

# Chatham County, North Carolina Unified Development Ordinance

Final Draft | August 31, 2024 | **REVISED 11-13-24**



**RECODE**  
**CHATHAM** | UNIFIED  
DEVELOPMENT  
ORDINANCE

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# CHAPTER 1 INTRODUCTION

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## 1.1 TITLE<sup>1</sup>

- A. This Ordinance is known and may be cited as "The Unified Development Ordinance for Chatham County, North Carolina."
- B. It may be abbreviated and cited as the "Chatham County Unified Development Ordinance," the "Unified Development Ordinance," or the "UDO."

## 1.2 PURPOSE<sup>2</sup>

- A. Chatham County enacts these regulations in accordance with the Comprehensive Plan. These regulations are designed to protect and promote the public health, safety, and general welfare of Chatham County.
- B. In furtherance of this general intent, the UDO is enacted to, among other purposes:
  - 1. Help implement the Chatham County Comprehensive Plan;
  - 2. Promote the orderly growth and efficient development of the jurisdiction;
  - 3. Provide adequate light and air;
  - 4. Prevent the overcrowding of land and undue concentration of population;
  - 5. Secure safety from fire, flood, panic, and other dangers;
  - 6. Facilitate the safe and adequate provision of transportation, water, and wastewater systems;
  - 7. Provide for the orderly and safe flow of traffic and lessen congestion and traffic hazards;
  - 8. Ensure an adequately planned street system that avoids sharp curves, steep grades, and hazardous intersections;
  - 9. Provide for the dedication of rights-of-way for streets and utilities and the coordination of subdivision streets with existing and/or planned streets;
  - 10. Facilitate the safe and adequate provision of schools, parks, and other public facilities;

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<sup>1</sup> This Section provides the full name of the ordinance, in addition to its abbreviated titles. It consolidates current ZO Section 1: Title and SR Section 1.1: Title.

<sup>2</sup> This Section describes the reasons for the Unified Development Ordinance and what it accomplishes. It consolidates current ZO page 1 and SR Section 1.3: Purpose and adds new purpose statements in 1.2.B.12 through B.2018.

11. Protect lakes, streams, rivers, wetlands, and other waterbodies within the jurisdiction;
  12. Protect scenic and ecologically sensitive areas;
  13. Preserve agricultural land and working farms;
  14. Protect historical and cultural resources;
  15. Protect neighborhoods from incompatible development;
  16. Help the County adapt to and mitigate the effects of anthropogenic climate change;
  17. Promote financial, natural, and infrastructure-related resilience;
  - ~~16.~~18. Accommodate a variety of housing types that are affordable for the County's entire spectrum of households;
  - ~~17.~~19. Encourage infill development and the adaptive reuse of existing buildings; and
  - ~~18.~~20. Establish procedures for processing development applications that encourage appropriate and streamlined land use decisions;
  - ~~19.~~21. Ensure the proper legal description and documenting of land; and
  - ~~20.~~22. Provide for the re-subdivision of land.
- C. The minimum standards specified herein are adopted and shall be considered as achieving the purposes listed above.

### 1.3 AUTHORITY<sup>3</sup>

This Unified Development Ordinance is adopted pursuant to the authority conferred upon Chatham County by the General Statutes of North Carolina (N.C.G.S.), as amended, and specifically by [Chapter 160D](#), Articles 1 through 14.

### 1.4 APPLICABILITY<sup>4</sup>

- A. **Generally.** The regulations set forth in this UDO apply to all land lying within Chatham County and outside the municipal limits and extraterritorial jurisdictions of the incorporated municipalities as provided in N.C.G.S. [Chapter 160D-202](#).

<sup>3</sup> This Section recites the authority for adoption of the UDO, including N.C.G.S. Chapter 160D. It includes current ZO Page 1 and SR Section 1.2: Authority.

<sup>4</sup> This Section describes the area of jurisdiction for zoning and land development. It includes current ZO Section 2: Jurisdiction, ZO Section 3: Bona Fide Farm Exempt, and a portion of SR Section 1.4: Jurisdiction.



**B. Property Used for Bona Fide Farm Purposes Exempt.<sup>5</sup>**

1. Zoning provisions in this UDO shall in no way regulate, restrict, prohibit, or otherwise deter or affect property used for bona fide farm purposes. Bona fide farm purposes include all forms of agriculture, as defined in Chapter 17: *Definitions & Acronyms*.<sup>6</sup> However, any use of farm property for non-farm purposes is subject to all UDO regulations, pursuant to N.C.G.S. [§ 160D-903\(a\)](#).
2. Agricultural uses and structures that obtain bona fide farm status from the Chatham County Planning Department are subject to all provisions of this UDO except the zoning provisions, which include:<sup>7</sup>
  - (a) Chapter 2: *Zoning Districts*;
  - (b) Chapter 3: *Use Regulations*;
  - (c) Chapter 4: *Development & Design Standards*;
  - (d) Section 12.14: *Rezoning (Conventional Districts)*;
  - (e) Section 12.15: *Rezoning (Conditional Districts)*;
  - (f) Section 12.16: *Special Use Permit Amendments*; and
  - (g) Section 12.20: *Zoning Compliance Permits*.
3. Land, buildings, and structures used for agritourism<sup>8</sup> are a bona fide farm purpose if the property on which the agritourism use occurs is:
  - (a) Owned by a person who holds a qualifying farmer sales tax exemption certificate from the Department of Revenue pursuant to N.C.G.S. [§ 105-164.13E\(a\)](#); or

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<sup>5</sup> This Paragraph carries forward ZO Section 3: *Bona Fide Farm Exempt*, the State-mandated exemption for bona fide farms in N.C.G.S. [§ 160D-903\(a\)](#) and attempts to clarify the provisions pursuant to a recommendation in the [Audit Report](#) (p. 57). The statute exempts bona fide farming from “county zoning.” Due to the consolidation of the zoning, subdivision, and other development-related ordinances into a single UDO, 1.4.B.1 clarifies which UDO chapters constitute “zoning” pursuant to the statute. Also proposed is to relocate the statutory definition of “agritourism” to Chapter 18: *Definitions & Acronyms*.

<sup>6</sup> The definition of “agriculture” in Chapter 17: *Definitions & Acronyms* is revised to reflect the current definition of “agriculture” in N.C.G.S. [§ 106-581.1: Agriculture defined](#).

<sup>7</sup> This list will be confirmed once the complete UDO is drafted.

<sup>8</sup> Agritourism is defined as “any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.” This definition is from N.C.G.S. [§ 160D-903\(a\)](#). It appears in current ZO Section 3: *Bona Fide Farm Exempt* and is proposed for relocation to Chapter 18: *Definitions & Acronyms*. Note the statutory definition includes “hunting, fishing, [and] equestrian activities,” which are not included in current ZO Section 3.

- (b) Enrolled in the present-use value program pursuant to N.C.G.S. [§ 105-277.3](#).
- 4. Failure to maintain the requirements of this Section for a period of three years after the date the building, structure, or use originally received bona fide farm exemption status pursuant to this Section shall subject the building, structure, or use to applicable UDO provisions in effect on the date the property no longer meets the requirements of this Section.
- 5. A property owner may request bona fide farm exemption status by submitting the following to the Planning Department prior to initiation of the use or initiation of construction of any structure on the property:
  - (a) A completed and notarized [Exemption Request for Bona Fide Farm Purpose application](#); and
  - (b) One of the following as required by N.C.G.S. [§ 160D-903\(a\)](#), any of which constitute sufficient evidence that the property is being used for bona fide farm purposes:
    - (1) A farm sales tax exemption certificate issued by the Department of Revenue;
    - (2) A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to N.C.G.S. [§ 105-277.3](#);
    - (3) A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; or
    - (4) A forest management plan.

## 1.5 RELATIONSHIP TO PLANS

- A. Pursuant to N.C.G.S. [§ 160D-701](#), this UDO is intended to implement the goals, objectives, and policies of the Comprehensive Plan, as adopted or as it may be amended from time to time. Chatham County finds this UDO to be in accordance with the Comprehensive Plan.
- B. This UDO is also intended to implement the goals, objectives, and policies of other plans adopted by the Board of Commissioners, including Plan Moncure and the Chatham County-Town of Cary Joint Land Use Plan.
- C. Adopted plans establish goals, objectives, and policies used to guide decision-making, but are not regulatory.
- D. Any amendments to this UDO, including any rezoning approved pursuant to Section 12.14: *Rezoning (Conventional Districts)* and Section 12.15: *Rezoning (Conditional Districts)*, shall be made in accordance with the adopted Comprehensive Plan in effect at the time of such request for amendment.

## 1.6 RELATIONSHIP TO OTHER REGULATIONS

### A. **Generally.**

1. This UDO works in conjunction with administrative policy documents, such as the [UDO Administrative Manual](#), to regulate the development, redevelopment, and use of land and structures in Chatham County.
2. The use and development of land and structures is subject to all applicable requirements of this UDO and all other applicable requirements of the [Chatham County Code](#) and state and federal law.

### B. **UDO Standards Are Minimum Requirements.**

1. In their interpretation and application, the provisions of this UDO are considered the minimum requirements adopted for the promotion of public health, safety, convenience, prosperity, and general welfare.<sup>9</sup>
2. Meeting minimum requirements of this UDO may not be sufficient to meet minimum requirements of other chapters of the County Code or state or federal law.

### C. **Conflicting Regulations.** When applicable regulations conflict with one another, the requirements of Section 16.2: *Conflicting Provisions* apply.

## 1.7 WATER & SEWER REQUIREMENTS<sup>10</sup>

- A. The lot sizes required for the various districts in this UDO were drawn based upon the assumption that adequate water supply and sewage disposal systems are available to each and every lot. The lack of adequate systems for one or both facilities, however, may require larger lot areas or, in some instances, not permit development as proposed by a developer.
- B. New development should connect to the County water system or municipal equivalent where available.
- C. If irrigation systems are to be included, they should use non-public water, treated wastewater, or have the ability to be converted to recycled wastewater when it becomes available.

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<sup>9</sup> Carries forward and consolidates SR Section 1.6: Interpretation and a portion of ZO Section 25: Interpretation, Purpose, and Conflict, with minor edits.

<sup>10</sup> Carries forward ZO Section 8.7: Water and Sewer Requirements.

## 1.8 SEVERABILITY<sup>11</sup>

- A. If any section, subsection, sentence, clause, or phrase of this UDO or application thereof to any person or circumstances is for any reason held invalid by a court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this UDO.
- B. The Board of Commissioners hereby declares that it would have passed this UDO and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

## 1.9 REPEAL OF PREVIOUS ORDINANCES<sup>12</sup>

- A. Except to the extent necessary to address Permit Choice and applications in progress, adoption of this UDO repeals the following ordinances, and all amendments to them, in effect prior to the date specified in Section 1.10: *Effective Date*:
  1. Zoning Ordinance for Baldwin, Williams, New Hope, Cape Fear, and portions of Haw River, Oakland, Center, Albright, Gulf, Hickory Mountain, Matthews and Hadley Townships, Chatham County, North Carolina;
  2. Chatham County Subdivision Regulations;
  3. Compact Communities Ordinance;
  4. Flood Damage Prevention Ordinance;
  - ~~5. Hazardous Waste Management Ordinance;~~
  - ~~6.5.~~ Junk Yard Control Ordinance;
  - ~~7.6.~~ Moratorium Ordinance;
  - ~~8.7.~~ Off-Premise Signs Ordinance;
  - ~~9.8.~~ Soil Erosion & Sedimentation Control Ordinance;
  - ~~10.9.~~ Stormwater Ordinance;
  - ~~11.10.~~ Watershed Protection Ordinance; and
  - ~~12.11.~~ Wireless Telecommunications Facilities Ordinance.

<sup>11</sup> This Section carries forward and consolidates existing text in ZO Section 26: Validity and SR Section 1.9: Separability.

<sup>12</sup> This Section carries forward a portion of ZO Section 24: Reenactment and Repeal of Existing Zoning Ordinance and replaces SR Section 1.11: Reservations.

- B. All provisions of these ordinances not reenacted herein are hereby repealed, except those relevant to any existing legacy zoning district (see Section 2.4: Legacy Districts).

## 1.10 EFFECTIVE DATE<sup>13</sup>

This Unified Development Ordinance takes effect on <insert date> July 1, 2025.

## 1.11 TRANSITIONAL PROVISIONS<sup>14</sup>

### 1.11.1 GENERALLY

- A. This Section addresses the transition from the previous ordinances (specified in Section 1.9: *Repeal of Previous Ordinances*) in effect prior to the effective date of this UDO.
- B. The provisions in this Section clarify how to handle pending development applications, approvals granted prior to the effective date, development in progress, and the status of existing violations.

### 1.11.2 APPLICATIONS IN PROGRESS

- A. Applications submitted and accepted as complete prior to the date specified in Section 1.10: *Effective Date* will be processed under the ordinances in place at the time of application acceptance.
- B. Applications in progress shall comply with the timeframes for review, approval, and completion specified in the prior ordinances. If an application expires, then future applications are reviewed under the provisions of this UDO.
- C. At any stage of the application review process, an applicant may choose to have the proposed development reviewed under the provisions of this UDO as specified in Section 14.2.3: *Permit Choice*.

### 1.11.3 APPROVALS GRANTED PRIOR TO EFFECTIVE DATE

- A. Zoning compliance permits, special use permits, variances, building permits, subdivision sketch plans, and other similar development approvals that are valid on the date specified in Section 1.10: *Effective Date* will remain valid until their expiration date.

<sup>13</sup> This Section replaces SR Section 1.5: Enactment, ZO Section 27: Effective Date, and portions of ZO Section 24: Reenactment and Repeal of Existing Zoning Ordinance.

<sup>14</sup> This Section generally carries forward the provisions in SR Section 1.10: Saving Provision.

- B. Development may be completed in accordance with such approvals even if the building, structure, or development does not fully comply with the provisions of this UDO.
- C. If development does not begin or continue within the timeframe required by the original approval or any approved extension of the same and the approval expires, then future applications are reviewed under the provisions of this UDO.

#### **1.11.4 VIOLATIONS CONTINUE<sup>15</sup>**

- A. All suits at law or in equity and/or all prosecutions resulting from the violation of any ordinance previously 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 UDO, but shall be prosecuted to their finality the same as if this UDO had not been adopted.
- B. Any and all violations of the existing ordinances, prosecutions for which have not been instituted, may be filed and prosecuted.
- C. Nothing in this Ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending and/or which may be instituted or prosecuted.

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<sup>15</sup> This Section carries forward a portion of ZO Section 24: Reenactment and Repeal of Existing Zoning Ordinance and generally carries forward the first sentence in SR Section 1.10: Saving Provision.

# CHAPTER 2 ZONING DISTRICTS

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## 2.1 GENERAL PROVISIONS

### 2.1.1 INTRODUCTION

- A. **Generally.** This Chapter describes the purpose of each conventional, conditional, and legacy zoning district in Chatham County. The purpose statements provide a foundation for the various standards applicable to the various zoning districts and assist in interpretation of the district standards. The purpose statements are not regulations, but rather a summary of the district character and regulatory intent.
- B. **Allowed Uses.** The particular uses allowed in each zoning district are set forth in Chapter 3: *Use Regulations*. Allowed uses in a conditional district are specified in the rezoning ordinance that establishes the conditional district and any amendments thereto.
- C. **Development Standards.**
1. Development standards for the districts, including setbacks and height limits, are specified in the subsection associated with each zoning district. Development standards for conditional districts may be supplemented by the rezoning ordinance associated with a particular site.
  2. Height limits are based on the intended character of the zoning district, as well as the maximum structure height the County's Fire Department ladder trucks can serve.
- D. **Additional District Regulations.** Additional supplemental regulations for each district, where applicable, are also included in this Chapter.

### 2.1.2 ZONING DISTRICTS ESTABLISHED<sup>16</sup>

- A. In order to achieve the purposes set forth in Section 1.2: *Purpose*, the jurisdictional area subject to this Ordinance is divided into the zoning districts identified in Table 2.1.2-1: *Zoning Districts* and described in Sections 2.2, 2.3, and 2.4.
- B. Table 2.1.2-1: *Zoning Districts* describes the three types of zoning districts established in this Chapter and lists each zoning district according to its district type.

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<sup>16</sup> Generally carries forward ZO Section 4: Districts Established and adds descriptions of the district types and incorporates the proposed new districts.

