take action as provided by this Ordinance.

**Section 16.7                    Penalties**

**A.        Criminal Penalties**

Any person, firm or corporation convicted of violating the provisions of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed fifty dollars (\$50) and/or imprisoned for a period not to exceed thirty (30) days. Each day of violation shall be considered a separate offense, provided that the violation of this Ordinance is not corrected within twenty (20) days after notice of said violation is given.

**B.        Civil Penalties**

In addition to the other remedies cited in this Ordinance for the enforcement of its provisions, and pursuant to North Carolina General Statute 153A-123, the regulations and standards in this Ordinance may be enforced through the issuance of civil penalties by the Zoning Administrator.

Subsequent citations for the same violation may be issued by the Zoning Administrator unless the offender has appealed the actions of the Zoning Administrator through the Board of Adjustment.

The owner of the property on which the violation occurs may submit to the Zoning Administrator a written request for extension of the order's specified time limit for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Zoning Administrator may extend the time limit as reasonably necessary to allow timely correction of the violation.

The following penalties are hereby established:

Warning Citation	Correct Violation Within 10 Days
First Citation	\$25.00 (Correct Violation Within 10 days)
Second And Subsequent Citations For Same Offense	\$50.00 per day

If the offender fails to pay the civil penalties within five (5) days after having been cited, the County may recover the penalties in a civil action in the nature of debt.

**C.        Court Order**

In addition, pursuant to North Carolina General Statute 153A-123, the County may seek a mandatory or prohibitory injunction and an order of abatement commanding the offender to correct the unlawful condition upon or cease the unlawful use of the subject premises.

The above remedies are cumulative, and the County may pursue any or all of the same at its discretion. Each day that the violation exists shall constitute a separate and distinct offense.

## Chapter 17:

### ADEQUATE PUBLIC FACILITIES PROGRAM

#### **Section 17.1**      **Short Title**

This Chapter shall be known and may be cited as the Lincoln County "Adequate Public Facilities Program."

#### **Section 17.2**      **Purpose, Intent and Provisions**

(a) The purpose and intent of this Chapter is:

- (1) To implement the provisions of the County of Lincoln Comprehensive Land Use Plan related to the adequacy of Public Facilities as new growth occurs.
- (2) To ensure that Public Facilities needed to support new development meet adopted level of service standards.
- (3) To ensure that the County and other Responsible Agencies maintain realistic Capital Improvements Programs to accommodate new development based on their ability to provide adequate Public Facilities to that development.
- (4) To protect the character of the County and to conserve the value of buildings and encourage the most appropriate use of land throughout the County.
- (5) To ensure that no Development Proposal is approved that would cause a permanent reduction in the level of service for any Public Facilities established in this Chapter below adopted guidelines, unless mitigation measures are proposed by the developer and approved by the Responsible Agency.
- (6) To ensure that adequate Public Facilities needed to support new development are available within a reasonable period of time as new development occurs.
- (7) To establish uniform procedures for the review of APF Applications subject to the standards and requirements of this Chapter.
- (8) To encourage the efficient development of land in Lincoln County.
- (9) To ensure that new growth occurs at a rate that is consistent with the County's and other Responsible Agencies' obligation and ability to provide Public Facilities.

- (10) To encourage development in areas where Public Facilities are adequate and/or planned in Capital Improvement Programs.
- (11) To ensure that all applicable legal standards and criteria are incorporated in these procedures and requirements.
- (12) To ensure that Proposed Development will not adversely affect the public health, safety, and general welfare of existing and future residents of Lincoln County.

(b) In adopting this Chapter, the County hereby finds and determines as follows:

- (1) The Public Facilities subject to the provisions of this Chapter are necessary for the public health, safety, and general welfare.
- (2) New growth and development within the County has an impact on the availability and capacity of Public Facilities, the capacity of which can be maintained if development is approved consistent with the adopted level of service standards.
- (3) The County or other Responsible Agency has prepared and adopted a Capital Improvements Program to provide the Public Facilities needed to accommodate reasonable rates of growth and development, which CIPs will be reviewed and updated if necessary annually to reflect changes in the County's growth rate, available financial resources, and other relevant factors.
- (4) The level of service standards adopted for each Public Facility are necessary for the protection of the public health, safety and welfare, and will not unduly inhibit new growth and development within Lincoln County.
- (5) This Chapter is necessary so that continued growth does not outstrip the County's and Responsible Agencies' ability to plan for and fund necessary Public Facilities.