Table 2.1.2-1: Zoning Districts		
District Type	Description	Districts
Conventional	<p>Conventional districts establish uniform use, dimensional, and development standards for each class or kind of building in a district. Allowed uses are either permitted by-right, allowed as a Limited Use subject to use-specific standards, or allowed subject to approval of a <del>Special Use Permit</del> <u>Conditional Use District</u>.<sup>17</sup></p>	<p>PP, Parks &amp; Protected Lands                      AG, Agricultural                      RA, Agricultural Residential                      R5, Conservation Residential                      R2, Rural Residential                      NR, Neighborhood Residential                      R1, Suburban Residential                      RV, Rural Village                      OI, Office &amp; Institutional                      NB, Neighborhood Business                      CB, Community Business                      RB, Regional Business                      RHC, Rural Highway Commercial                      IL, Light Industrial                      IH, Heavy Industrial</p>

<sup>17</sup> Aligns with [N.C.G.S. § 160D-703. Zoning districts.](#)



Table 2.1.2-1: Zoning Districts		
District Type	Description	Districts
Conditional	Conditional districts establish uniform use, dimensional, and development standards for each class or kind of building in a district. However, these standards may be supplemented by additional requirements through site plans or individualized development conditions approved through the rezoning process. <sup>18</sup>	<p><b>Compact Conditional Districts:</b>                      CD-CR, Compact Residential Conditional District                      CD-CMU, Compact Mixed Use Conditional District                      CD-CN, Compact Non-Residential Conditional District</p> <p><b>Centers Conditional Districts:</b>                      CD-NC, Neighborhood Center                      CD-AC, Activity Center</p> <p><b>Parallel Conditional Districts:</b>                      CD-AG, Agricultural                      CD-RA, Agricultural Residential                      CD-R5, Conservation Residential                      CD-R2, Rural Residential                      CD-NR, Neighborhood Residential                      CD-R1, Suburban Residential                      CD-RV, Rural Village                      CD-OI, Office &amp; Institutional                      CD-NB, Neighborhood Business                      CD-CB, Community Business                      CD-RB, Regional Business                      CD-RHC, Rural Highway Commercial                      CD-IL, Light Industrial                      CD-IH, Heavy Industrial</p>
Legacy	Obsolete districts that cannot be expanded or added to the zoning map.	B-1, General Business District CD-B1, General Business Conditional District CD-CC, Compact Communities Conditional District CD-MU, Mixed Use Conditional District <u>MH, Mobile Home District</u>

<sup>18</sup> Aligns with [N.C.G.S. § 160D-703. Zoning districts.](#)

### 2.1.3 ZONING DISTRICT LOCATIONS

- A. The conventional zoning districts and compact conditional zoning districts specify locations and/or Future Land Use & Conservation Plan (FLUCP) designations where it may be appropriate to implement the districts.
- B. These are suggested locations based on the purpose of the district and the description of the FLUCP designation. The Board of Commissioners may find the district is appropriate in other, unlisted areas or is not appropriate in the areas listed.
- C. The Neighborhood Center and Activity Center Conditional Districts include mandatory location criteria that must be met in order to establish the district.

### 2.1.4 ZONING MAP AND OTHER OFFICIAL MAPS<sup>19</sup>

#### A. **Official Zoning Map.**

1. The location and boundaries of zoning districts are kept in spatial databases entitled "Zoning" and "Zoning Overlays," which the County maintains as part of its Geographic Information System (GIS) under the direction of the Zoning Administrator and Management Information Systems Director.
2. This depiction of zoning boundaries, along with additional reference data in the GIS, constitutes the Official Zoning Map for the County's zoning jurisdiction, and is adopted into this Ordinance by reference.
3. As required by [N.C.G.S. § 160D-105\(a\)](#), the Official Zoning Map is available for public inspection online through the [Chatham County GIS Portal](#).
4. The Zoning Administrator may authorize the production of printed copies of the Official Zoning Map and shall maintain digital or printed copies of superseded versions of the Official Zoning Map for historical reference.
5. The County Clerk may, upon validation by the Zoning Administrator, certify a paper copy of the Official Zoning Map, or portions of the map, as a true and accurate copy of the Official Zoning Map, or a portion thereof, under the authority of [N.C.G.S. § 160D-105](#).
6. The Zoning Administrator and Management Information Systems Director shall revise the Official Zoning Map when the governing body approves amendments in accordance with ~~Chapter 12: Procedures Sections 12.14: Rezoning (Conventional Districts) and 12.15: Rezoning (Conditional Districts)~~. The Zoning Administrator and Management Information Systems Director shall correct errors in the map as they are discovered.

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<sup>19</sup> This Section formally establishes the zoning map. It carries forward ZO Sections 6.1: Zoning Map and 6.2: Incorporation by Reference with minor revisions to eliminate the use of passive voice. It also clarifies the Official Zoning Map is available online and adds a hyperlink (Paragraph A.3).

7. No unauthorized person shall alter or modify the Official Zoning Map. Errors in the Official Zoning Map shall be corrected as they are discovered, and the corrected information shown on the GIS system.

**B. Other Official Maps Incorporated by Reference.<sup>20</sup>**

1. Pursuant to [N.C.G.S. § 160D-105](#), this Ordinance incorporates by reference flood insurance rate maps, watershed boundary maps, and other maps officially adopted or promulgated by state and federal agencies that relate to the zoning and land development process.
2. When this Ordinance references such maps, the reference is to the most recent officially adopted versions.
3. When zoning district boundaries are based on such maps, the zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated state and federal maps if a copy of the currently effective version of the incorporated map is maintained for public inspection as provided in 2.1.4A.3.

**2.1.5 LOTS FOR MINOR UTILITY USES<sup>21</sup>**

- A. Lots created for the express purpose of accommodating minor utilities are exempt from the required minimum lot area of the zoning district.
- B. Such lots are also exempt from the required minimum setbacks of the zoning districts, except that any noise producing equipment or generators must be stored within a structure or set back at least 50 feet from any public right-of-way or property line.

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<sup>20</sup> This Paragraph revises ZO Section 6.2: Incorporation by Reference to clarify these maps are incorporated by reference. The current text in the Zoning Ordinance allows the incorporation of the maps by reference, but doesn't clearly state they are incorporated.

<sup>21</sup> Carries forward current provisions for minor utility lots in the Dimensional Standards for each conventional district (ZO Sections 10.1.B, 10.2.B, 10.3.B, 10.4.B, 10.6.B, 10.7.B, 10.8.B, 10.9.B, and 10.10.B).

## 2.2 CONVENTIONAL DISTRICTS<sup>22</sup>

### 2.2.1 PP, PARKS & PROTECTED LANDS DISTRICT<sup>23</sup>

- A. **Purpose.** The PP, Parks & Protected Lands, District is intended for permanently protected lands composed of federal- and state-maintained recreation areas, County parks, and privately owned land. Allowed uses include a mixture of passive and active recreation uses, accessory uses, and limited residential uses (where allowed by easement agreements).<sup>24</sup>
- B. **Location.** The PP District is generally appropriate in areas designated as Park/Protected Lands on the Future Land Use & Conservation Plan.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.1-1 establishes dimensional standards for the PP District.

Table 2.2.1-1: PP District Dimensional Standards	
<b>Lot Dimensions (min)</b>	
Lot Area, With Public Water and/or Sewer	40,000 sf
Lot Area, With Individual Well & Wastewater Disposal	65,340 sf
Lot Width (min)	100 ft
<b>Principal Structure Setbacks (min)</b>	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	40 ft
Side	25 ft
Rear	25 ft
<b>Accessory Structure Setbacks</b>	
See 3.4: <i>Accessory Uses &amp; Structures</i>	
<b>Height (max)</b>	

<sup>22</sup> This Section carries forward current conventional zoning districts (ZO Section 4: *Districts Established* and ZO Section 10: *Schedule of District Regulations*) and adds new districts to implement *Plan Chatham* goals. It renames the current residential districts to better align with the Future Land Use & Conservation Plan designations. Each conventional district includes a purpose statement, table of dimensional standards, cross-reference to Chapter 3: *Use Regulations*, and additional district-specific standards as applicable.

<sup>23</sup> New district proposed to implement the “Park/Protected Lands” Future Land Use & Conservation Map designation and address Focus Group input. See [Audit Report](#) p. 58. Implements Plan Chatham Land Use Action Item 09.

<sup>24</sup> From Plan Chatham Future Land Use Descriptions, p. 49.

Table 2.2.1-1: PP District Dimensional Standards	
Principal Structures	<del>60</del> -75 ft
Accessory Structures	See 3.4: Accessory Uses & Structures

**Key:** min = minimum required | max = maximum allowed | sf = square feet | ft = feet

**2.2.2 AG, AGRICULTURAL DISTRICT<sup>25</sup>**

- A. **Purpose.** Chatham County recognizes prime agricultural land as a valuable natural resource to protect for future generations. Therefore, the purposes of the AG, Agricultural, District are to:
  1. Preserve, protect, and enable agriculture and forestry;<sup>26</sup>
  2. Preserve the rural character and lifestyle of Chatham County;<sup>27</sup>
  3. Promote agriculture as a key feature of the County and component of the local economy and discourage conversion of areas with viable agricultural operations for development;<sup>28</sup> and
  4. Limit non-agricultural development in productive and prime agricultural areas in order to support the long term economic viability of agricultural operations.<sup>29</sup>
- B. **Location.** The AG District is generally appropriate in areas designated as Agriculture, Rural, or Conservation on the Future Land Use & Conservation Plan.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.2-1 establishes dimensional standards for the AG District.

Table 2.2.2-1: AG District Dimensional Standards	
<b>Lot Dimensions</b>	
Lot Area (min)	<del>10</del> 1 ac
<u>Lot Area (min), Family Subdivisions</u>	<u>2 ac</u>
Lot Width (min)	300 ft
<b>Residential Density<sup>1</sup></b>	
<u>Density (max)</u>	<u>1 du per 5 ac</u>
<b>Principal Structure Setbacks (min)</b>	

<sup>25</sup> One of two new districts proposed to implement the “Agriculture” Future Land Use & Conservation Map designation and address Focus Group input. See [Audit Report](#) pp. 29-31.

<sup>26</sup> Plan Chatham, Agriculture Element, Primary Goal

<sup>27</sup> Plan Chatham, Agriculture Element, Secondary Goal

<sup>28</sup> Plan Chatham, Agriculture Element, Recommendation 2

<sup>29</sup> Derived from Plan Chatham, Agriculture Element, AGR Policy 3

Table 2.2.2-1: AG District Dimensional Standards	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	100 ft
Side	50 ft
Rear	50 ft
Accessory Structure Setbacks (min)	
See 3.4: Accessory Uses & Structures	
Height (max)	
Principal Structures	75 ft
Accessory Structures	See 3.4: Accessory Uses & Structures
<b>Key:</b> min = minimum required   avg = average   max = maximum allowed   ac = acres   ft = feet   <u>du = dwelling unit</u>	

<sup>1</sup> Residential density does not apply in a family subdivision.

**2.2.3 RA, AGRICULTURAL RESIDENTIAL DISTRICT<sup>30</sup>**

- A. **Purpose.** The RA, Agricultural Residential, District is intended to encourage the integration of small-scale agriculture into rural residential areas.
- B. **Location.** The RA District is generally appropriate in areas designated as Agriculture, Rural, or Conservation on the Future Land Use & Conservation Plan.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.3-1 establishes dimensional standards for the RA District.

Table 2.2.3-1: RA District Dimensional Standards	
Lot Dimensions	
Lot Area ( <u>min</u> )	<del>3</del> <u>1</u> ac ( <u>min</u> ); <del>5</del> <u>ac</u> ( <u>avg</u> )
<u>Lot Area (min), Family Subdivisions</u>	<u>2 ac</u>
Lot Width (min)	200 ft
<u>Residential Density<sup>1</sup></u>	
<u>Density (max)</u>	<u>1 du per 5 ac</u>
Principal Structure Setbacks (min)	

<sup>30</sup> One of two new districts proposed to implement the “Agriculture” Future Land Use & Conservation Map designation and address Focus Group input. See [Audit Report](#) pp. 29-31.

Table 2.2.3-1: RA District Dimensional Standards	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	40 ft
Side	25 ft
Rear	25 ft
Accessory Structure Setbacks (min)	
See 3.4: Accessory Uses & Structures	
Height (max)	
Principal Structures	<del>60</del> 75 ft
Accessory Structures	See 3.4: Accessory Uses & Structures
<b>Key:</b> min = minimum required   avg = average   max = maximum allowed   ac = acres   ft = feet	

<sup>1</sup> Residential density does not apply in a family subdivision.

**2.2.4 R5, CONSERVATION RESIDENTIAL DISTRICT<sup>31</sup>**

- A. **Purpose.** The R5, Conservation Residential, District is primarily intended for very low density residential developments along the County's rivers, streams, and Jordan Lake, which is compatible with the protection of water quality of the rivers and streams and drinking water sources.<sup>32</sup>
- B. **Location.** The R5 District is generally appropriate in areas designated as Conservation on the Future Land Use & Conservation Plan.
- C. **Allowed Uses.** See Chapter 3: Use Regulations.
- D. **Dimensional Standards.** Table 2.2.4-1 establishes dimensional standards for the R5 District.<sup>33</sup>

Table 2.2.4-1: R5 District Dimensional Standards	
Lot Dimensions	
Lot Area (min) <sup>1</sup>	3 ac
Lot Area (min), Family Subdivisions	2 ac
Lot Area (avg) <sup>2</sup>	5 ac
Lot Width (min)	100 ft
Principal Structure Setbacks (min)	

<sup>31</sup> Renames the current R5 District to better reflect its purpose, which is to implement the "Conservation" Future Land Use & Conservation Map designation.

<sup>32</sup> Carries forward a portion of ZO Section 4: Districts Established (R5 District description).

<sup>33</sup> Carries forward the current R5 dimensional standards in ZO Section 10.1.B.

Table 2.2.4-1: R5 District Dimensional Standards	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	40 ft
Side	25 ft
Rear	25 ft
Accessory Structure Setbacks (min)	
See 3.4: Accessory Uses & Structures	
Height (max) <sup>34</sup>	
Principal Structures	<del>60</del> 75 ft
Accessory Structures	See 3.4: Accessory Uses & Structures
<b>Key:</b> min = minimum required   avg = average   max = maximum allowed   ac = acres   ft = feet	
<sup>1</sup> Lots in existence as of December 31, 1990 that are 10 acres or less in area may be divided if all resultant lots are at least 3 ac in area.	

<sup>2</sup> Lots greater than 10 ac in area shall not be included in the averaging.

**2.2.5 R2, RURAL RESIDENTIAL DISTRICT<sup>35</sup>**

- A. **Purpose.** The R2, Rural Residential, District is primarily intended for low density residential development to protect water supply watersheds.<sup>36</sup>
- B. **Location.** The R2 District is generally appropriate in areas designated as Rural on the Comprehensive Plan Future Land Use & Conservation Plan Map.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.5-1 establishes dimensional standards for the R2 District.<sup>37</sup>

Table 2.2.5-1: R2 District Dimensional Standards		
	Dwelling Type	
	Detached House	Duplex
Lot Dimensions (min)		
Lot Area	90,000 sf	90,000 sf per du
Lot Width	100 ft	110 ft

<sup>34</sup> Note the current Zoning Ordinance specifies maximum *building* height, while this Chapter proposes to regulate maximum *structure* height.

<sup>35</sup> Renames the current R2 District to align it with the “Rural” Future Land Use & Conservation Map designation.

<sup>36</sup> Carries forward a portion of ZO Section 4: Districts Established (R2 District description).

<sup>37</sup> Carries forward the current dimensional standards in ZO Section 10.2.B.



Table 2.2.5-1: R2 District Dimensional Standards		
	Dwelling Type	
	Detached House	Duplex
Principal Structure Setbacks (min)		
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft	75 ft
Front	40 ft	40 ft
Side	25 ft	25 ft
Rear	25 ft	25 ft
Accessory Structure Setbacks		
See 3.4: <i>Accessory Uses &amp; Structures</i>		
Height (max) <sup>38</sup>		
Principal Structures	<del>60</del> <u>75</u> ft	<del>60</del> <u>75</u> ft
Accessory Structures	See 3.4: <i>Accessory Uses &amp; Structures</i>	

**Key:** min = minimum required | max = maximum allowed | sf = square feet | ft = feet | du = dwelling unit

### 2.2.6 NR, NEIGHBORHOOD RESIDENTIAL DISTRICT<sup>39</sup>

- A. **Purpose.** The Neighborhood Residential district addresses the desire for an intermediate-density residential district between R2 and R1 to implement the Neighborhood Residential place type in Plan Moncure. The NR district includes detached residential units complemented by a variety of open spaces that are connected to the larger system of green space in the area. Neighborhood amenities, recreational facilities, schools, and churches may be part of the fabric.
- B. **Location.** The NR District is appropriate for areas designated as Neighborhood Residential on the Future Land Use & Conservation Plan adopted as part of Plan Moncure.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.6-1 establishes dimensional standards for the NR District.

<sup>38</sup> Note the current Zoning Ordinance specifies maximum *building* height, while this Chapter proposes to regulate maximum *structure* height.

<sup>39</sup> This new place type was designated in response to community feedback received. The Neighborhood Residential place type addresses the desire for an intermediate category, suggesting more density than Rural but not as dense as Compact Residential.

**Table 2.2.6-1: NR District Dimensional Standards**

	<b>Dwelling Type</b>	
	<b>Detached House</b>	<b>Duplex</b>
<b>Lot Dimensions (min)</b>		
Lot Area, With Individual Well & Wastewater Disposal	87,120 sf	<del>60,000 sf per du</del>
Lot Area, All Other Lots	65,340 sf	<del>60,000 sf per du</del>
Lot Width	100 ft	<del>110 ft</del>
<b>Principal Structure Setbacks (min)</b>		
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft	<del>75 ft</del>
Front	40 ft	<del>40 ft</del>
Side	25 ft	<del>25 ft</del>
Rear	25 ft	<del>25 ft</del>
<b>Accessory Structure Setbacks</b>		
See 3.4: Accessory Uses & Structures		
<b>Height (max)<sup>40</sup></b>		
Principal Structures	<del>60-75</del> ft	<del>60-75</del> ft
Accessory Structures	See 3.4: Accessory Uses & Structures	
<b>Key:</b> min = minimum required   max = maximum allowed   sf = square feet   ft = feet   du = dwelling unit		

**2.2.7 R1, SUBURBAN RESIDENTIAL DISTRICT<sup>41</sup>**

- A. **Purpose.** The R1, Suburban Residential, District is primarily intended for low to moderate density residential development, mainly in the more intensely developed, eastern portion of Chatham County.
- B. **Location.** The R1 District is generally appropriate in areas designated as Rural, Compact Residential, Village & Village Center, and Crossroads Community on the Future Land Use & Conservation Plan.
- C. **Allowed Uses.** See Chapter 3: Use Regulations.

<sup>40</sup> Note the current Zoning Ordinance specifies maximum *building* height, while this Chapter proposes to regulate maximum *structure* height.

<sup>41</sup> Renames the current R1 District to better reflect its position in the hierarchy of residential zoning districts (i.e., higher density and smaller lot size than other residential districts).

D. **Dimensional Standards.** Table 2.2.7-1 establishes dimensional standards for the R1 District.

Table 2.2.7-1: R1 District Dimensional Standards		
	Dwelling Type	
	Detached House	Duplex
<b>Lot Dimensions (min)</b>		
Lot Area, With Individual Well & Wastewater Disposal	65,340 sf	<del>40,000 sf per du</del>
Lot Area, All Other Lots	40,000 sf	<del>40,000 sf per du</del>
Lot Width	100 ft	<del>110 ft</del>
<b>Principal Structure Setbacks (min)</b>		
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft	<del>75 ft</del>
Front	40 ft	<del>40 ft</del>
Side	25 ft	<del>25 ft</del>
Rear	25 ft	<del>25 ft</del>
<b>Accessory Structure Setbacks</b>		
See 3.4: Accessory Uses & Structures		
<b>Height (max)<sup>42</sup></b>		
Principal Structures	<del>60-75 ft</del>	<del>60-75 ft</del>
Accessory Structures	See 3.4: Accessory Uses & Structures	
<b>Key:</b> min = minimum required   max = maximum allowed   sf square feet   ft = feet   du = dwelling unit		

**2.2.8 RV, RURAL VILLAGE DISTRICT<sup>43</sup>**

A. **Purpose.**

- The RV, Rural Village, District is intended to accommodate small-scale, local-serving retail, office, institutional, and service uses; restaurants; and limited residential uses in rural areas.

<sup>42</sup> Note the current Zoning Ordinance specifies maximum *building* height, while this Chapter proposes to regulate maximum *structure* height.

<sup>43</sup> New commercial district proposed to help implement the “Rural” Future Land Use & Conservation Map designation and address Focus Group concerns with the limitations of the current R1 zoning in these areas. See Audit Report p. 62.

- 2. “Small scale, local-serving” means a use that is designed to meet the needs of the immediate community rather than serving a broader regional market. Use examples include neighborhood markets, independent bookstores, real estate agencies, local libraries, small community centers, hair salons, fitness centers, and small repair shops.
- B. **Location.** The RV District is generally appropriate in areas designated as Rural, Village & Village Center, and Crossroads Community on the Future Land Use & Conservation Plan.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.8-1 establishes dimensional standards for the RV District.<sup>44</sup>
- E. **Additional Development Standards.** Outdoor storage and sales areas are limited to one-tenth (1/10) of the interior gross floor area.<sup>45</sup>

Table 2.2.8-1: RV District Dimensional Standards	
<b>Lot Dimensions (min)</b>	
Lot Area, With Public Water and/or Sewer	20,000 sf
Lot Area, With Individual Well & Wastewater Disposal	65,340 sf
Lot Width	75 ft
<b>Principal Structure Setbacks (min)</b>	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	10 ft <sup>46</sup>
Side	0 ft
Rear	15 ft
<b>Accessory Structure Setbacks</b>	
See 3.4: <i>Accessory Uses &amp; Structures</i>	
<b>Height (max)</b>	
Principal Structures	<del>60</del> <u>75</u> ft

<sup>44</sup> A maximum building size is proposed for the RV District for compatibility with nearby agricultural and rural residential areas. The proposed 20,000 sf per building limit would accommodate the typical size stores for national retailers such as Tractor Supply (15,500 sf), Dollar General (7,400 sf), CVS (10,000 sf to 13,000 sf), and Walgreens (14,500 sf), but would prohibit “big box” retail stores.

<sup>45</sup> Carries forward a current regulation applicable in the NB District, but revises “interior sales space” to “gross floor area.”

<sup>46</sup> This district is intended for areas such as Silk Hope, Crutchfield Crossroads, Gum Springs, Asbury, Gulf, and Bonlee. Typical front setbacks in these areas vary from 0 feet to 30 feet or more. To reduce potential nonconformities, the front setback is proposed at 10 feet except where a lot has frontage along one of major highways listed.

Table 2.2.8-1: RV District Dimensional Standards	
Accessory Structures	See 3.4: Accessory Uses & Structures
<b>Building GFA (max)</b>	
Per Building <sup>1</sup>	20,000 sf
Per Site <sup>47</sup>	60,000 sf
<b>Key:</b> min = minimum required   max = maximum allowed   sf = square feet   ft = feet   GFA = gross floor area	

<sup>1</sup> The maximum GFA for individual buildings does not apply to grocery stores.

### 2.2.9 OI, OFFICE & INSTITUTIONAL DISTRICT

- A. **Purpose.** The OI, Office & Institutional, District is primarily intended for business, professional, scientific, and technical uses; healthcare uses; and institutional and civic land uses.<sup>48</sup>
- B. **Location.** The OI District is generally appropriate in areas designated as Employment Center, Community Center, Neighborhood Center, Village & Village Center, and Crossroads Community on the Future Land Use & Conservation Plan.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.9-1 establishes dimensional standards for the OI District.<sup>49</sup>

Table 2.2.9-1: OI District Dimensional Standards	
<b>Lot Dimensions (min)</b>	
Lot Area, With Public Water and/or Sewer	40,000 sf
Lot Area, With Individual Well & Wastewater Disposal	65,340 sf
Lot Width	100 ft
<b>Residential Density<sup>50</sup></b>	
Density (max)	6 du/ac

<sup>47</sup> The proposed definition of site is “a contiguous area of land, including a lot or lots or a portion thereof, that is included in a development application.”

<sup>48</sup> Generally carries forward a portion of ZO Section 4: Districts Established (OI District description).

<sup>49</sup> Carries forward the current dimensional standards in ZO Section 10.4.B. and proposes to increase maximum height from 60 ft to 75 ft pursuant to staff input. Chapter 3: Use Regulations proposes to remove duplexes as an allowed use in OI, so the associated dimensional standards are not carried forward.

<sup>50</sup> Allowed residential uses include apartment complexes (CD), live-work units (permitted), and mixed use buildings (CD).

Table 2.2.9-1: OI District Dimensional Standards	
Principal Structure Setbacks (min)	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	40 ft
Side	25 ft
Rear	25 ft
Accessory Structure Setbacks	
See 3.4: Accessory Uses & Structures	
Height (max) <sup>51</sup>	
Principal Structures	75 ft
Accessory Structures	See 3.4: Accessory Uses & Structures

**Key:** min = minimum required | max = maximum allowed | sf = square feet | ft = feet | du = dwelling unit | du/ac = dwelling units per acre

**2.2.10 NB, NEIGHBORHOOD BUSINESS DISTRICT**

- A. **Purpose.** The NB, Neighborhood Business, District is intended for commercial establishments that serve a small market, roughly equivalent to the trade area of a small (40,000 square foot) grocery store and limited ancillary services.<sup>52</sup>
- B. **Location.** The NB District is generally appropriate in areas designated as Neighborhood Center, Village & Village Center, and Crossroads Community on the Future Land Use & Conservation Plan.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.10-1 establishes dimensional standards for the NB District.<sup>53</sup>

<sup>51</sup> Note the current Zoning Ordinance specifies maximum *building* height, while this Chapter proposes to regulate maximum *structure* height.

<sup>52</sup> Carries forward a portion of ZO Section 4: Districts Established (NB District description). The building size limitations are carried forward in Paragraph D.

<sup>53</sup> Carries forward the current dimensional standards in ZO Section 10.6.B. and proposes to increase maximum height from 60 ft to 75 ft pursuant to staff input. Also proposes to require an increased side setback when the lot is adjacent to a lot in the PP, AG, RA, R5, R2, or R1 District or to a lot containing a dwelling unit (regardless of the zoning district). The proposed increased setback would likely require a lot to be at least twice the minimum required lot width.

- E. **Additional Development Standards.** Outdoor storage and sales areas are limited to one-tenth (1/10) of the gross floor area.<sup>54</sup>

<b>Table 2.2.10-1: NB District Dimensional Standards</b>	
<b>Lot Dimensions (min)</b>	
Lot Area, With Public Water and/or Sewer	40,000 sf
Lot Area, With Individual Well & Wastewater Disposal	65,340 sf
Lot Width	75 ft
<b>Residential Density<sup>55</sup></b>	
Density (max)	6 du/ac
<b>Principal Structure Setbacks (min)<sup>1</sup></b>	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	50 ft
Side	20 ft / 50 ft <sup>2</sup>
Rear	20 ft
<b>Accessory Structure Setbacks</b>	
See 3.4: Accessory Uses & Structures	
<b>Height (max)<sup>56</sup></b>	
Principal Structures	75 ft
Accessory Structures	See 3.4: Accessory Uses & Structures
<b>Building GFA (max)</b>	
Per Building <sup>3</sup>	40,000 sf
Per Site <sup>57</sup>	160,000 sf
<b>Key:</b> min = minimum required   max = maximum allowed   sf = square feet   ft = feet   GFA = gross floor area	

<sup>1</sup> The minimum setbacks listed may be reduced to the minimum established in the most recent North Carolina Building Code for buildings that are part of a common plan of development, except along the exterior project boundary where the minimum yard setbacks shall be met.

<sup>54</sup> Carries forward current regulation in ZO Section 10.6.A: Permitted and Conditional Uses (NB District), but revises “interior sales space” to “gross floor area.”

<sup>55</sup> Allowed residential uses include live-work units (permitted) and mixed use buildings (CD).

<sup>56</sup> Note the current Zoning Ordinance specifies maximum *building* height, while this Chapter proposes to regulate maximum *structure* height.

<sup>57</sup> The proposed definition of site is “a contiguous area of land, including a lot or lots or a portion thereof, that is included in a development application.”

**Table 2.2.10-1: NB District Dimensional Standards**

<sup>2</sup>The lesser setback applies when the lot line is adjacent to a lot located in the RV, OI, NB, CB, RB, RHC, IL, or IH zoning district. The greater setback applies when the lot line is adjacent to a lot located in any other zoning district, or when the lot line is adjacent to a lot containing one or more dwelling units regardless of the zoning district.

<sup>3</sup> The maximum GFA for individual buildings does not apply to grocery stores.

**2.2.11 CB, COMMUNITY BUSINESS DISTRICT**

- A. **Purpose.** The CB, Community Business, District is:<sup>58</sup>
  - 1. Similar to the Neighborhood Business District, but at a slightly larger scale; and
  - 2. Is intended for commercial establishments that serve a moderately-sized market, roughly equivalent to the trade area of an 80,000 square foot grocery store and ancillary services.
- B. **Location.** The CB District is generally appropriate in areas designated as Employment Center and Community Center on the Future Land Use & Conservation Plan.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.11-1 establishes dimensional standards for the CB District.<sup>59</sup>
- E. **Additional Development Standards.** Outdoor storage and sales areas are limited to one-tenth (1/10) of the gross floor area.<sup>60</sup>

<b>Table 2.2.11-1: CB District Dimensional Standards</b>	
<b>Lot Dimensions (min)</b>	
Lot Area, With Public Water and/or Sewer	40,000 sf
Lot Area, With Individual Well & Wastewater Disposal	65,340 sf
Lot Width	75 ft

<sup>58</sup> Carries forward a portion of ZO Section 4: Districts Established (CB District description). The building size limitations are carried forward in Paragraph D.

<sup>59</sup> Carries forward the current dimensional standards in ZO Section 10.7.B. and proposes to increase maximum height from 60 ft to 75 ft pursuant to staff input. Also proposes to require an increased side setback when the lot is adjacent to a lot in the PP, AG, RA, R5, R2, NR, or R1 District or to a lot containing a dwelling unit (regardless of the zoning district). The proposed increased setback would likely require a lot to be at least twice the minimum required lot width.

<sup>60</sup> Carries forward current regulation in ZO Section 10.7.A: Permitted and Conditional Uses (CB District), but revises “interior sales space” to “gross floor area.”



<b>Table 2.2.11-1: CB District Dimensional Standards</b>	
<b>Residential Density<sup>61</sup></b>	
Density (max)	8 du/ac
<b>Principal Structure Setbacks (min)<sup>1</sup></b>	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	50 ft
Side	20 ft / 50 ft <sup>2</sup>
Rear	20 ft
<b>Accessory Structure Setbacks</b>	
See 3.4: Accessory Uses & Structures	
<b>Height (max)<sup>62</sup></b>	
Principal Structures	75 ft
Accessory Structures	See 3.4: Accessory Uses & Structures
<b>Building GFA (max)</b>	
Per Building	40,000 sf
Per Site <sup>63</sup>	320,000 sf

**Key:** min = minimum required | max = maximum allowed | sf = square feet | ft = feet | du/ac = dwelling units per acre | GFA = gross floor area

<sup>1</sup> The minimum setbacks listed may be reduced to the minimum established in the most recent North Carolina Building Code for buildings that are part of a common plan of development, except along the exterior project boundary where the minimum yard setbacks shall be met.

<sup>2</sup> The lesser setback applies when the lot line is adjacent to a lot located in the RV, OI, NB, CB, RB, RHC, IL, or IH zoning district. The greater setback applies when the lot line is adjacent to a lot located in any other zoning district, or when the lot line is adjacent to a lot containing one or more dwelling units regardless of the zoning district.

<sup>61</sup> Allowed residential uses include apartment complexes (CD), live-work units (permitted), and mixed use buildings (CD).

<sup>62</sup> Note the current Zoning Ordinance specifies maximum *building* height, while this Chapter proposes to regulate maximum *structure* height.

<sup>63</sup> The proposed definition of site is “a contiguous area of land, including a lot or lots or a portion thereof, that is included in a development application.”

**2.2.12 RB, REGIONAL BUSINESS DISTRICT**

- A. **Purpose.** The RB, Regional Business, District is intended for a wide array of non-residential uses without limitations on single-occupant, single-use structure sizes.<sup>64</sup>
- B. **Location.** The RB District is generally appropriate in areas designated as Employment Center or Community Center on the Future Land Use & Conservation Plan.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.12-1 establishes dimensional standards for the RB District.<sup>65</sup>

<b>Table 2.2.12-1: RB District Dimensional Standards</b>	
<b>Lot Dimensions (min)</b>	
Lot Area, With Public Water and/or Sewer	40,000 sf
Lot Area, With Individual Well & Wastewater Disposal	65,340 sf
Lot Width	75 ft
<b>Residential Density<sup>66</sup></b>	
Density (max)	8 du/ac
<b>Principal Structure Setbacks (min)<sup>1</sup></b>	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	50 ft
Side	20 ft / 50 ft <sup>2</sup>
Rear	20 ft
<b>Accessory Structure Setbacks</b>	
See 3.4: <i>Accessory Uses &amp; Structures</i>	
<b>Height (max)<sup>67</sup></b>	
Principal Structures	75 ft

<sup>64</sup> Carries forward a portion of ZO Section 4: Districts Established (RB District description).

<sup>65</sup> Carries forward the current dimensional standards in ZO Section 10.8.B. and proposes to increase maximum height from 60 ft to 75 ft pursuant to staff input. Also proposes to require an increased side setback when the lot is adjacent to a lot in the PP, AG, RA, R5, R2, NR, or R1 District or to a lot containing a dwelling unit (regardless of the zoning district). The proposed increased setback would likely require a lot to be at least twice the minimum required lot width.

<sup>66</sup> Allowed residential uses include apartment complexes (CD), live-work units (permitted), and mixed use buildings (CD).

<sup>67</sup> Note the current Zoning Ordinance specifies maximum *building* height, while this Chapter proposes to regulate maximum *structure* height.

**Table 2.2.12-1: RB District Dimensional Standards**

Accessory Structures	See 3.4: <i>Accessory Uses &amp; Structures</i>
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**Key:** min = minimum required | max = maximum allowed | sf = square feet | ft = feet | GFA = gross floor area

<sup>1</sup> The minimum setbacks listed may be reduced to the minimum established in the most recent North Carolina Building Code for buildings that are part of a common plan of development, except along the exterior project boundary where the minimum setbacks shall be met.

<sup>2</sup> The lesser setback applies when the lot line is adjacent to a lot located in the RV, OI, NB, CB, RB, RHC, IL, or IH zoning district. The greater setback applies when the lot line is adjacent to a lot located in any other zoning district, or when the lot line is adjacent to a lot containing one or more dwelling units regardless of the zoning district.