### **Section 17.3**            **Definitions**

The words, terms, and phrases used in this Chapter shall have the meanings set forth in Chapter 2 of the Lincoln County Zoning Ordinance, except as set forth below.

**Adequate Public Facilities (APF) Allocation** – a reservation of Capacity made by the Administrator upon a Determination of Adequacy.

**Adequate Public Facilities (APF) Application** – an application for a Determination of Adequacy of Public Facilities.

**Adequate Public Facilities (APF) Committee** – a committee formed for the purpose of determining the adequacy of Public Facilities in relation to new development, based on the provisions of this Chapter and applicable Memoranda of Understanding.

**Adequate Public Facilities (APF) Schedule** – a schedule maintained by the Administrator or the designee of a Responsible Agency that tracks the capacity of Public Facilities.

**Administrator** – the Lincoln County Zoning Administrator or the Administrator’s designee.

**Advanced Facility** – a Capital Improvement proposed to be constructed, dedicated, or funded by an applicant pursuant to an approved Mitigation Plan.

**Board of Commissioners** – the Lincoln County Board of Commissioners.

**Capacity** – the demand that can be accommodated by a Public Facility.

**Capacity, Available** – the circumstance where Public Facilities have sufficient Capacity, based on adopted Levels of Service, to accommodate the demand created by a Proposed Development.

**Capacity, Reserved** – Capacity set aside for a specified development or use other than those set aside pursuant to an APF Allocation, including development that impacts Public Facilities but that is exempt from the requirements of this Chapter.

**Capacity, Used** – capacity dedicated to certain existing and approved land uses, as provided in a Memoranda of Understanding or this Chapter, as applicable, based on the LOS standards set forth herein.

**Capital Improvements** – a physical asset, including land, that mitigates the offsite impacts of new development on Public Facilities, the costs of which generally are non-recurring, may require multi-year financing, and provide additional capacity needed to accommodate the demand for Public Facilities.

**Capital Improvements, Existing** – Capital Improvements constructed and operational at the time of an APF Application.

**Capital Improvements, Planned** – Capital Improvements included on a CIP and expected to be available as provided in a Memoranda of Understanding or this Chapter, as applicable, based on the LOS standards set forth herein.

**Capital Improvements, Total** – Existing Capital Improvements and Planned Capital Improvements.

**Capital Improvements Program or “CIP”** – a document adopted by the County or applicable Responsible Agency and accepted by the Board of Commissioners that itemizes planned Capital Improvements and the means of funding such improvements.

**Certificate of Adequacy** – a determination by the Responsible Agency that Available Capacity exists to accommodate a Proposed Development. Certificates of Adequacy include a certificate of adequate water facilities (CAWF), a certificate of adequate educational facilities (CAEF), and a certificate of adequate sewer facilities (CASF).

**County** – Lincoln County, North Carolina.

**Determination of Adequacy** – a determination by the Administrator that each Public Facility impacted by a Proposed Development has Available Capacity, which determination may be based on an approved Mitigation Plan, and that a Certificate of Adequacy has been issued for each applicable Public Facility.

**Development Proposal** – either of the following, or a phase thereof:

- (1) a multi-family development, sketch plan, or preliminary plat that includes more than five (5) proposed lots or Dwelling Units; or
- (2) a site plan application for a proposed nonresidential use of 2,500 square feet or more.

**Essential Government Services** – services owned, managed, or operated in the interest of a governmental entity that provides a function critical to the health, safety, and welfare of the public. Essential Government Services may include but are not limited to schools, water and sewer services, emergency services, publicly-owned housing, fire protection services, and law enforcement services.

**Level of Service (LOS)** – an indicator of the extent or degree of service provided by a Public Facility, based upon and related to the operational characteristics of the facility, in comparison to the Capacity of the Public Facility.

**Memorandum of Understanding** – statements of intent by the County and other Responsible Agencies effectuating the provisions of this Chapter through coordination of process, implementation of a financially-feasible CIP, and the timely provision of adequate Public Facilities.

**Mitigation Plan** – a voluntary plan, effectuated through a binding agreement, to ensure the provision of Available Capacity through Advanced Facilities, where Capacity would not otherwise be adequate to support the demand resulting from a Proposed Development.