**2.2.13 RHC, RURAL HIGHWAY COMMERCIAL DISTRICT<sup>68</sup>**

- A. **Purpose.** The RHC, Rural Highway Commercial, District accommodates a mix of agricultural, service, and industrial uses that are compatible with rural character and typically do not require urban services, such as water and sewer.
- B. **Location.** The RHC District:<sup>69</sup>
  - 1. Is generally appropriate in areas designated as Employment Center on the Future Land Use & Conservation Plan;
  - 2. Is generally appropriate in areas designated as Agriculture and Rural on the Future Land Use & Conservation Plan that are located at intersections along a principal arterial, minor arterial, or major collector road, or are located at the interchanges along U.S. 421; and
  - 3. May be appropriate in areas designated as Village & Village Center **and Crossroad Community** on the Future Land Use & Conservation Plan if compatible with nearby land uses.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.13-1 establishes dimensional standards for the RHC District.

**Table 2.2.13-1: RHC District Dimensional Standards**

Lot Dimensions (min)	
Lot Area, With Public Water and/or Sewer	40,000 sf

<sup>68</sup> New commercial district proposed to help implement the “Agriculture” Future Land Use & Conservation Map designation and address Focus Group concerns with the limitations of the current R1 zoning in these areas. See *Audit Report* p. 60.

<sup>69</sup> The Planning Board UDO Subcommittee suggested consideration of listing specific roads (rather than road classification types) on which the RHC District can be located.

<b>Table 2.2.13-1: RHC District Dimensional Standards</b>	
Lot Area, With Individual Well & Wastewater Disposal	65,340 sf
Lot Width	75 ft
<b>Principal Structure Setbacks (min)<sup>1</sup></b>	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	100 ft
Side	50 ft
Rear	50 ft
<b>Accessory Structure Setbacks</b>	
See 3.4: <i>Accessory Uses &amp; Structures</i>	
<b>Height (max)</b>	
Principal Structures	75 ft
Accessory Structures	See 3.4: <i>Accessory Uses &amp; Structures</i>
<b>Retail Store GFA (max)<sup>70</sup></b>	
Per Building <sup>2</sup>	25,000 sf
Per Site <sup>71</sup>	150,000 sf
<b>Key:</b> min = minimum required   max = maximum allowed   sf = square feet   ft = feet   GFA = gross floor area	

<sup>1</sup> The minimum setbacks listed may be reduced to the minimum established in the most recent North Carolina Building Code for buildings that are part of a common plan of development, except along the exterior project boundary where the minimum yard setbacks shall be met.

<sup>70</sup> A maximum building size (both per building and per site) is proposed for compatibility with nearby agricultural and rural residential areas. Staff recommended inclusion of a maximum GFA for all building types, similar to that in the NB and CB Districts. However, a size limit may not be appropriate for a number of proposed allowed uses in RHC, including hotels; agricultural processing, storage, and support services; assembly halls, coliseums, gymnasiums, and similar structures; equestrian centers; research & development facilities; hospitals; inpatient care facilities, nursing homes, and convalescent homes; and training and conference centers. As such, proposed here is to limit the gross floor area of retail stores only, with the exception of grocery stores. The proposed 25,000 sf per building limit would accommodate the typical size stores for national retailers such as Tractor Supply (15,500 sf), Dollar General (7,400 sf), CVS (10,000 sf to 13,000 sf), and Walgreens (14,500 sf), but would prohibit “big box” retail stores. Alternatively, the UDO could limit building size for all building types and potentially refine the list of allowed uses in the district; or the GFA limit could be eliminated from this district altogether.

<sup>71</sup> The proposed definition of site is “a contiguous area of land, including a lot or lots or a portion thereof, that is included in a development application.”

**Table 2.2.13-1: RHC District Dimensional Standards**

<sup>2</sup> The maximum GFA for individual buildings does not apply to grocery stores.

**2.2.14 IL, LIGHT INDUSTRIAL DISTRICT**

- A. **Purpose.** The IL, Light Industrial, District is primarily intended for wholesale activities, warehouses, and light manufacturing operations that do not involve heavy processing activities and that are unlikely to create noise, smoke, dust, vibration, heat, odor, or other noxious effects, either controlled or uncontrolled.<sup>72</sup>
- B. **Location.** The IL District is generally appropriate in areas designated as Employment Center on the Future Land Use & Conservation Plan and in certain areas along principal arterial, minor arterial, and major collector roads, or are located at the interchanges along U.S. 421.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.14-1 establishes dimensional standards for the IL District.<sup>73</sup>

<b>Table 2.2.14-1: IL District Dimensional Standards</b>	
<b>Lot Dimensions (min)</b>	
Lot Area, With Public Water and/or Sewer	40,000 sf
Lot Area, With Individual Well & Wastewater Disposal	65,340 sf
Lot Width	150 ft
<b>Principal Structure Setbacks (min)<sup>1</sup></b>	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	100 ft
Side	100 ft
Rear	100 ft
<b>Accessory Structure Setbacks</b>	
See 3.4: <i>Accessory Uses &amp; Structures</i>	
<b>Height (max)</b>	
Principal Structures	75 ft

<sup>72</sup> Carries forward a portion of ZO Section 4: Districts Established (IL District description).

<sup>73</sup> Carries forward the current dimensional standards in ZO Section 10.9.B. and proposes to increase all minimum setbacks from 50 ft to 100 ft pursuant to input from staff and the Planning Board UDO Subcommittee. Also proposed, pursuant to input from the UDO Subcommittee, is to add a height limit for principal and accessory structures. The current Zoning Ordinance does not limit height in the IL District. Additional height could be approved, if warranted, through the variance process.

**Table 2.2.14-1: IL District Dimensional Standards**

Accessory Structures	See 3.4: <i>Accessory Uses &amp; Structures</i>
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**Key:** min = minimum required | max = maximum allowed | sf = square feet | ft = feet | GFA = gross floor area

<sup>1</sup> Except along State maintained roads, the minimum setbacks may be reduced to the minimum established in the most recent North Carolina Building Code if the adjacent property is also zoned IL.

**2.2.15 IH, HEAVY INDUSTRIAL DISTRICT**

- A. **Purpose.** The IH, Heavy Industrial, District is primarily intended for manufacturing operations involving heavy manufacturing processes, such as dyeing, chemical mixing, melting, and stamping.<sup>74</sup>
- B. **Location.** The IH District is generally appropriate in areas designated as Employment Center on the Future Land Use & Conservation Plan and in certain areas along principal arterial, minor arterial, and major collector roads, or are located at the interchanges along U.S. 421.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.2.15-1 establishes dimensional standards for the IH District.<sup>75</sup>

**Table 2.2.15-1: IH District Dimensional Standards**

<b>Lot Dimensions (min)</b>	
Lot Area	80,000 sf
Lot Width	300 ft
<b>Principal Structure Setbacks (min)<sup>1</sup></b>	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	200 ft
Side	200 ft
Rear	200 ft
<b>Accessory Structure Setbacks</b>	
See 3.4: <i>Accessory Uses &amp; Structures</i>	
<b>Height (max)</b>	
Principal Structures	None

<sup>74</sup> Carries forward a portion of ZO Section 4: Districts Established (IH District description).

<sup>75</sup> Carries forward the current dimensional standards in ZO Section 10.10.B. and proposes to increase all minimum setbacks from 100 ft to 200 ft pursuant to input from staff and the Planning Board UDO Subcommittee.

Table 2.2.15-1: IH District Dimensional Standards	
Accessory Structures	See 3.4: <i>Accessory Uses &amp; Structures</i>
<b>Key:</b> min = minimum required   max = maximum allowed   sf = square feet   ft = feet   GFA = gross floor area	

<sup>1</sup> Except along State maintained roads, the minimum setbacks may be reduced to the minimum established in the most recent North Carolina Building Code if the adjacent property is also zoned IH.

## 2.3 CONDITIONAL DISTRICTS<sup>76</sup>

### 2.3.1 GENERAL PROVISIONS<sup>77</sup>

A. **Purpose.**<sup>78</sup>

1. Conditional zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to a particular property.
2. Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards.
3. The review process established in this Ordinance provides for accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions that ensure compatibility of the use with neighboring properties.
4. A conditional zoning district is not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved land use plan, or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.

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<sup>76</sup> The [Audit Report](#) recommends limiting the use of conditional zoning districts (see p. 59).. The UDO continues to allow parallel conditional districts for all districts except the new PP, Parks & Protected Lands, District. However, the only uses allowed in a parallel conditional district are those identified with a “C” in the use tables in Chapter 3. The UDO proposes to eliminate SUPs and instead allow formerly SUP uses through a parallel conditional district.

<sup>77</sup> The procedural aspects of the conditional districts are proposed for relocation to Chapter 12: Procedures. This includes current ZO Sections 5.3: General Requirements, 5.5: Conditions, 5.6: Non-Compliance with District Conditions, 5.7: Procedure, 5.8: Effect of Approval, and 5.9: Alterations to Approval.

<sup>78</sup> Carries forward ZO Section 5.1: *Purpose* (Conditional Zoning Districts).

- B. Property may be rezoned to a conditional zoning district only in response to and consistent with an application submitted in compliance with Section 12.15: *Rezoning (Conditional Districts)*.<sup>79</sup>
- C. **Uses Within District.**<sup>80</sup>
1. *Compact & Centers Conditional Districts.*
    - (a) Within a CD-CR, CD-CMU, CD-CN, CD-NC, or CD-AC conditional zoning district, only those uses listed (or determined by the Zoning Administrator to be equivalent uses) as permitted uses or limited uses in Section 3.2: *Principal Use Tables* may be allowed.
    - (b) However, a use is only allowed in one of these districts if expressly authorized by the Board of Commissioners through the conditional zoning district rezoning process.
  2. *Parallel Conditional Districts.*
    - (a) Each conventional zoning district, except PP, has a parallel conditional district. Within a parallel conditional zoning district, only those uses listed as conditional district uses for the corresponding conventional district in Section 3.2: *Principal Use Tables* may be allowed.
    - (b) A use is only allowed in a parallel conditional zoning district if expressly authorized by the Board of Commissioners through the conditional zoning district rezoning process.

**D. Development Boundary Setback in Compact & Centers Conditional Districts.**

1. A development boundary setback is required in within all CD-CR, CD-CMU, CD-CN, CD-NC, and CD-AC conditional zoning districts.
2. The development boundary setback is located along the outer perimeter of the CD-CR district. The setback is measured inward from the lot line comprising the outer development boundary, except as otherwise specified in 2.3.2H.3 below 2.3.1D.4 below.
3. Section 4.4.8: *Transitional Buffers* requires a buffer within this setback.
4. Utility lines and roads may cross the setback area (generally perpendicular to the lot line), but structures are prohibited within this setback. If a utility easement runs parallel or near parallel to the lot line, the development boundary setback is measured from the edge of the utility easement closest to the proposed development.
5. A pedestrian and bicycle trail may be located within the setback area, if:
  - (a) The trail is located approximately in the center of the setback area;

<sup>79</sup> Carries forward the first sentence of ZO Section 5.3: *General Requirements*.

<sup>80</sup> Carries forward ZO Section 5.4: *Uses Within District* with minor revisions for clarity.



- (b) The trail is oriented generally parallel to the lot line comprising the outer development boundary;
- (c) No trees greater than three inches DBH are removed, except invasive species; and
- (d) The trail location is designated on the ~~CD-CR~~conditional district site plan.

**E. Transit Stops.** Transit stops must be provided in the conditional districts and locations specified in 7.3.2: *Pedestrian & Multimodal Systems*.

**F. Optional Incentives for Including Affordable Housing in Compact & Centers Conditional Districts.**

1. Purpose. The purposes of these incentives are to:
  - (a) Promote a diverse housing stock; and
  - (b) Encourage the provision of housing that is affordable to all economic levels of residents and meets the needs of the County’s diversifying population.
2. Applicability. The incentives specified in ~~2.3.2K.3 below~~2.3.1F.3 below are available for any ~~CD-CR, CD-CMU, CD-CN, CD-NC, or CD-AC conditional zoning district~~ ~~CD-CR~~that provides at least 15% of the total number of dwelling units in the district as affordable dwelling units as defined in the **Chatham County Affordable Housing Policy Manual**.<sup>81</sup>
3. Incentives. The following incentives are available for districts meeting the applicability criteria in ~~2.3.2K.2 above~~2.3.1F.2 above:
  - (a) Density Bonus. The total number of dwelling units allowed in the district may be increased by up to ~~15~~25%.
  - (b) Parking Reduction. The district may provide parking for the affordable dwelling units at the highest average parking rate specified in the latest edition of the ITE Parking Generation Manual for Land Use 223: *Affordable Housing, Affordable Housing—Senior, or Affordable Housing – Single Room Only* as applicable for the proposed dwelling units.<sup>82</sup>

~~D. \_\_\_\_\_~~

<sup>81</sup> County staff will develop this manual, which will include income limits, rent and/or sales prices limits, deed restriction requirements, and other policies for affordable housing provided to receive incentives. The Town of Apex uses a similar approach (see its *Affordable Housing Incentive Zoning Policy Procedures Manual*).

<sup>82</sup> The data in the ITE Parking Generation Manual demonstrates a lower parking demand for affordable housing units.

### 2.3.2 CD-CR, COMPACT RESIDENTIAL CONDITIONAL DISTRICT<sup>83</sup>

- A. **Purpose.** The CD-CR, Compact Residential, Conditional District is intended to encourage creative development by providing flexibility in lot size and residential unit placement within larger planned residential projects, while also preserving open space in more usable and environmentally sensitive units.<sup>84</sup>
- B. **Location.** The CD-CR District is generally appropriate in areas designated as Compact Residential on the Future Land Use & Conservation Plan.
- C. **Minimum Land Area.** Each CD-CR District shall contain a minimum gross land area of 50 acres.<sup>85</sup>
- D. **Maximum Size.** A CD-CR District shall not include more than 2,650 dwelling units.<sup>86</sup>
- E. **Maximum Net Residential Density.** The maximum residential density in a CD-CR district is one-two dwelling units for each 20,000 square feet per acre of net land area, except as otherwise allowed by 2.3.1F: *Optional Incentives for Including Affordable Housing in Compact and Centers Conditional Districts*. [See ~~Chapter 16: Rules of Interpretation & Measurement~~ 16.4.10: *Net Land Area* for an explanation of how to calculate net land area.]<sup>87</sup>
- F. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- G. **Dimensional Standards.** Table 2.3.2-1 establishes dimensional standards for the CD-CR District.

<sup>83</sup> New district proposed to implement the MU-1 (Mixed Use 1 District) recommended in Plan Chatham Land Use Action Item 1.2 (p. 145). Incorporates and revises the current standards for Planned Residential Developments (PRD). The applicable approval process (after rezoning) for a development in the CD-CR District depends on the proposed use(s). If the development involves subdivision, it would go through the typical subdivision process (Sketch Plan, Preliminary Plat & Construction Plan, Final Plat). If the development does not involve subdivision (e.g., an apartment complex on a single lot), it would go through the Zoning Compliance process following review by the Appearance Commission.

<sup>84</sup> Carries forward portions of ZO Section 17.5.C: Purpose (Planned Residential Development).

<sup>85</sup> Carries forward the minimum gross acreage required for a PRD in the R1 District. Most areas designated for Compact Residential on the Future Land Use & Conservation Plan are currently zoned R1.

<sup>86</sup> Carries forward CCO Section 6.2: Maximum Size. The County could consider removing this limitation and allowing the maximum net density to control. For reference, a proposed development with the maximum number of allowed dwelling units would have to be located on at least 1,216.7 acres to comply with the maximum net density standard.

<sup>87</sup> Revises the maximum net density allowed for a PRD in the R1 District. Most areas designated for Compact Residential on the Future Land Use & Conservation Plan are currently zoned R1.

<b>Table 2.3.2-1: CD-CR District Dimensional Standards</b>	
<b>Development Boundary Setback (min)<sup>1 88</sup></b>	
Perimeter, Adjacent to Existing Residential Development or a Residential Zoning District	100 ft
Perimeter, Adjacent to All Other Districts	100 ft
Right-of-Way	100 ft
<b>Lot Dimensions (min)</b>	
Lot Area	None
Lot Width	None
<b>Principal &amp; Accessory Structure Setbacks (min)</b>	
The conditional district rezoning ordinance establishes minimum principal and accessory structure setbacks. In no case shall the setbacks be less than the minimum established in the most recent North Carolina Building Code.	
<b>Height (max)</b>	
Principal Structures	75 ft
Accessory Structures	See 3.4: Accessory Uses & Structures
<b>Key:</b> min = minimum required   max = maximum allowed   ft = feet	

<sup>1</sup> Section 4.4.8: *Transitional Buffers* requires a buffer within the Development Boundary Setback.

~~H.A. Development Boundary Setback.~~

- ~~1. The development boundary setback is located along the outer perimeter of a CD-CR District. The setback is measured inward from the lot line comprising the outer development boundary, except as otherwise specified in 2.3.2H.3 below.~~
- ~~2.1. Section 4.4.8: *Transitional Buffers* requires a buffer within this setback.~~
- ~~3.1. Utility lines and roads may cross the setback area (generally perpendicular to the lot line), but structures are prohibited within this setback. If a utility~~

<sup>88</sup> The current PRD standards require setbacks with at least the minimum depth specified for the district in which the PRD is located, but authorize the Board of Commissioners to increase the setbacks or apply other conditions. The proposed minimum Development Boundary Setbacks here align with a recommendation in Plan Chatham (p. 146) to increase setbacks for the Mixed Use 3 District (which is implemented in the UDO as CD-CN, Compact Non-Residential Conditional District). The UDO proposes to implement these increased setbacks in all three compact districts. Any reductions to these minimum setbacks would require approval by the BOC through the rezoning process. Section 4.4: *Landscaping & Screening* requires a 50 ft buffer within the Development Boundary Setback.