**Phased Development Proposal** – a Development Proposal wherein the Proposed Development will be constructed incrementally in a logical time and geographical sequence according to an approved Phasing Schedule.

**Phasing Schedule** – a schedule that sets forth the timing of the development of a Development Proposal, including, but not limited to, provision of necessary Public Facilities, the number of units, as applicable, and their location on the site.

**Proposed Development** – development proposed pursuant to a Development Proposal and an APF Application.

**Public Facilities** –water, sewer, or school Capital Improvements.

**Responsible Agency** – the agency responsible for providing a particular Public Facility.

#### **Section 17.4**            **Level of Service Standards**

The Level of Service standards applicable to Public Facilities are as follows:

(a)    **Water Public Facilities.**

As more specifically provided for herein, there must be sufficient water treatment capacity to accommodate the Proposed Development, based on the following demand factors:

- (1) For Nonresidential Uses: as established by state rule, by type of land use.
- (2) For Residential Uses: 360 gpd/dwelling unit.

(b) **Sewer Public Facilities.**

As more specifically provided for herein, there must be sufficient sewer treatment capacity to accommodate the Proposed Development, based on the following demand factors:

- (1) For Nonresidential Uses: as established by state rule, by type of land use.
- (2) For Residential Uses: 240 gpd/dwelling unit.

(c) **School Public Facilities.**

The level of service for schools shall be as provided in a Memorandum of Understanding between the County and the Responsible Agency, consistent with state requirements.

#### **Section 17.5**            **Applicability**

(a)    **Generally.**

Except as provided in subsection (b), below, the provisions of this Chapter shall apply only to Development Proposals submitted after the effective date of this Chapter, as follows:

(1) **Residential Development.**

A Determination of Adequacy is required for any Proposed Development, or phase thereof, where more than five (5) lots or Dwelling Units will be created upon completion.

(2) **Nonresidential Development.**

(i) A Determination of Adequacy is required prior to the approval of any Proposed Development, or phase thereof, which would establish more than 2,500 square feet of additional floor area.

(ii) A Determination of Adequacy is not required with respect to schools for the nonresidential component of any Proposed Development.

(3) **Consecutive or Sequential Applications.**

Consecutive or sequential applications that propose development below the thresholds established in this section, which would result in cumulative impacts on Public Facilities above these thresholds, are subject to the requirements of this Chapter. If it is determined by the Administrator that previous submissions made after the effective date of this Chapter, but which were exempt due to size, contribute to the cumulative impacts of the development, then the impacts of such previous submissions shall be considered in determining whether the threshold requirements of this section apply to the subsequent submission. The Administrator's decision must be based on the nature, size, phasing, proximity, ownership history, and location of a subsequent development application to previous applications. This section is presumed to apply to any application for development submitted within eighteen (18) months of a prior application for development on an adjacent parcel.

(b) **Exemptions.**

(1) **No sewer or water Public Facilities Connections.**

Proposed Developments that are not required by other County ordinances to be served by public water or sewer lines are not required to receive a Determination of Adequacy for only the public facility for which there is no required service. All other requirements of this Chapter shall apply.

(2) **Housing Not Impacting Public Schools.**

For a Development Proposal, or portion thereof, that does not create an impact on public schools, the Determination of Adequacy shall not consider the Available Capacity of school Public Facilities. However, this exemption shall not apply to any Development Proposal unless the applicant demonstrates that all housing units are subject to a recorded deed restriction ensuring no measurable impacts on public schools, based on the provisions on this Chapter and applicable Memoranda of Understanding.

(3) **Essential Government Services.**

The provisions of this Chapter shall not apply to any Development Proposal, or portion thereof, that includes the construction of buildings, structures, or facilities related to the provision of Essential Government Services.



**(4) Agricultural & Farm Uses.**

Upon determination of the Zoning Administrator, the provisions of this Chapter shall not apply to (i) any lands or structures dedicated to bona fide farm purposes or (ii) any agricultural, nonresidential building or structure that demands less than 250 gallons per day of potable water and generates less than 250 gallons per day of wastewater.

**(5) Affordable Housing.**

The provisions of this Chapter shall not apply to any residential development that is publicly-subsidized or requires qualification based on income and where such housing is restricted to only low- or moderate-income residents (i.e., where total household income is eighty percent (80%) or less than area median income as established by the U.S. Department of Housing and Urban Development).