~~easement runs parallel or near parallel to the lot line, the development boundary setback is measured from the edge of the utility easement closest to the proposed development.~~

~~4.1. A pedestrian and bicycle trail may be located within the setback area, if:~~

~~(a) The trail is located approximately in the center of the setback area;~~

~~(b)(a) The trail is oriented generally parallel to the lot line comprising the outer development boundary;~~

~~(c)(a) No trees greater than three inches DBH are removed, except invasive species; and~~

~~(d)(a) The trail location is designated on the CD-CR District site plan.~~

**4.H. Relationship of Buildings to Lot.** One or more principal residential dwellings or other principal buildings may be located on a single lot.<sup>89</sup>

**4.I. Common Areas.**<sup>90</sup>

1. All land not used for public or private street rights-of-way or building lots shall be placed in common area and owned by an entity created for their perpetual ownership and maintenance.
2. There may be more than one common area and more than one level of common area rights within a development in the CD-CR District. Common areas may be used for recreational facilities and similar uses for the development.

~~4.A. Optional Incentives for Including Affordable Housing.~~

~~1. Purpose. The purposes of these incentives are to:~~

~~(a) Promote a diverse housing stock; and~~

~~(b)(a) Encourage the provision of housing that is affordable to all economic levels of residents and meets the needs of the County's diversifying population.~~

~~2.1. Applicability. The incentives specified in 2.3.2K.3 below are available for any CD-CR that provides at least 15% of the total number of dwelling units in the district as affordable dwelling units as defined in the Chatham County Affordable Housing Policy Manual.<sup>91</sup>~~

~~3.1. Incentives. The following incentives are available for districts meeting the applicability criteria in 2.3.2K.2 above:~~

<sup>89</sup> Carries forward a portion of ZO 8.1: Relationship of Buildings to Lot.

<sup>90</sup> Carries forward ZO 17.5.C.6: Gross Site Use with minor revisions.

<sup>91</sup> ~~County staff will develop this manual, which will include income limits, rent and/or sales prices limits, deed restriction requirements, and other policies for affordable housing provided to receive incentives. The Town of Apex uses a similar approach (see its Affordable Housing Incentive Zoning Policy Procedures Manual).~~

- ~~(a) — *Density Bonus.* The total number of dwelling units allowed in the district may be increased by up to 15%.~~
- ~~(b)(a) — *Parking Reduction.* The district may provide parking for the affordable dwelling units at the highest average parking rate specified in the latest edition of the ITE Parking Generation Manual for Land Use 223: *Affordable Housing, Affordable Housing — Senior, or Affordable Housing — Single Room Only* as applicable for the proposed dwelling units.<sup>92</sup>~~
- ~~(c) — *Open Space Reduction.* The total amount of open space required by Section 6.1: *Open Space* may be reduced by up to 5% if the primary entrance to the CD-CR district is located within one-quarter mile of an existing public park.~~

### 2.3.3 CD-CMU, COMPACT MIXED USE CONDITIONAL DISTRICT<sup>93</sup>

#### A. **Purpose.**<sup>94</sup>

1. The CD-CMU, Compact Mixed Use, Conditional District is intended to:
  - (a) Provide flexibility for a complementary mix of residential and non-residential uses developed on large tracts in accordance with a unified development plan;
  - (b) Promote new communities that support mixed use development, anchored by a village center composed of commercial, civic, and residential uses that add to Chatham County's tax base, help residents meet their daily needs, and preserve Chatham County's small-town atmosphere; and
  - (c) Encourage compact, village-style development with well-integrated open space, at a size that is easily walkable and bikeable by residents of all ages.
2. Developments in the CD-CMU District:
  - (a) Are unified by distinguishable design features;
  - (b) Provide pedestrian connections between all uses;

<sup>92</sup> ~~The data in the ITE Parking Generation Manual demonstrates a lower parking demand for affordable housing units.~~

<sup>93</sup> New district proposed to implement the MU-2 recommended in Plan Chatham Land Use Action Item 1.2 (p. 145). Incorporates some of the current standards from the Compact Communities Ordinance (CCO). The applicable approval process (after rezoning) for a development in the CD-CMU District depends on the proposed use(s). If the development involves subdivision, it would go through the typical subdivision process (Sketch Plan, Preliminary Plat & Construction Plan, Final Plat). If the development does not involve subdivision, it would go through the Zoning Compliance process following review by the Appearance Commission.

<sup>94</sup> Carries forward portions of ZO Section 10.12.A: Purpose (CD-MU Mixed Use) and CCO Section 3: Purpose.

- (c) Provide a more efficient use of land while providing more on-site amenities and preserving open space;
- (d) Include a mix of housing types that are architecturally consistent and affordable to a range of residents in Chatham County; and
- (e) Include a mix of uses designed to be mutually supporting so that traffic congestion is minimized, and pedestrian circulation is enhanced.

B. **Location.** The CD-CMU District is generally appropriate in areas designated as Community Center or Neighborhood Center on the Future Land Use & Conservation Plan.

C. **Minimum Land Area.** Each CD-CMU District shall contain a minimum gross land area of 50 acres.<sup>95</sup>

~~D. —~~ **Maximum Residential Density.**<sup>96</sup>

~~1.D. —~~ *Maximum Density.* Each CD-CMU District may have a The maximum overall residential density in a CD-CMU district is of no more than two dwelling units for per each acre of gross net land area in the project, except as otherwise allowed by 2.3.3K: Optional Incentives for Including Affordable Housing. 2.3.1F: Optional Incentives for Including Affordable Housing in Compact and Centers Conditional Districts. See 16.4.10: Net Land Area for an explanation of how to calculate net land area.]

- ~~(a) —~~ Accessory dwelling units count as one-half (1/2) a dwelling unit for the purposes of this calculation. Accessory dwelling units may contain a maximum of 1,500 square feet of conditioned floor area.
- ~~(b) —~~ Spray fields located off the project area shall not count as part of the project for the purposes of the maximum residential density calculation.

~~2. —~~ *Minimum Density.* The minimum net residential density shall be at least five units per net acre of land area. [See Chapter 16: Rules of Interpretation & Measurement for an explanation of how to calculate net land area.]

E. **Allowed Uses.** See Chapter 3: Use Regulations.

F. **Mixture of Uses Required.**<sup>97</sup>

1. *Minimum Residential Use Allocation.*

- (a) At least 60% of the built-upon area of each proposed CD-CMU District must be dedicated to residential land uses.<sup>98</sup>

<sup>95</sup> Adds a minimum acreage for consistency with the CD-CR and CD-CN Districts.

<sup>96</sup> ~~Carries forward CCO Section 6.3: Residential Density (Maximum and Minimum).~~

<sup>97</sup> The proposed definition of residential use is “any use that includes only dwelling units and their customary accessory uses, but no other uses.” The proposed definition of non-residential use is “any use other than a residential use (e.g., commercial, retail, office, civic, or institutional use).”

<sup>98</sup> Plan Chatham notes this district should be “predominantly residential” (p. 145).

- (b) Where a proposed district includes residential uses in vertically mixed use structures (mixed commercial and residential buildings), the gross floor area of the residential uses is used in place of built-upon area to calculate the minimum residential use allocation.

2. *Minimum Non-Residential Use Allocation.*

- (a) At least 20% of the built-upon area of each proposed CD-CMU District must be dedicated to non-residential land uses.
- (b) Where a proposed district includes non-residential uses in vertically mixed use structures (mixed commercial and residential buildings), the gross floor area of the non-residential uses is used in place of built-upon area to calculate the minimum non-residential use allocation.
- (c) At least 25% of the total planned non-residential area shall be developed before 75% of the maximum number of allowable dwelling units receive final subdivision plat approval.<sup>99</sup>
- (d) At least 50% of the total planned non-residential area shall be developed before 90% of the maximum number of allowable dwelling units receive final plat approval.<sup>100</sup>

3. *Mixture of Dwelling Types Required.*

- (a) Each CD-CMU District must include at least three of the following dwelling types:<sup>101</sup>
  - (1) Detached houses;
  - (2) Townhouses;
  - (3) Duplexes;
  - (4) Multi-family buildings; and
  - (5) Apartments in mixed use buildings.
- (b) The housing types must be fully integrated into the overall development design, with the highest residential densities occurring adjacent to non-residential use areas, extending to lower residential densities at the periphery of the development.<sup>102</sup>

G. **Dimensional Standards.** Table 2.3.3-1 establishes dimensional standards for the CD-CMU District.

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<sup>99</sup> Carries forward a portion of CCO Section 6.5: Commercial Area.

<sup>100</sup> Carries forward a portion of CCO Section 6.5: Commercial Area.

<sup>101</sup> Carries forward provisions in the CCO (12.1: Performance Standards) requiring at least three housing types, but expands the allowable housing types to include triplexes, quadplexes, and apartments in mixed use buildings.

<sup>102</sup> Carries forward a portion of CCO Section 12.1: Performance Standards (Housing mix and development pattern).

<b>Table 2.3.3-1: CD-CMU District Dimensional Standards</b>	
<b>Development Boundary Setback (min)<sup>103 1</sup></b>	
Perimeter, Adjacent to Existing Residential Development or a Residential Zoning District	100 ft
Perimeter, Adjacent to All Other Districts	50 ft
Right-of-Way (US 64, US 421, US 15/501/87 South, or US 1)	75 ft
Right-of-Way (All others)	50 ft
<b>Lot Dimensions (min)</b>	
Lot Area	None
Lot Width	None
<b>Principal &amp; Accessory Structure Setbacks (min)</b>	
The conditional district rezoning ordinance establishes minimum principal and accessory structure setbacks. In no case shall the setbacks be less than the minimum established in the most recent North Carolina Building Code.	
<b>Height (max)</b>	
Principal Structures	75 ft
Accessory Structures	See 3.4: Accessory Uses & Structures
<b>Key:</b> min = minimum required   max = maximum allowed   ft = feet	

<sup>1</sup> Section 4.4.8: *Transitional Buffers* requires a buffer within the Development Boundary Setback.

~~H. Development Boundary Setback.~~

- ~~1. The development boundary setback is located along the outer perimeter of a CD-CMU District. The setback is measured inward from the lot line comprising the outer development boundary, except as otherwise specified in 2.3.3H.3 below.~~
- ~~2. Section 4.4.8: *Transitional Buffers* requires a buffer within this setback.~~
- ~~3. Utility lines and roads may cross the setback area (generally perpendicular to the lot line), but structures are prohibited within this setback. If a utility~~

<sup>103</sup> The proposed minimum Development Boundary Setbacks here align with a recommendation in Plan Chatham (p. 146) to increase setbacks for the Mixed Use 3 District (which is implemented in the UDO as CD-CN, Compact Non-Residential Conditional District). The UDO proposes to implement these increased setbacks in all three compact districts. Any reductions to these minimum setbacks require approval by the BOC through the rezoning process. Section 4.4.7: *Transitional Buffers* includes provisions for a 50-foot buffer within the Development Boundary Setback.



~~easement runs parallel or near parallel to the lot line, the development boundary setback is measured from the edge of the utility easement closest to the proposed development.~~

- ~~4. A pedestrian and bicycle trail may be located within the setback area, if:
 
  - ~~(a) The trail is located approximately in the center of the setback area;~~
  - ~~(b) The trail is oriented generally parallel to the lot line comprising the outer development boundary;~~
  - ~~(c) No trees greater than three inches DBH are removed, except invasive species; and~~
  - ~~(d) The trail location is designated on the CD-CMU District site plan.~~~~

#### **H. Neighborhood Center Required.<sup>104</sup>**

1. Each CD-CMU District shall include an identifiable neighborhood center (not necessarily located in the geographic center of the project) where non-residential and higher density residential uses are concentrated.
2. The neighborhood center shall connect to other areas of the development via streets and pedestrian/bicycle paths.
3. The neighborhood center shall include a portion of the required open space (see Chapter 6: *Conservation & Open Space*) as well as non-residential uses, such as retail and office uses.

**I. Signs.** Signs shall comply with Section 4.7: *Signs* and shall use a coordinated color, style, and lettering scheme.<sup>105</sup>

**J. Appearance.** As part of the Conditional District Rezoning procedure, the applicant must submit integrated Architectural Guidelines and Contextual Guidelines.

#### **~~L. Optional Incentives for Including Affordable Housing.~~**

- ~~1. Purpose. The purposes of these incentives are to:
 
  - ~~(a) Promote a diverse housing stock; and~~
  - ~~(b) Encourage the provision of housing that is affordable to all economic levels of residents and meets the needs of the County's diversifying population.~~~~
- ~~2. Applicability. The incentives specified in 2.3.3L.3 below are available for any CD-CMU that provides at least 15% of the total number of dwelling units in the~~

<sup>104</sup> Carries forward a portion of CCO Section 12.1: Performance Standards (Town center).

<sup>105</sup> Carries forward ZO Section 10.12.G: *Signage* (CD-MU Mixed Use).

~~district as affordable dwelling units as defined in the Chatham County Affordable Housing Policy Manual.<sup>106</sup>~~

- ~~3. **Incentives.** The following incentives are available for districts meeting the applicability criteria in 2.3.3L.2 above:~~
- ~~(a) **Density Bonus.** The total number of dwelling units allowed in the district may be increased by up to 15%.~~
  - ~~(b) **Parking Reduction.** The district may provide parking for the affordable dwelling units at the highest average parking rate specified in the latest edition of the ITE Parking Generation Manual for Land Use 223: Affordable Housing, Affordable Housing—Senior, or Affordable Housing—Single Room Only as applicable for the proposed dwelling units.<sup>107</sup>~~
  - ~~(c) **Open Space Reduction.** The total amount of open space required by Section 6.1: Open Space may be reduced by up to 5% if the primary entrance to the CD-CMU district is located within one quarter mile of an existing public park.~~

#### 2.3.4 CD-CN, COMPACT NON-RESIDENTIAL CONDITIONAL DISTRICT<sup>108</sup>

##### A. **Purpose.**

1. The CD-CN, Compact Non-Residential, Conditional District is intended to provide flexibility for a complementary mix of predominantly non-residential uses developed on large tracts in accordance with a unified development plan.
2. Developments in the CD-CN District:
  - (a) Are unified by distinguishable design features;
  - (b) Provide for the efficient use of land; and
  - (c) Include a mix of uses designed to be mutually supporting so that traffic congestion is minimized, and pedestrian circulation is enhanced.<sup>109</sup>

- B. **Location.** The CD-CN District is generally appropriate in areas designated as Employment Center or Community Center on the Future Land Use & Conservation Plan.

<sup>106</sup> County staff will develop this manual, which will include income limits, rent and/or sales prices limits, deed restriction requirements, and other policies for affordable housing provided to receive incentives. The Town of Apex uses a similar approach (see its [Affordable Housing Incentive Zoning Policy Procedures Manual](#)).

<sup>107</sup> The data in the ITE Parking Generation Manual demonstrates a lower parking demand for affordable housing units.

<sup>108</sup> New district proposed to implement the MU-3 recommended in Plan Chatham Land Use Action Item 1.2 (p. 145). Incorporates some of the current standards from the Mixed Use Conditional District (CD-MU).

<sup>109</sup> Carries forward portions of ZO 10.12.A: Purpose (CD-MU Mixed Use).

- C. **Minimum Land Area.** Each CD-CN District shall contain a minimum gross land area of 50 acres.<sup>110</sup>
- D. **Maximum Net Density and Built-Up Area.** The maximum net density and built upon area for any portion of a development located in a CD-CN District shall not exceed the requirements of Chapter 8: *Watershed & Riparian Buffer Protection*.<sup>111</sup>
- E. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- F. **Maximum Residential Use Allocation.**
  - 1. A maximum of 20% of the built-upon area of each proposed CD-CN District may be dedicated to multi-family residential land uses.<sup>112</sup>
  - 2. Where a proposed district includes residential uses in vertically mixed use structures (mixed commercial and residential buildings), the gross floor area of the residential uses is used in place of built-upon area to calculate the minimum residential use allocation.
- G. **Dimensional Standards.** Table 2.3.4-1 establishes dimensional standards for the CD-CN District.<sup>113</sup>

<b>Table 2.3.4-1: CD-CN District Dimensional Standards</b>	
<b>Development Boundary Setbacks (min)<sup>1</sup> <sup>114</sup></b>	
Perimeter, Adjacent to Existing Residential Development or a Residential Zoning District	100 ft
Perimeter, Adjacent to All Other Districts	100 ft
Right-of-Way	100 ft

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<sup>110</sup> Carries forward the minimum gross acreage required for the CD-MU District (ZO 10.12.B).

<sup>111</sup> Carries forward ZO 10.12.C: Maximum Net Density and Built Upon Area Allowed (CD-MU Mixed Use) and updates cross-reference from the “most recently adopted Watershed Protection Map of Chatham County, North Carolina” to Chapter 8: Watershed Protection. The rules for calculating net land area (ZO Section 10.12.D) are proposed for relocation to Chapter 17: *Rules of Interpretation & Measurement*.

<sup>112</sup> Plan Chatham notes this district should be “predominantly non-residential” (p. 146).

<sup>113</sup> Carries forward ZO 10.12.F: *Dimensional and Off-Street Parking Requirements* (CD-MU Mixed Use). Adjusts development boundary setbacks as recommended by Plan Chatham (Land Use Action Item 1.2, p. 146).

<sup>114</sup> The current PRD standards require setbacks with at least the minimum depth specified for the district in which the PRD is located, but authorize the Board of Commissioners to increase the setbacks or apply other conditions. The proposed minimum Development Boundary Setbacks here align with a recommendation in Plan Chatham (p. 146) to increase setbacks for the Mixed Use 3 District (which is implemented in the UDO as CD-CN, Compact Non-Residential Conditional District). The UDO proposes to implement these increased setbacks in all three compact districts. Any reductions to these minimum setbacks require approval by the BOC through the rezoning process. Section 4.5: Landscaping & Screening includes provisions for a buffer within the Development Boundary Setback.

Table 2.3.4-1: CD-CN District Dimensional Standards	
<b>Lot Dimensions (min)</b>	
Lot Area	None
Lot Width	None
<b>Principal &amp; Accessory Structure Setbacks (min)</b>	
The conditional district rezoning ordinance establishes minimum principal and accessory structure setbacks. In no case shall the setbacks be less than the minimum established in the most recent North Carolina Building Code.	
<b>Height (max)</b>	
Principal Structures	75 ft
Accessory Structures	See 3.4: Accessory Uses & Structures
<b>Key:</b> min = minimum required   max = maximum allowed   ft = feet	

<sup>1</sup> Section 4.4.8: *Transitional Buffers* requires a buffer within the Development Boundary Setback.

**H. Development Boundary Setback.**

1. The development boundary setback is located along the outer perimeter of a CD-CN District. The setback is measured inward from the lot line comprising the outer development boundary, except as otherwise specified in 2.3.4H.3 below.
2. Section 4.4.8: *Transitional Buffers* requires a buffer within this setback.
3. Utility lines and roads may cross the setback area (generally perpendicular to the lot line), but structures are prohibited within this setback. If a utility easement runs parallel or near parallel to the lot line, the development boundary setback is measured from the edge of the utility easement closest to the proposed development.
4. A pedestrian and bicycle trail may be located within the setback area, if:
  - (a) The trail is located approximately in the center of the setback area;
  - (b) The trail is oriented generally parallel to the lot line comprising the outer development boundary;
  - (c) No trees greater than three inches DBH are removed, except invasive species; and
  - (d) The trail location is designated on the CD-CN District site plan.

I. **Appearance.** As part of the Conditional District Rezoning procedure, the applicant must submit integrated Architectural Guidelines and Contextual Guidelines.

**2.3.5 CD-NC, NEIGHBORHOOD CENTER CONDITIONAL DISTRICT**

**A. Purpose.**

1. The purpose of the CD-NC, Neighborhood Center Conditional District, is to provide lands that primarily accommodate low-to-moderate-density residential development of all types; small-scale, mixed-use centers; and non-residential uses that are attractive to employers and employees, are well connected to the residential neighborhoods in the Neighborhood Center District, as well as transit, as appropriate, and serve the surrounding neighborhoods.
  2. The district embodies key elements of walkable urbanism and is envisioned as walkable and bikeable areas that are well-connected. They may be anchored by institutional uses and contain a mix of primarily residential uses, including detached homes and small-scale two- and three-family, townhouse, and multifamily dwellings. The residential uses may be supported by small-scale and auto-accessible retail, medical, office, institutional, and mixed-use development that primarily serves the residential development in the district, as well as the community surrounding the district.
  3. The vertical mixing of residential uses with non-residential uses within a single project or building, with residential development on upper floors, is allowed and encouraged. The horizontal mixing of stand-alone, moderate-scale residential developments and adjacent stand-alone non-residential or mixed-use developments in the district is also encouraged, provided the development is well-integrated in terms of complementary uses, access and circulation, and compatible design.
- B. **Location.** Lands in the Neighborhood Center District shall be adjacent to or served by a major arterial road, and may be designated as Neighborhood Center, Village and Village Center, or Crossroads Community on the Future Land Use & Conservation Plan.
- C. **Allowed Uses.** See Chapter 3: *Use Regulations*.
- D. **Dimensional Standards.** Table 2.3.5-1 establishes dimensional standards for CD-NC.

**Table 2.3.5-1: CD-NC Dimensional Standards**

	Building Type				
	Detached House <sup>1</sup>	Two and Three-Family <sup>1</sup>	Townhouse <sup>1</sup>	Multi-Family <sup>1</sup>	All Non-Residential and Mixed-Use <sup>1,2</sup>
<b>Development Boundary Setback (min)<sup>3</sup></b>					
<u>Perimeter, Adjacent to Existing Residential Development or a Residential Zoning District</u>		75 ft			75 ft
<u>Perimeter, Adjacent to All Other Districts</u>		75 ft			75 ft
<u>Right-of-Way</u>		75 ft			75 ft
<b>Lot Dimensions (min)</b>					

**Table 2.3.5-1: CD-NC Dimensional Standards**

	Building Type				
	Detached House <sup>1</sup>	Two and Three-Family <sup>1</sup>	Townhouse <sup>1</sup>	Multi-Family <sup>1</sup>	All Non-Residential and Mixed-Use <sup>1,2</sup>
Lot Area	<del>15,000</del> 7,500 sf	<del>20,000</del> 10,000 sf	n/a	n/a	n/a
Lot Width	100 ft	120 ft	18 ft	160 ft	100 ft
<b>Development Intensity</b>					
Density (max)	n/a	n/a	<del>8-6</del> du/acre	<del>12-9</del> du/acre	<del>12-9</del> du/acre
<b>Principal Structure Setbacks (min)</b>					
<i>As established in the zoning ordinance for the conditional district or the minimum established in the most recent North Carolina Building Code, whichever is greater.</i>					
<del>Any lot frontage along US-64, US-421, US-15/501/87 South, or US-1</del>	75 ft	75 ft	75 ft	75 ft	75 ft
Front	20 ft	20 ft	30 ft	30 ft	20 ft
Side	10 ft	10 ft	0 ft / 10 ft <sup>3</sup>	20 ft	n/a
Rear	10 ft	15 ft	15 ft	30 ft	25 ft
<b>Accessory Structure Setbacks</b>					
See 3.4: Accessory Uses & Structures					
<b>Height (max)<sup>115</sup></b>					
Principal Structures	36 ft			75 ft	
Accessory Structures	See 3.4: Accessory Uses & Structures				

**Key:** min = minimum required | max = maximum allowed | ft = feet | sf = square feet | du = dwelling unit | n/a = not applicable

<sup>1</sup> Shall be served by public water and a sewer system served by a wastewater treatment facility.

<sup>2</sup> Residential shall be on the second floor above first floor non-residential development.

<sup>3</sup> Section 4.4.8: *Transitional Buffers* requires a buffer within the Development Boundary Setback.

<sup>3</sup> ~~The minimum setback between individual townhouse dwelling units is 0 ft. The minimum setback between an end townhouse unit and its side lot line is 10 ft.~~

E. **Form and Design Standards.** The following standards apply in the CD-NC District. Where these provisions conflict with other provisions in this Ordinance, these provisions control.

<sup>115</sup> Proposed here is to allow up to 75 feet in height for multi-family, mixed use, and non-residential buildings pursuant to staff input on other sections of Chapter 2.

1. *Building Placement and Orientation.* Building orientation refers to the location of the primary and secondary façades and entrances to a building.
  - (a) Buildings shall orient toward the street they face.
  - (b) For non-residential and mixed-use development:
    - (1) If an interior street or block system is established for multi-building development, a building shall be oriented to an interior street. The rear of a building shall not face a major arterial.
    - (2) In order to emphasize pedestrian or customer access, building entrances shall be differentiated from the rest of a building's façade by a change in material, architectural features, setbacks, or level.
    - (3) If multiple tenants are located in an open retail center, no more than five tenants may be accessed by a single exterior customer entrance that complies with the standards of this Subsection.
    - (4) Where a parking lot is located at the rear of the building, a secondary entrance shall be provided in the rear of the building from the parking lot.
2. *Sidewalks.* Sidewalks shall be provided on both sides of every internal street on the site. The sidewalks shall be a minimum of five feet in width. In addition:
  - (a) A street tree planting area at least five feet in width between the sidewalk and the street shall be provided, with a street tree planted every 50 feet, on average.
  - (b) A pedestrian way shall be provided from an adjacent sidewalk to each pedestrian entrance of a building on the site.
  - (c) Where a sidewalk crosses a street, driveway, drive aisle, or parking lot, the crossing shall be clearly marked with a change in paving material, color, or height; decorative bollards; or similar elements.
3. *Building Mass.*
  - (a) Townhome, multi-family with five or more dwelling units, non-residential, and mixed-use building façades that face a street and are greater than 80 feet in width shall be articulated with:
    - (1) Wall offsets (e.g., projections or recesses in the façade plane with a minimum depth of two feet); or
    - (2) Changes in façade color or material; or
    - (3) Similar features that visually interrupt the wall plane horizontally such that the width of uninterrupted façade does not exceed 40 feet.
  - (b) Where appropriate, roof assemblies may be used to reduce building mass. (See Figure 2.3.5-1: *Front Façade Offsets*).

**Figure 2.3.5-1: Front Façade Offsets**

- (c) *Materials.* The following materials are prohibited for these buildings (including accessory structures):
- (1) Metal/steel (except for architectural accents);
  - (2) Corrugated or reflective metal panels;
  - (3) Unfinished block;
  - (4) Textured plywood;
  - (5) Mirrored glass and glass curtain walls;
  - (6) Plastic siding;
  - (7) Tile (except for architectural accents); and
  - (8) Exterior Insulation and Finish Systems (EIFS) (except for architectural accents).



- (d) *Fenestration/Transparency.* The following façade fenestration/transparency standards apply:
    - (1) At least 15% of the street-facing façade area of the ground-level floor of any townhouse or multi-family development (as measured from the grade to the underside of the eave, top of the parapet, or the story line denoting the second floor) shall be occupied by windows or doorways.
    - (2) At least 25% of the street-facing façade area of the ground-level floor of non-residential or mixed-use buildings (as measured from the grade to the underside of the eave, top of the parapet, or the story line denoting the second floor) shall be occupied by windows or doorways.
  - (e) *Change of Façade Materials.* For all buildings except detached housing, primary façade materials shall not change at outside corners but shall extend along any side façade that is visible from a street. In all instances the extension shall be a minimum of 20 feet.
4. *Roofs.* Roof features for townhome, multi-family with five or more dwelling units, non-residential, and mixed-use development shall be in scale with the building's mass, consistent with the form of the structure, and comply with the following standards:
- (a) Sloped roofs on buildings over 100 feet in length shall include two or more different sloping roof planes, each with a minimum pitch between 3:12 and 12:12.
  - (b) Flat roofs shall be concealed by parapet walls that extend at least three feet above the roof level and have three-dimensional cornice treatments that project at least eight inches outward from the parapet façade plane.
  - (c) Alternative roof forms or pitches may be allowed for small roof sections over porches, entryways, or similar features.
  - (d) All roof-based mechanical equipment, as well as vents, pipes, antennas, satellite dishes, and other roof penetrations (except chimneys), shall be located on the rear elevations or otherwise be configured and screened (if necessary) to have a minimal visual impact as seen from US 15-501 or any local or internal street.
5. *Garage Standards.* For townhome and multi-family development, detached garages or carports shall be located to the side or rear of the building(s) containing the dwellings.

#### F. **Site Access and Circulation.**

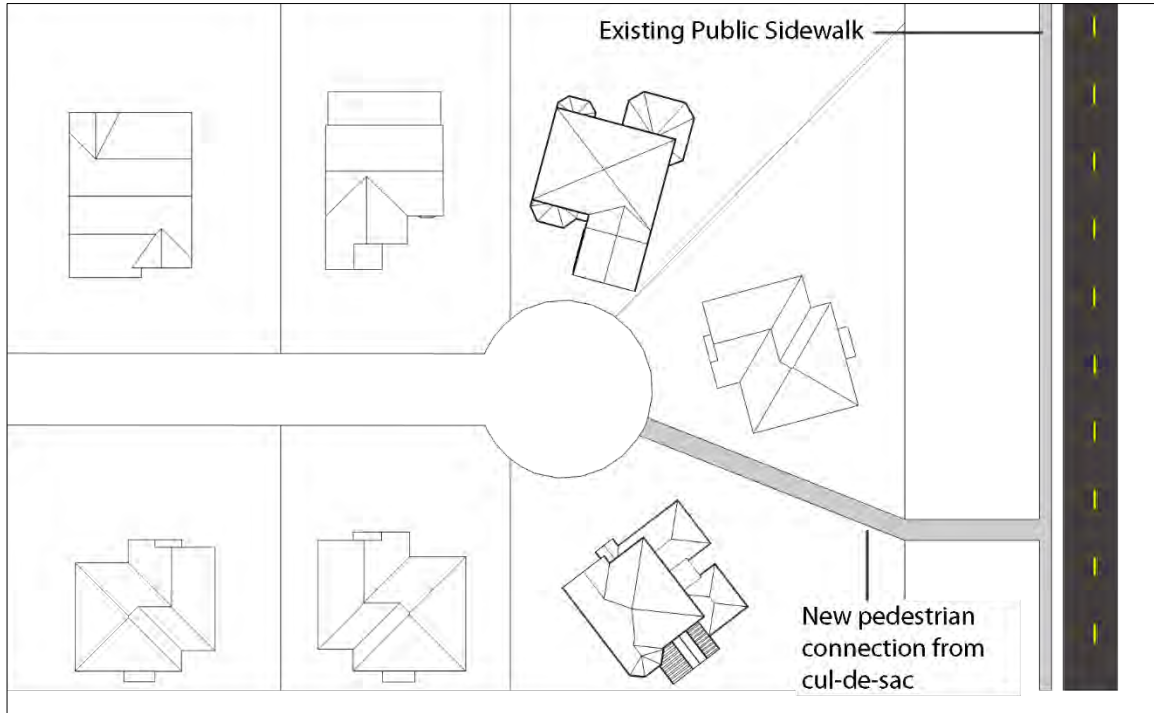
- 1. *Limitation on Direct Access Along Arterial and Collector Streets for Detached Homes and Two- and Three-Family Dwellings.* For detached homes and two- and three-family dwellings, direct driveway access to a development's principal origin or destination points (including individual lots in a subdivision) may be provided directly from an arterial or collector street only if:

- (a) No alternative direct vehicular access from a lower-classified accessway (e.g., local street, driveway, or alley) is available or feasible to provide;
  - (b) Only one two-way driveway, or one pair of one-way driveways, is allowed into the development; and
  - (c) The development served by the driveway is expected to generate an average daily traffic (ADT) count of 1,000 trips or less, or it is determined that the origin or destination points accessed by the driveway will generate sufficiently low traffic volumes, and the adjacent arterial or collector street has sufficiently low travel speeds and traffic volumes to allow safe driveway access while preserving the safety and efficiency of travel on the arterial or collector street.
2. *Block Length and Perimeter.* The street layout of a detached subdivision shall comply with the block length requirements in Table 2.3.5-2: *CD-NC District Block Length Requirements*, except in the following situations:
- (a) The Zoning Administrator determines that one or more of the following conditions prevents a through connection and there are no other practical alternatives, and paved mid-block connections or other facilities are provided through excessive block lengths to provide additional connectivity:
    - (1) Physical obstacles such as prior platting of property from another landowner;
    - (2) Construction of existing buildings or other barriers;
    - (3) Slopes over 15 degrees;
    - (4) Wetlands and water bodies;
    - (5) Railroad or utility right-of-way;
    - (6) Existing limited-access motor vehicle right-of-way; or
  - (b) To accommodate parks or dedicated open space, civic uses, pedestrian-oriented campuses, conference centers, stadiums or arenas, or other similar pedestrian-oriented, civic, or large-scale assembly uses.

<b>Table 2.3.5-2: CD-NC District Block Length Requirements</b>	
Maximum average block length	600 feet
Maximum block length	750 feet
Maximum block perimeter	2,300 feet

3. *External Street Connectivity for Detached Home Subdivisions.* For detached home subdivisions:
- (a) The arrangement of streets shall provide for the alignment and continuation of existing or proposed streets onto adjoining lands where the adjoining lands are undeveloped and deemed appropriate for future development, or are developed and include opportunities for such connections.