**(c) Vested Rights.**

This section shall not be interpreted or deemed to affect any rights that have vested prior to the effective date of this Chapter, nor shall any provision of this Chapter be applied to a specific property or applicant in a manner that would result in a taking of property.

**(d) Appeals.**

Appeal may be taken from any final decision of the Administrator made pursuant to this section as provided in section 17.10.

**Section 17.6                    Adequate Public Facilities Committee**

**(a) Purpose.**

The purpose of the APF Committee is to facilitate Determinations of Adequacy, to assist applicants in the APF process, and to monitor growth rates and the Available Capacity of Public Facilities in relation to new growth.

**(b) Membership.**

The APF Committee shall be comprised of one (1) official from each Responsible Agency responsible for ensuring the adequate provision of each Public Facility. Where the County is the Responsible Agency for a particular Public Facility, the Board shall designate an appropriate County staff member to serve on the APF Committee. The Administrator shall be the chair of the APF Committee.

**(c) Duties.**

The APF Committee shall meet at least monthly to review and act upon APF Applications. Determinations of Adequacy shall be based on the issuance of Certificates of Adequacy by the Responsible Agencies as provided for in this Chapter and applicable Memoranda of Understanding.

### **Section 17.7 Application and Review Procedure; Transferability**

(a) **When required.**

Subject to the requirements of this section, a final Determination of Adequacy by the Administrator must be submitted in conjunction with any Development Proposal. No Development Proposal will be accepted by the County unless a final Determination of Adequacy is submitted with the application.

(b) **Requirements for APF Application.**

(1) *Pre-Submittal Meeting Required.* Prior to submission of an APF Application, the applicant must meet with the Administrator to confirm the scope and applicability of this Chapter and to identify potential Public Facility deficiencies that may need to be mitigated. At or following the pre-submittal meeting, the Administrator shall:

- (i) provide the current APF Schedule;
- (ii) identify planned and funded Capital Improvements that affect Available Capacity for the project;
- (iii) provide other relevant and available demand and Capacity information for Public Facilities; and
- (iv) summarize the scope of the APF Application requirements, which shall include, but not necessarily be limited to, the information listed in paragraph (b)(2) of this section.

(2) *General APF Application Requirements.* The APF Application shall include:

- (i) A description of the Proposed Development, including the type and amount of each proposed land use.
- (ii) A Phasing Schedule, as applicable.
- (iii) A description of any past or proposed Public Facility dedicated, constructed, or funded in order to mitigate the impacts of the Proposed Development.
- (iv) A Mitigation Plan, if applicable, proposing any improvements to be completed by the applicant.
- (v) Other information required by the Administrator or member of the APF Committee needed in order to evaluate the APF Application and to make a Determination of Adequacy.

(c) **Completeness review.**

Within ten (10) days of its receipt, the Administrator shall determine whether the APF Application is complete and complies with the submission requirements set forth in this section. If the APF Application is complete and the submission requirements have been met, within ten (10) days of said determination, the Administrator will forward the APF Application to the members of the APF

Committee for review. If the APF Application is not complete, the Administrator will notify the applicant of its deficiencies in writing within fifteen (15) days of its receipt.

(d) **Determination of Adequacy and Allocation of Capacity.**

(1) Following receipt of the APF Application from the Administrator, each APF Committee member shall determine whether Available Capacity exists and whether a Certificate of Adequacy will be issued for the relevant public facility, based on the standards of this Chapter and applicable Memoranda of Understanding, and forward same to the Administrator.

(2) Once each APF Committee member has submitted a Certificate of Adequacy to the Administrator or has determined that Available Capacity does not exist, the Administrator shall prepare a written report that:

(i) Identifies Existing and Planned Capital Improvements and any Available Capacity of Public Facilities that serve the Proposed Development, pursuant to the terms of this Chapter and applicable Memoranda of Understanding.

(ii) Describes Capital Improvements funded and assumed to be in place to serve the Proposed Development.

(iii) Identifies any previously dedicated, constructed, or funded Public Facility made in order to mitigate the impacts of the Proposed Development.

(iv) Sets forth findings and conclusions related to the impact of the Proposed Development on Available Capacity.

(v) Based on the Determinations of Adequacy by each applicable Responsible Agency, states whether there is Available Capacity for each Public Facility sufficient to accommodate the Proposed Development.

(3) **Approval of Determination of Adequacy.**

(i) Where each Responsible Agency has issued a Certificate of Adequacy, the Administrator shall issue a Determination of Adequacy.

(ii) Upon issuance of a Determination of Adequacy by the Administrator, the Administrator shall:

1. Notify the applicant in writing within ten (10) business days of the Determination of Adequacy and APF Allocation; and
2. Record the APF Allocation on the Adequate Public Facilities Schedule.

(iii) If a Determination of Adequacy is based on an Advanced Facility, the APF Allocation and the Certificate of Adequacy shall be conditioned on the timely completion of the Advanced Facility.

(e) **Duration and Effect of a Determination of Adequacy.**

(1) Unless an extension is granted as provided in (e)(2) below, a Determination of Adequacy and the issuance of an APF Allocation shall be deemed to indicate that:

(i) Available Capacity exists at the time of the Determination of Adequacy by the Administrator; and

(ii) Except as provided in (iii) below, a Determination of Adequacy shall remain valid provided that the final plat is recorded or a building permit is issued, as applicable, within two (2) years of the Determination of Adequacy.

(iii) A Determination of Adequacy issued as provided above shall expire if subdivision site improvements are not completed within one (1) year of final plat approval or, for multi-family and nonresidential developments, if certificates of occupancy are not issued within one (1) year of building permit issuance.

(2) Upon the request of the applicant, the Board may extend the duration of a Determination of Adequacy. No extension will be granted except upon a showing by the applicant that the application is actively continuing through the development process, by demonstrating such factors as:

(i) whether building permits for the Development Proposal have been issued and remain active;

(ii) whether the applicant can demonstrate unique hardship or extenuating circumstances not created by the applicant; or

(iii) whether site improvements and development have progressed during the duration of the initial Determination of Adequacy.

(3) A Determination of Adequacy shall not affect the need for the applicant to meet all other requirements set forth in the Zoning, Subdivision, and Sewer Use Ordinances or any other lawfully adopted ordinance or law of the County, including the requirement that flow acceptance and water capacity letters be issued, as appropriate, prior to issuance of a building permit.

(f) **Nonavailability of Capacity; Mitigation Plans.**

(1) If the APF Committee determines that Available Capacity does not exist for a particular Public Facility and no Mitigation Plan has been proposed pursuant

to subsection (3)(iii) below, the Administrator shall deny the APF Application and no Determination of Adequacy or APF Allocation shall be entered.

(2) Upon denial of an APF Application, the Administrator shall notify the applicant in writing within ten (10) business days of the denial and shall state the reasons for the denial and any actions that the applicant may take voluntarily to receive a Determination of Adequacy.

(3) Where there is no Available Capacity or upon a denial of an APF Application, the applicant may:

(i) submit a Development Proposal that has a reduced amount of development for which Available Capacity exists;

(ii) submit a Phased Development Proposal that includes the following:

1. a proposed Phasing Schedule setting forth the amount, location, and timing of development associated with each proposed phase;

2. a showing that Available Capacity will exist for each phase of development;

3. where Advanced Facilities are proposed, the location and timing of the proposed facilities based on the Phasing Schedule and Mitigation Plan as provided in (iii) below; and

4. other additional information or materials identified by the APF Committee as necessary to ensure the timely and adequate provision of Public Facilities.

(iii) propose a Mitigation Plan that provides Advanced Facilities, consistent with applicable Memoranda of Understanding, which would mitigate the impact of the Proposed Development on Public Facilities. Any Mitigation Plan that proposes the provision of Advanced Facilities must provide an estimate of the incremental cost of providing the Advanced Facilities, a schedule for commencement and completion thereof, and a description of how the Advanced Facilities will mitigate the impact of the Proposed Development. In order for a Mitigation Plan to be accepted, it must be approved by the Responsible Agency.