- (b) Street rights-of-way shall be extended to or along adjoining property boundaries such that a street connection or street stub shall be provided for development where practicable and feasible in each direction (north, south, east, and west) for development that abuts vacant lands.
  - (c) At all locations where streets terminate with no street connection, but a future connection is planned or accommodated, a sign shall be installed with the words "FUTURE STREET CONNECTION" to inform landowners.
  - (d) The final plat shall identify all stub streets and include a notation that all street stubs are intended for connection with future streets on adjoining undeveloped or underdeveloped lands.
  - (e) Stub streets that exceed 150 feet in length shall include a turn-around that shall be removed when the stub street is connected.
4. *Continuation of Adjacent Streets.* Proposed street layouts shall be coordinated with the existing street system in surrounding areas. Existing streets shall, to the maximum extent practicable, be extended to provide access to adjacent developments and subdivisions and to provide for additional points of ingress and egress.
5. *Pedestrian Connections for Detached Home Subdivision.* For detached home subdivisions:
- (a) A right-of-way at least eight feet in width for pedestrian and bicycle access between a cul-de-sac head or street turnaround and the sidewalk system of the closest street or pedestrian path (as shown in Figure 2.3.5-2: *Pedestrian Connections*), shall be provided, if the cul-de-sac head or street turnaround:
    - (1) Is in close proximity (defined generally as within a half mile) to significant pedestrian generators or destinations such as schools, parks, trails, greenways, employment centers, mixed use development, retail centers, or similar features; and
    - (2) Can be reasonably achieved and connected to an existing or proposed sidewalk, trail, greenway, or other type of pedestrian connection; or
    - (3) Is adjacent to vacant land that could reasonably be developed in the foreseeable future with sidewalks, trails, greenways, or other types of pedestrian connections to which the pedestrian and bicycle access can be connected. See Figure 2.3.5-2: *Pedestrian Connections*.

**Figure 2.3.5-2: Pedestrian Connections**

6. *Secondary Point of Access.* Townhome and multi-family development shall have:
  - (a) At least one secondary point of vehicular access to or from the site to ensure emergency vehicle access; and
  - (b) No primary vehicular access along a local street serving existing detached homes—provided, however, that secondary vehicle access for emergency vehicles may be provided along such a local street if other points of access are not available.
7. *Driveway Access.* For townhome, multi-family, non-residential, and mixed-use development:
  - (a) Curb cuts for driveway entrances and other purposes shall be limited to no more than one for each site bordering a major arterial. Distance between access driveways for different developments along the major arterial shall be a minimum of 400 feet, to the maximum extent practicable, or the minimum distance required by NCDOT, whichever is greater.
  - (b) Where appropriate, joint access driveways between sites to reduce the number of access points and driveway area are encouraged.
  - (c) Access driveways shall include a minimum of two lanes with a width that does not exceed 26 feet for two-way driveways, unless NCDOT requires a wider width for safe ingress and egress.

- (d) To the maximum extent practicable,<sup>116</sup> the internal circulation system shall be designed to allow vehicular cross-access between the internal system and adjacent property that is in the CD-NC district, or another zone district that allows townhome, multi-family, non-residential, or mixed-use development.
- (1) The cross-access shall be constructed to the edge of the property as part of site development. Each cross-access connection shall be designed in a way that is integrated into the internal circulation system of the parking lot or street and provides a reasonable connection.
  - (2) When a proposed development is adjacent to a vacant parcel in the CD-NC district or another zone district that allows townhome, multi-family, non-residential, or mixed-use development, the cross access shall be accomplished by providing a connection to the property line shared with the vacant property. The cross-access connection shall provide a feasible connection to the adjacent parcel.
  - (3) An easement for ingress and egress to adjacent lots through the connection(s) shall be recorded in the Chatham County Register of Deeds Office prior to development of the site.

**G. Parking Lot Location, Landscaping, Screening, Exterior Lighting, and Pedestrian Access.** For townhome, multi-family, non-residential, and mixed-use development:

1. The placement of a parking lot should avoid conflicts between vehicular and pedestrian activities.
2. Parking lots shall be located at the side or rear of the building, to the maximum extent practicable. In no instance shall more than two rows of parking be placed between the building and the street.
3. Parking lots with more than 80 spaces shall be visually and functionally segmented into smaller pods with landscaped islands and strips. Parking lots with two or more head-to-head rows of parking shall include a continuous 12-foot-wide landscape strip between the parking spaces (parallel to the drive aisle) that includes a sidewalk. The strip shall be provided every other double row of parking. Trees shall be planted within the landscape strip in accordance with Table 4.4.4 ~~Error! Reference source not found.~~-2: *Minimum*

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<sup>116</sup> Maximum extent practicable is defined as... “The degree to which a project meets an adopted standard in which all possible efforts to comply with the standard or to minimize harmful or adverse effects have been undertaken by the applicant, but full compliance cannot be achieved, and no feasible or practical alternative exists as determined by the Director. Economic considerations may be taken into account but shall not be the overriding factor determining ‘maximum extent practicable.’”

*Planting Sizes and Planting Areas.*<sup>117</sup> See Figure 2.3.5-3: *Parking Lot Landscaping.*

4. No more than 16 consecutive parking stalls are allowed without a landscape island at least eight feet wide (measured from the back of curb) and 200 square feet in area extending the entire length of the parking stall. One shade/canopy tree or two intermediate trees that complies with the standards in 4.4.4: *General Landscaping Standards.* Trees shall be planted in each landscape island per 200 square feet of area. The remainder of the landscape island shall be filled with a combination of mulch and ground cover.
5. All required landscaping shall be maintained in accordance with 4.4.10 *Landscaping Maintenance.*
6. All parking lots containing more than 80 parking spaces shall provide clearly identified pedestrian routes between parking areas and the primary pedestrian entrance(s) to the building(s) served by the parking areas. They shall be designed and located to minimize the interface between pedestrian routes and traffic circulation routes and provide pedestrian walkways with direct pedestrian and ADA access to the primary building entrance(s).
7. Exterior lighting within parking lots and on the site shall comply with the following standards:
  - (a) Light fixtures shall be fully shielded.
  - (b) Light fixtures for a parking lot shall be designed so that light is directed onto the parking area and away from streets and adjacent property.
  - (c) The height of all exterior light fixtures, whether mounted on poles, walls, or by other means, shall comply with the standards in Table 2.3.5-3: *CD-NC District, Maximum Height for Exterior Lighting.*

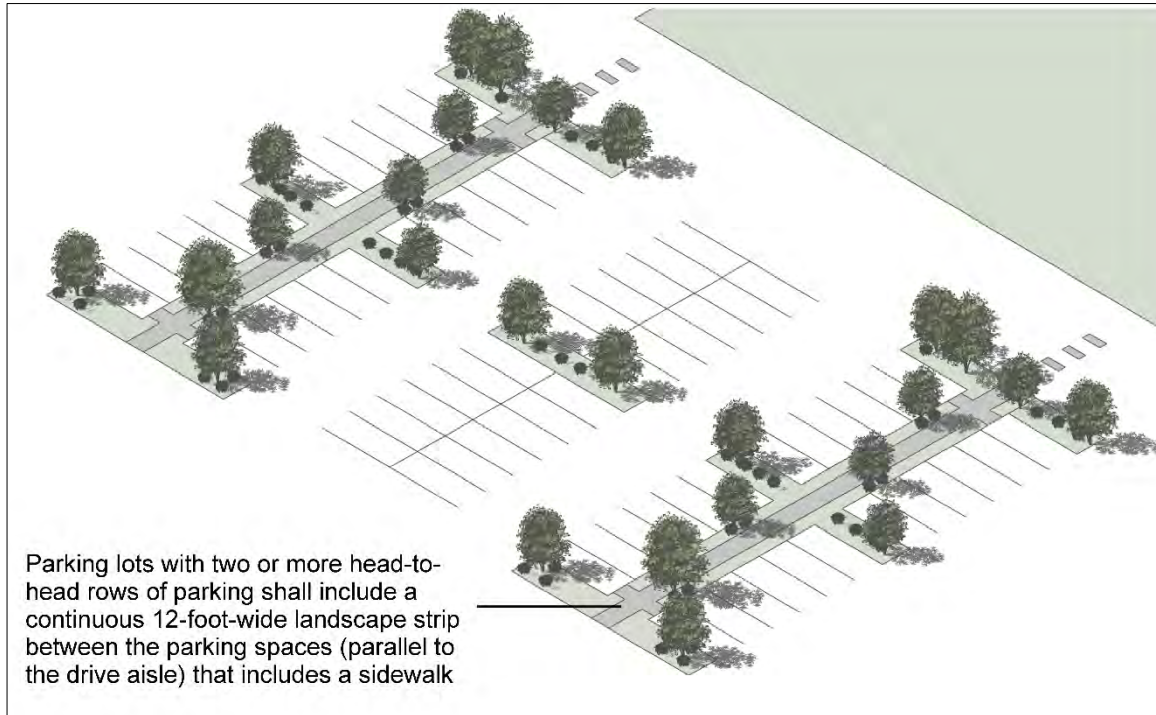
**Table 2.3.5-3: CD-NC District, Maximum Height for Exterior Lighting**

Principal Use Type	Height (max)
Residential uses	16 ft
All other uses	20 ft
Within 150 feet of a residential use or residential zone district	16 ft

**Key:** max = maximum allowed | ft = feet

- (d) Tree and site lighting locations shall not conflict, and site lighting shall not be impeded by trees.

<sup>117</sup> This section has been updated to conform with the standards in Section 4.5: *Landscaping & Screening* and Subsection 4.7.5: *Parking Lot Improvement, Design, and Locational Requirements.*

**Figure 2.3.5-3: Parking Lot Landscaping**

- H. **Service Areas/Utilities.** Utility and service areas shall comply with the following standards:
1. Areas for outdoor storage, trash collection, and loading areas shall be incorporated into the primary building design. Construction for these areas shall be of materials of comparable quality and appearance to that of the primary building.
  2. Loading areas or docks, outdoor storage, waste disposal, mechanical equipment, satellite dishes, truck parking, and other service support equipment shall be located behind the building so their view from streets and adjacent property is minimized, to the maximum extent practicable. The screening for loading areas, docks, outdoor storage, waste disposal, truck parking, and related other service areas shall consist of:
    - (a) Where appropriate to ensure they cannot be seen from streets and adjacent property, a wall that is at least one foot higher than the largest object being screened, but no more than eight feet in height, on all sides where access is not needed. Where access is needed, an opaque gate of the same height as the wall shall be provided; and
    - (b) The wall shall be obscured by landscaping, such that no more than one-half of the surface area of the screening wall is visible from the street within three years of the wall's erection. Plant materials used to fulfill these requirements shall be a minimum of four feet in height when planted, and planted so that there is no gap greater than two feet between plant foliage.

**2.3.6 CD-AC, ACTIVITY CENTER CONDITIONAL DISTRICT**

**A. Purpose.**

1. The purpose of the CD-AC, Activity Center Conditional District, is to provide lands that accommodate moderate-intensity, auto-accessible, mixed-use centers that serve large areas of the county, and contain a mix of retail, office, entertainment, public and quasi-public, flex, and medical uses that serve community-wide needs. The district also includes residential development consisting of multifamily dwellings, townhouse dwellings, and two-, and three-family dwellings.
2. The vertical mixing of residential uses with non-residential uses within a single project or building, with residential development on upper floors, is strongly encouraged. The horizontal mixing of stand-alone, moderate-scale residential developments and adjacent stand-alone non-residential or mixed-use developments in the district is also encouraged, provided the development is well-integrated in terms of complementary uses, access and circulation, and compatible design.

**B. Location.** Lands in the Activity Center District shall be adjacent to US 15-501 between the boundary with Orange County and the northern boundary of the Town of Pittsboro’s extraterritorial jurisdiction and may include lands designated as a Community Center on the Future Land Use & Conservation Plan.

**C. Allowed Uses.** See Chapter 3: *Use Regulations*.

**D. Dimensional Standards.** Table 2.3.6-1 establishes dimensional standards for CD-AC.

**Table 2.3.6-1: CD-AC Dimensional Standards**

	Building Type	
	All Other Building Types	Townhouse
<b>Development Boundary Setback (min)<sup>1</sup></b>		
<u>Perimeter, Adjacent to Existing Residential Development or a Residential Zoning District</u>	<u>100 ft</u>	<u>100 ft</u>
<u>Perimeter, Adjacent to All Other Districts</u>	<u>100 ft</u>	<u>100 ft</u>
<u>Right-of-Way</u>	<u>100 ft</u>	<u>100 ft</u>
<b>Lot Dimensions (min)</b>		
Lot Area	<u>Not Applicable<sup>n/a</sup></u>	<u>Not Applicable<sup>n/a</sup></u>
Lot Width	75 ft	18 ft
<b>Development Intensity</b>		
Density (max)	<u>20-15</u> du/acre	<u>12-9</u> du/acre
<b>Principal Structure Setbacks (min)</b>		

As established in the zoning ordinance for the conditional district or the minimum established in the most recent North Carolina Building Code, whichever is greater.



**Table 2.3.6-1: CD-AC Dimensional Standards**

	Building Type	
	All Other Building Types	Townhouse
<del>Any Perimeter, with any lot frontage along US 64, US 421, US 15/501/87 South, or US 7</del>	75 ft	75 ft
<del>Front, interior to district</del>	30 ft	30 ft
<del>Side, interior to district</del>	20 ft	0 ft / 10 ft <sup>1</sup>
<del>Rear, interior to district</del>	30 ft	30 ft
<b>Accessory Structure Setbacks</b>		
See 3.4: Accessory Uses & Structures		
<b>Height (max)</b>		
Principal Structures	75 ft	75 ft
Accessory Structures	See 3.4: Accessory Uses & Structures	

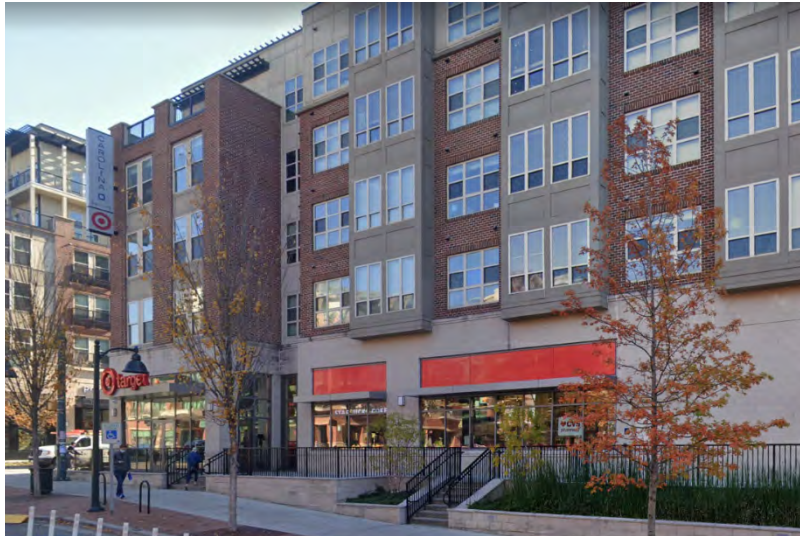
**Key:** min = minimum required | max = maximum allowed | ft = feet | du = dwelling units | n/a = not applicable

<sup>1</sup> ~~The minimum setback between individual townhouse dwelling units is 0 ft. The minimum setback between an end townhouse unit and its side lot line is 10 ft. Section 4.4.8: Transitional Buffers requires a buffer within the Development Boundary Setback.~~

- E. **Form and Design Standards.** The following standards apply in the CD-AC District. Where these provisions conflict with other provisions in this Ordinance, these provisions control.
1. *Building Placement and Orientation.* Building orientation refers to the location of the primary and secondary façades and entrances to a building.
    - (a) Buildings shall orient toward US 15-501, or if an interior street or block system is established for multi-building development, be oriented to an interior street. The rear of a building shall not face US 15-501.
    - (b) In order to emphasize pedestrian or customer access, building entrances shall be differentiated from the rest of a building’s façade by a change in material, architectural features, setbacks, or level.
    - (c) If multiple tenants are located in an open retail center, no more than five tenants may be accessed by a single exterior customer entrance which complies with the standards of this Subsection.
    - (d) Where a parking lot is located at the rear of the building, a secondary entrance shall be provided in the rear of the building from the parking lot.
  2. *Building Mass.* The façades of buildings other than multifamily uses with four or fewer dwelling units that face either US 15-501 or an internal street and that are greater than 100 feet in width shall be articulated with wall offsets (e.g., projections or recesses in the façade plane with a minimum depth of two

feet), or changes in façade color or material, or similar features that visually interrupt the wall plane horizontally such that the width of uninterrupted façade does not exceed 60 feet. Where appropriate, roof assemblies may be used to reduce building mass. (See Figure 2.3.6-1: *Front Façade Offsets*).

**Figure 2.3.6-1: Front Façade Offsets**



3. *Building Façade*. The following standards apply to all buildings except for multifamily uses with four or fewer dwelling units.
  - (a) *Components*. A building's façade should have clear definition of the following components (see Figure 2.3.6-2: *Building Façade Elements*):
    - (1) *Base*. A base that comprises the first floor of the building. The base should include elements such as a water table marked by a cornice line or a change in materials, color, or plane.
    - (2) *Middle*. A middle that comprises the area between the first floor and the top. The transition between the first and upper floors shall be marked with a raised cornice, awnings, canopies/marquee, clerestory windows, or similar elements.
    - (3) *Top*. A recognizable top in the form of stepped parapets of various heights with cornice treatment, gables or gable ends, spires, cupolas, dormers, and similar elements. Colored stripes/bands on flat roofs are not acceptable.

**Figure 2.3.6-2: Building Façade Elements**

- (b) *Materials.* The following materials are prohibited for buildings (including accessory structures):
- (1) Metal/steel (except for architectural accents);
  - (2) Corrugated or reflective metal panels;
  - (3) Unfinished block;
  - (4) Textured plywood;
  - (5) Mirrored glass and glass curtain walls;
  - (6) Plastic siding;
  - (7) Tile (except for architectural accents); and
  - (8) Exterior Insulation and Finish Systems (EIFS) (except for architectural accents).
- (c) *Fenestration/Transparency.* The following façade fenestration/transparency standards apply:
- (1) At least 25% of the street-facing façade area of the ground-level floor of non-residential buildings (as measured from the grade to the underside of the eave, top of the parapet, or the story line

denoting the second floor) shall be occupied by windows or doorways.