(g) **Transferability.**

(1) A Determination of Adequacy may be transferred from the property from which it was assigned originally by the APF Committee, in accordance with the following provisions:

- (i) no Determination of Adequacy may be transferred to a property that is not otherwise in compliance with the terms of this Chapter or outside of the subarea upon which the original Determination of Adequacy was made, pursuant to this Chapter or a Memorandum of Understanding;
  - (ii) the transfer or assignment occurs prior to the expiration of the Determination of Adequacy; and
  - (iii) the Development Proposal to which the Determination of Adequacy would be transferred and/or assigned is determined by the APF Committee to be comparable in impact to the Development Proposal from which the Determination of Adequacy is proposed to be transferred and/or assigned.
- (2) Any transfer or assignment of a Determination of Adequacy from the property for which it was originally approved must receive approval of the APF Committee based on the above criteria.

(h) **Appeals.**

Appeal may be taken from any final decision of the Administrator made pursuant to this section as provided in section 17.10.

**Section 17.8 Public Facilities for which the County is the Responsible Agency**

This section shall apply to any Public Facility for which the County is the Responsible Agency. The County staff member designated to serve on the APF Committee shall determine whether the County's Public Facilities have the Capacity to accommodate the Proposed Development, pursuant to the provisions of this Chapter.

(a) **Water Treatment Facilities.**

The Director of Public Works, or his designee, shall serve as the County's designee on the APF Committee for purposes of determining whether adequate water treatment facilities exist pursuant to the provisions of this section. The Director of Public Works shall issue a certificate of adequate water facilities (CAWF) where there is Available Capacity to serve the Proposed Development, based on the following calculation methodology:

- (1) Calculate Total Capital Improvements by adding:
  - (i) Capacity provided by Existing Capital Improvements, based on the LOS standards set forth in section 17.4, to
  - (ii) The Capacity of any Planned Capital Improvements, which shall include Capital Improvements that are funded on the CIP and are under contract to be completed within one (1) year of the APF Determination.
- (2) Calculate Available Capacity by subtracting from the Total Capital Improvements the sum of:

- (i) Used Capacity, which includes (1) habitable structures and existing land uses served by public water treatment facilities, as applicable, at the time of the APF Determination; (2) capacity reserved pursuant to an APF Allocation, which has not received a water capacity letter; and (3) proposed land uses that have been issued a water capacity letter, which remains valid at the time of the APF Determination;
- (ii) Reserved Capacity; and
- (iii) the demand on water treatment capacity created by the Proposed Development.

**(b) Sewer Treatment Facilities.**

The Director of Public Works, or his designee, shall serve as the County's designee on the APF Committee for purposes of determining whether adequate sewer treatment facilities exist pursuant to the provisions of this section. The Director of Public Works shall issue a certificate of adequate sewer facilities (CASF) where there is Available Capacity to serve the Proposed Development, based on the following calculation methodology:

- (1) Calculate Total Capital Improvements by adding:
  - (i) Capacity provided by Existing Capital Improvements, based on the LOS standards set forth in section 17.4, to
  - (ii) The Capacity of any Planned Capital Improvements, which shall include Capital Improvements that are funded on the Water & Sewer CIP and are under contract to be completed within one (1) year of the APF Determination.
- (2) Calculate Available Capacity by subtracting from the Total Capital Improvements the sum of:
  - (i) Used Capacity, which includes (1) habitable structures and existing land uses served by public sewer treatment facilities at the time of the APF Determination; (2) capacity reserved pursuant to an APF Allocation, which has not received a flow acceptance letter; and (3) proposed land uses that have been issued a flow acceptance letter, which remains valid at the time of the APF Determination;
  - (ii) Reserved Capacity; and
  - (iii) the demand on sewer treatment capacity created by the Proposed Development.

**Section 17.9 Capital Improvements Program and APF Monitoring Reports**

**(a) Capital Improvements Program.**

(1) *Purpose.* The CIP is the mechanism by which Lincoln County and other Responsible Agencies provide new and expanded Public Facilities Capacity needed to accommodate anticipated future population and employment at the adopted level of service standards. Through the implementation of CIPs and cooperation with Responsible Agencies through Memoranda of Understanding, the County will use all reasonable means to ensure that the provision of Public Facilities Capacity is sufficient to accommodate new growth and development, consistent with the reasonable availability of revenue sources; contributions of Capital Improvements; and physical, environmental, or topographical constraints on the expansion of the Capacity of Public Facilities.

(2) *Requirements for monitoring and evaluation.* The County shall maintain a CIP for the facilities for which it is the Responsible Agency, shall review and comment on applicable CIPs as provided for in Memoranda of Understanding, shall implement this Chapter based on CIPs, and shall prepare and/or coordinate with Responsible Agencies in the development of and amendments to applicable CIPs.

(b) **Monitoring Reports.**

The APF Committee shall prepare an annual report addressing the following:

- (1) The Available Capacity of Public Facilities.
- (2) Anticipated increases in residential and nonresidential development within the County and any incorporated municipality.
- (3) The current need for any Public Facilities resulting from changes in population increase, employment growth, or other relevant factors.
- (4) The development of lots approved prior to the effective date of this Chapter.
- (5) Other matters or actions recommended to effectuate the purpose and intent of this Chapter, including any related to demand assumptions, need factors, and other matters recommended by the APF Committee for reconsideration or revision.
- (6) The projected financing for any additional Capacity resulting from the factors set forth in subsections (1) through (5), above.

The monitoring reports shall be made available to each Responsible Agency and the Board of Commissioners.

## 17.10 APPEALS



An applicant may appeal a determination by the Administrator or other County official or agency, made pursuant to the terms of this Chapter, to the Board of Adjustment, as provided in Chapter 5 of the Zoning Ordinance.

## Chapter 18:

### Streamside Buffer Regulations

#### **Section 18.1**      **General Provisions**

##### **18.1.1**      **Intent**

The streamside buffer regulations contained herein are intended to limit exposure of perennial and intermittent streams to the cumulative and secondary impacts of development. These impacts include increased storm water runoff from built-upon areas, altered hydrographic conditions, nutrient loading and pesticide contamination from point and non-point sources.

##### **18.1.2**      **Effect of Streamside Buffer Regulations**

The streamside buffer regulations are applied in combination with zoning districts and have the effect of modifying the requirements, regulations and procedures applying in the applicable zoning district to the extent expressly indicated in this Chapter. Whenever the provisions of any other ordinance, statute or agreement require more restrictive standards than are required in this Chapter, the provisions of such ordinance, statute or agreement shall govern.

##### **18.1.3**      **Applicability; Exemptions**

- A.    Redevelopment of built-upon areas of existing development is allowed if the rebuilding activity does not have a net increase in built-upon area.
- B.    Single-family dwellings may be expanded, redeveloped or replaced in accordance with the other requirements of the Zoning Ordinance without being subject to the restrictions of this Chapter.
- C.    Existing development as defined herein.

#### **Section 18.2**      **Definitions**

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application. The definitions of this section shall be used solely for the purpose of interpreting and administering the streamside buffer regulations of this Chapter.

**Best Management Practice** – 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.

**Buffer Zone 1** – Zone one (1) is an undisturbed 30-foot forested buffer. Zone 1 is designed to protect 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 normal pool elevation of impounded structures and from the top of bank of each side of streams.

**Buffer Zone 2** – Zone two (2) is a 20-foot managed zone immediately upslope from Zone 1. Zone 2 is designed to protect 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.

**Impervious Coverage** – 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.) Measurement of impervious coverage shall be based upon net project area excluding land within existing street rights-of-ways.

**Existing Development** – Existing development, for the purpose of these rules, shall be defined as those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the streamside buffer regulations (May 1, 2007), based on at least one of the following criteria:

- (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid approval from Lincoln County to proceed with the project; or upon having an approved preliminary plat or planned development; or
- (2) Having an outstanding valid building permit as authorized by the North Carolina General Statutes (GS 153A-344.1 and GS 153A-344.1(f)(3)); or
- (3) Having an outstanding zoning compliance permit as authorized by the North Carolina General Statutes (GS 153A-344.1 and GS 153A-344.1(f)(3)) and/or meeting the requirements for establishing a zoning vested right.

**Stream, Intermittent** – Streams that have regular flow only at certain times of the year and are shown on the United States Geological Survey's quadrangle 7.5 minute topographical series as a dashed blue line or as identified by Lincoln County.

**Stream, Perennial** – Streams that have flow year-round and are shown on the United States Geological Survey's quadrangle 7.5 minute topographical series as a solid blue line or as identified by Lincoln County.

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

**Top Of Bank** – Top of bank shall mean the landward edge of the stream channel during high water, bankfull conditions at the point where water begins to overflow onto the floodplain.

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

### **18.3 Restrictions on Uses Within and Adjacent to the Buffer Areas**

Agriculture is subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990.

Agricultural activities must maintain a minimum 10-foot wide vegetated buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters located within the critical area of water supply watersheds.

Animal operations greater than 100 animal units shall employ best management practice. The Soil and Water Conservation Commission is responsible for implementing these provisions pertaining to agricultural activities.

Silviculture activities shall be subject to the provisions of the Forest Practices Guidelines related to Water Quality (15A NCAC 01I .0101-0209). The North Carolina Division of Forest Resources is responsible for implementing these provisions pertaining to silviculture activities.

New nonresidential uses requiring an erosion/sedimentation control plan under local or state law shall incorporate adequately designed, constructed and maintained spill containment structures if hazardous materials are either used, stored or manufactured on the premises.

**(f)** Road construction shall use BMPs outlined in the North Carolina Department of Transportation document entitled, “Best Management Practices for the Protection of Surface Waters.”

**(g)** Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow and reestablishing vegetation.

**(h)** Vegetative cover shall be reestablished for all areas disturbed by land development activities on sites adjoining the buffer area and shall be maintained on a permanent basis.

**(i)** BMPs shall not be constructed within jurisdictional waters.

- (j) Construction activities within jurisdictional waters shall require prior approval from the U.S. Army Corps of Engineer and/or the N.C. Division of Water Quality.

#### **18.4 Effect on Prior Approvals**

This Chapter shall render no valid permitted structure or conforming use nonconforming. An existing structure may be rebuilt if damaged or destroyed even if the structure fails to conform to these regulations.

#### **18.5 Plan Requirement**

Development of all property shall require that all plans submitted demonstrate compliance with the standards of this Chapter.

#### **18.6 Buffer Areas Required**

For new development, buffers consisting of an undisturbed vegetative cover the width of the 100-year flood plain as identified on the current Flood Insurance Rate Map (FIRM) published by FEMA must be maintained. Where the flood plain width is less than 50 feet measured from the top of the stream bank or no flood plain exists, a minimum 50-foot vegetative buffer is required along all indicated or identified perennial and intermittent waters. For the 50-foot vegetative buffer the following shall be required and in no case shall disturbance exceed the following:

- (1) Zone 1 shall be a minimum of 30 feet from the top of bank and shall remain undisturbed. No new development is permitted within the Zone 1 buffer except for artificial stream bank or shoreline stabilization, water dependent structures and public or private projects such as road or utility crossings or installations of greenways where no practical alternatives exist. Activities within buffer areas shall minimize impervious coverage, direct runoff away from surface waters and maximize the utilization of storm water best management practices.
- (2) Zone 2 shall be a minimum of 20 feet extending landward from Zone 1. This buffer is an area of managed vegetation and shall be vegetated by grass, other ground cover or natural vegetation. Disturbance of existing vegetation shall be minimized to the greatest extent possible except for the installation of artificial stream bank or shoreline stabilization, water dependent structures and public or private projects such as utility service lines, road crossings or greenways where no practical alternatives exists.

Required buffers shall be shown with metes and bounds on all subdivision plats created following the adoption of this Chapter.

#### **18.7 Variances, Waivers and Appeals**

- (a)** Unless otherwise expressly stated in this Lincoln County Zoning Ordinance, appeals of Administrative Decisions and requests for variances may be made to the Board of Adjustment under the procedures described in this code.
- (b)** Applicants may seek variances from this Chapter under the procedures described in this Lincoln County Zoning Ordinance.
- (c)** The Zoning Administrator or their appointed designee shall report all variances granted each calendar year to the Environmental Management Commission and Wildlife Resources Commission on or before January 1<sup>st</sup> of the following year.
- (d)** Subject to the approval of the Zoning Administrator, buffer widths may be averaged across the affected property. In no cases shall less than a 30 foot wide buffer be maintained.
- (e)** The Zoning Administrator may waive the requirements of this Chapter to allow an encroachment into the required buffer zones for the construction of a required public improvement including, water, sewer, and roadways when a finding of no practical alternative is made. In making this determination the Zoning Administrator or their appointed designee shall consider:

  - (1)** Terrain;
  - (2)** Accessibility;
  - (3)** System function;
  - (4)** Cost;
  - (5)** Safety; and
  - (6)** Timing