- (2) At least 15% of the street-facing façade area of the ground-level floor of any multifamily, townhouse, or two- or three-family dwellings (as measured from the grade to the underside of the eave, top of the parapet, or the story line denoting the second floor) shall be occupied by windows or doorways.
  - (d) *Change of Façade Materials.* For all buildings, primary façade materials shall not change at outside corners but extend along any side façade that is visible from a street. In all instances the extension shall be a minimum of 20 feet.
4. *Roofs.* For all buildings other than multifamily uses with four or fewer dwelling units, features shall be in scale with the building's mass, consistent with the form of the structure, and comply with the following standards.
- (a) Sloped roofs on buildings over 100 feet in length shall include two or more different sloping roof planes, each with a minimum pitch between 3:12 and 12:12.
  - (b) Flat roofs shall be concealed by parapet walls that extend at least three feet above the roof level and have three-dimensional cornice treatments that project at least eight inches outward from the parapet façade plane (See Figure 2.3.6-3: *Roof Parapet Wall and Cornice Treatment*).
  - (c) Alternative roof forms or pitches may be allowed for small roof sections over porches, entryways, or similar features.
  - (d) All roof-based mechanical equipment, as well as vents, pipes, antennas, satellite dishes, and other roof penetrations (except chimneys), shall be located on the rear elevations or otherwise be configured and screened (if necessary) to have a minimal visual impact as seen from US 15-501 or any local or internal street.

**Figure 2.3.6-3: Roof Parapet Wall and Cornice Treatment**

**F. Site Access and Circulation.**

1. Curb cuts for driveway entrances and other purposes shall be limited to no more than one for each site bordering US 15-501, unless the size of the development warrants more than one access point. Distance between access driveways from US 15-501 shall be a minimum of 400 feet, to the maximum extent practicable, or the minimum distance required by NCDOT, whichever is greater.
2. Where appropriate, joint access driveways between sites to reduce the number of access points and driveway area are encouraged.
3. Access driveways shall include a minimum of two lanes with a width that does not exceed 26 feet for two-way driveways, unless a wider width is needed for safe ingress and egress is required by NCDOT.
4. To the maximum extent practicable,<sup>118</sup> the internal circulation system shall be designed to allow vehicular cross-access between the internal system and

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<sup>118</sup> Maximum extent practicable is defined as... “The degree to which a project meets an adopted standard in which all possible efforts to comply with the standard or to minimize harmful or adverse effects have been undertaken by the applicant, but full compliance cannot be achieved, and no feasible or practical alternative exists as determined by the Director. Economic considerations may be taken into account but shall not be the overriding factor determining “maximum extent practicable.”

adjacent property that is in the Activity Center district, or another zone district that allows non-residential or mixed-use development.

- (a) The cross-access shall be constructed to the edge of the property as part of site development. Each cross-access connection shall be designed in a way that is integrated into the internal circulation system of the parking lot or street and provides a reasonable connection.
  - (b) When a proposed development is adjacent to a vacant parcel in the Activity Center district or another zone district that allows non-residential or mixed-use development, the cross access shall be accomplished by providing a connection to the property line shared with the vacant property. The cross-access connection shall provide a feasible connection to the adjacent parcel.
  - (c) An easement for ingress and egress to adjacent lots through the connection(s) shall be recorded in the Chatham County Register of Deeds prior to development of the site.
5. Where appropriate, sidewalks shall be provided on both sides of every internal street on the site. The sidewalks shall be a minimum of five feet in width. In addition:
- (a) A street tree planting area at least five feet in width between the sidewalk and the street shall be provided, with a street tree planted every 50 feet, on average.
  - (b) A pedestrian way shall be provided from an adjacent sidewalk to each pedestrian entrance of a building on the site.
  - (c) Where a sidewalk crosses a street, driveway, drive aisle, or parking lot, the crossing shall be clearly marked with a change in paving material, color, or height, decorative bollards, or similar elements.

G. **Parking Lot Location, Landscaping, Screening, Exterior Lighting, and Pedestrian Access.**

1. The placement of a parking lot should avoid conflicts between vehicular and pedestrian activities.
2. Parking lots shall not be located between a building and a public right-of-way.
3. Parking lots with more than 80 spaces shall be visually and functionally segmented into smaller pods with landscaped islands and strips. Parking lots with two or more head-to-head rows of parking shall include a continuous 12-foot-wide landscape strip between the parking spaces (parallel to the drive aisle) that includes a sidewalk. The strip shall be provided every other double

row of parking. Trees shall be planted within the landscape strip in accordance with Table 4.4.4-2: *Minimum Planting Sizes and Planting Areas*.<sup>119</sup>

4. No more than 16 consecutive parking stalls are allowed without a landscape island at least eight feet wide (measured from the back of curb) and 200 square feet in area extending the entire length of the parking stall. One shade/canopy tree or two intermediate trees that complies with the standards in 4.4.4: *General Landscaping Standards*. Trees shall be planted in each landscape island per 200 square feet of area. The remainder of the landscape island shall be filled with a combination of mulch and ground cover.
5. All required landscaping shall be maintained in accordance with 4.4.10 *Landscaping Maintenance*.
6. All parking lots containing more than 80 parking spaces shall provide clearly identified pedestrian routes between parking areas and the primary pedestrian entrance(s) to the building(s) served by the parking areas. They shall be designed and located to minimize the interface between pedestrian routes and traffic circulation routes and provide pedestrian walkways with direct pedestrian and ADA access to the primary building entrance(s).
7. Parking lots shall be designed to the maximum extent practicable, to minimize direct views of parked vehicles from US 15-501, through landscape treatment, screening, and buffers.
8. Exterior lighting within parking lots and on the site shall comply with the following standards:
  - (a) Light fixtures shall be fully shielded.
  - (b) Light fixtures for a parking lot shall be designed so that light is directed onto the parking area and away from US 15-501 and adjacent property.
  - (c) The height of all exterior light fixtures, whether mounted on poles, walls, or by other means, shall comply with the standards in Table 2.3.6-3: *CD-AC District, Maximum Height for Exterior Lighting*.

**Table 2.3.6-3: CD-AC District, Maximum Height for Exterior Lighting**

Principal Use Type	Height (max)
Residential uses	16 ft
All other uses	20 ft
Within 150 feet of a residential use or residential zone district	16 ft

**Key:** max = maximum allowed | ft = feet

<sup>119</sup> This section has been updated to conform with the standards in Section 4.5: *Landscaping & Screening* and Subsection 4.7.5: *Parking Lot Improvement, Design, and Locational Requirements*.

- (d) Tree and site lighting locations shall not conflict. In the event of a conflict, the site lighting shall not be impeded by trees.
- H. **Parking Structures.** Parking structure façades shall comply with the following standards:
- 1. Vehicle entrances to a parking structure shall be distinct and separate from and coordinated with safe design for pedestrian access.
  - 2. Pedestrian access to a parking structure shall be provided directly from adjacent streets, and connect to sidewalks, as appropriate.
  - 3. Parking structures shall comply with all other relevant standards of the district.
- I. **Service Areas/Utilities.** Utility and service areas shall comply with the following standards:
- 1. Areas for outdoor storage, trash collection, and loading areas shall be incorporated into the primary building design, and construction for these areas shall be of materials of comparable quality and appearance as that of the primary building.
  - 2. Loading areas or docks, outdoor storage, waste disposal, mechanical equipment, satellite dishes, truck parking, and other service support equipment shall be located behind the building so their view from US 15-501 and adjacent property is minimized, to the maximum extent practicable. The screening for loading areas, docks, outdoor storage, waste disposal, truck parking, and related other service areas shall consist of:
    - (a) Where appropriate to ensure they cannot be seen from US 15-501 and adjacent property, a wall that is at least one foot higher than the largest object being screened, but no more than eight feet in height, on all sides where access is not needed. Where access is needed, an opaque gate of the same height as the wall shall be provided;
    - (b) The wall shall be obscured by landscaping, such that no more than one-half of the surface area of the screening wall is visible from the street within three years of the wall's erection. Plant materials used to fulfill these requirements shall be a minimum of four feet in height when planted and planted so that there is no gap greater than two feet between plant foliage.
- J. **US 15-501 Buffer.** A buffer adjacent to the US 15-501 right-of-way, that is 40 feet in width and extends the entire width of the site except for the driveway(s) that are



used to access the site, shall be established and maintained as an easement on the property.<sup>120</sup>

1. The vegetation in the buffer shall comply with the requirements of a 40-foot-wide Type A Buffer in 4.4.8: *Transitional Buffers*; and
2. The buffer easement shall be recorded with the Chatham County Register of Deeds prior to any development of the site.

### 2.3.7 CD-CB, COMMUNITY BUSINESS CONDITIONAL DISTRICT

- A. The CD-CB, Community Business Conditional District, is identical to the CB District, except that approval of a conditional zoning district and associated site plan is required as a prerequisite to any use or development.
- B. CD-CB Districts are subject to the provisions of 2.2.11: *CB, Community Business District*, as may be modified by the conditional district rezoning ordinance associated with a particular property.

### 2.3.8 CD-NB, NEIGHBORHOOD BUSINESS CONDITIONAL DISTRICT

- A. The CD-NB, Neighborhood Business Conditional District, is identical to the NB District, except that approval of a conditional zoning district and associated site plan is required as a prerequisite to any use or development.
- B. CD-NB Districts are subject to the provisions of 2.2.10: *NB, Neighborhood Business District*, as may be modified by the conditional district rezoning ordinance associated with a particular property.

### 2.3.9 CD-IL, LIGHT INDUSTRIAL CONDITIONAL DISTRICT

- A. The CD-IL, Light Industrial Conditional District, is identical to the IL District, except that approval of a conditional zoning district and associated site plan is required as a prerequisite to any use or development.
- B. CD-IL Districts are subject to the provisions of 2.2.14: *IL, Light Industrial District*, as may be modified by the conditional district rezoning ordinance associated with a particular property.

### 2.3.10 CD-IH, HEAVY INDUSTRIAL CONDITIONAL DISTRICT

- A. The CD-IH, Heavy Industrial Conditional District, is identical to the IH District, except that approval of a conditional zoning district and associated site plan is required as a prerequisite to any use or development.

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<sup>120</sup> Based on the proposed definition of where this district would apply (see 2.2.25.B: *Location*), the only road that would require this type of buffer is U.S. 15-501. Alternatively, the UDO could define both the potential district location and the buffer requirement by road classification (i.e., principal arterial) which, at this time, would only include U.S. 15-501.

- B. CD-IH Districts are subject to the provisions of 2.2.15: *IH, Heavy Industrial District*, as may be modified by the conditional district rezoning ordinance associated with a particular property.

### **2.3.11 CD-OI, OFFICE & INSTITUTIONAL CONDITIONAL DISTRICT**

- A. The CD-OI, Office & Institutional Conditional District, is identical to the OI District, except that approval of a conditional zoning district and associated site plan is required as a prerequisite to any use or development.
- B. CD-OI Districts are subject to the provisions of 2.2.9: *OI, Office & Institutional District*, as may be modified by the conditional district rezoning ordinance associated with a particular property.

### **2.3.12 CD-R5, CONSERVATION RESIDENTIAL CONDITIONAL DISTRICT**

- A. The CD-R5, Residential Conditional District, is identical to the R5 District, except that approval of a conditional zoning district and associated site plan is required as a prerequisite to any use or development.
- B. CD-R5 Districts are subject to the provisions of 2.2.4: *R5, Conservation Residential District*, as may be modified by the conditional district rezoning ordinance associated with a particular property.

### **2.3.13 CD-R2, RURAL RESIDENTIAL CONDITIONAL DISTRICT**

- A. The CD-R2, Rural Residential Conditional District, is identical to the R2 District, except that approval of a conditional zoning district and associated site plan is required as a prerequisite to any use or development.
- B. CD-R2 Districts are subject to the provisions of 2.2.5: *R2, Rural Residential District*, as may be modified by the conditional district rezoning ordinance associated with a particular property.

### **2.3.14 CD-NR, NEIGHBORHOOD RESIDENTIAL CONDITIONAL DISTRICT**

- A. The CD-NR, Neighborhood Residential Conditional District, is identical to the NR District, except that approval of a conditional zoning district and associated site plan is required as a prerequisite to any use or development.
- B. CD-NR Districts are subject to the provisions of 2.2.6: *NR, Neighborhood Residential District*, as may be modified by the conditional district rezoning ordinance associated with a particular property.

### **2.3.15 CD-R1, SUBURBAN RESIDENTIAL CONDITIONAL DISTRICT**

- A. The CD-R1, Suburban Residential Conditional District, is identical to the R1 District, except that approval of a conditional zoning district and associated site plan is required as a prerequisite to any use or development.
- B. CD-R1 Districts are subject to the provisions of 2.2.7: *R1, Suburban Residential District*, as may be modified by the conditional district rezoning ordinance associated with a particular property.

### 2.3.16 CD-RB, REGIONAL BUSINESS CONDITIONAL DISTRICT

- A. The CD-RB, Regional Business Conditional District, is identical to the RB District, except that approval of a conditional zoning district and associated site plan is required as a prerequisite to any use or development.
- B. CD-RB Districts are subject to the provisions of 2.2.12: *RB, Regional Business District*, as may be modified by the conditional district rezoning ordinance associated with a particular property.

## 2.4 LEGACY DISTRICTS<sup>121</sup>

### 2.4.1 GENERAL PROVISIONS

- A. No land shall be rezoned to a legacy zoning district. Landowners are encouraged to rezone land from a legacy zoning district classification. A rezoning may only be initiated in accordance with ~~Chapter 12: Procedures Sections~~ 12.14: *Rezoning (Conventional Districts)* and 12.15: *Rezoning (Conditional Districts)*.
- B. The boundaries of existing legacy zoning districts shall not be expanded.
- C. The Board of Commissioners may modify the allowed uses and development standards within legacy conventional zoning districts through amendments to the UDO text (see Section 12.18: *UDO Text Amendments*).
- D. The Board of Commissioners may modify the allowed uses and development standards within legacy conditional zoning districts through amendments to the conditional district rezoning ordinance (see Section 12.15: *Rezoning (Conditional Districts)*).
- E. Development in a legacy zoning district is subject to all requirements of that district and all other applicable regulations of the UDO.

### 2.4.2 B1, GENERAL BUSINESS DISTRICT

- A. **Purpose.** The B1 District was intended for retail trade and consumer services dealing with the general public. The district was replaced in 2016 by three new business districts (NB, CB, and RB), also intended for retail and consumer services but scaled to better fit different needs around the County.
- B. **Applicability.** The provisions in this Subsection apply to all B1 Districts in existence on the effective date of this UDO. Subsection 2.4.1: *General Provisions* prohibits the establishment of new B1 Districts and the expansion of existing B1 Districts.

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<sup>121</sup> This Section maintains B1 and CD-B1 as legacy districts. Property currently zoned in a legacy district will remain as zoned, unless and until the property owner requests or the County initiates a rezoning. This approach preserves existing property rights but allows the County to “phase out” these districts over time. As specified in Subsection 2.4.1: *General Provisions*, property cannot be rezoned to a legacy district and existing legacy districts cannot be expanded.

C. **Allowed Uses.** All principal, accessory, and temporary uses allowed by Chapter 3: *Use Regulations* for the NB, Neighborhood Business, District are allowed in the B1 District.

D. **Dimensional Standards.**

1. Table 2.4.2-1 establishes dimensional standards for the B1 District.
2. Lots created for the express purpose of minor utilities are exempt from the required minimum lot area. Such lots are also exempt from the required minimum setbacks of the zoning districts, except that any noise producing equipment or generators must be stored within a structure or set back at least 50 feet from any public right-of-way or property line.

<b>Table 2.4.2-1: B1 District Dimensional Standards</b>	
<b>Lot Dimensions (min)</b>	
Lot Area, With Public Water & Sewer	40,000 sf
Lot Area, With Individual Well & Wastewater Disposal	65,340 sf
Lot Width	75 ft
<b>Principal Structure Setbacks (min)<sup>1</sup></b>	
Any lot frontage along US 64, US 421, US 15/501/87 South, or US 1	75 ft
Front	50 ft
Side	20 ft
Rear	20 ft
<b>Accessory Structure Setbacks</b>	
<i>See 3.4: Accessory Uses &amp; Structures</i>	
<b>Height (max)</b>	
Principal Structures	60 ft
Accessory Structures	<i>See 3.4: Accessory Uses &amp; Structures</i>
<b>Key:</b> min = minimum required   max = maximum allowed   sf = square feet   ft = feet	

<sup>1</sup> The minimum setbacks listed may be reduced to the minimum established in the most recent North Carolina Building Code for buildings that are part of a common plan of development, except along the exterior project boundary where the minimum yard setbacks shall be met.

**2.4.3 CD-B1, GENERAL BUSINESS CONDITIONAL DISTRICT**

A. The CD-B1, General Business Conditional District, is identical to the B1 District, except that approval of a conditional zoning district and associated site plan was required as a prerequisite to any use or development.

- B. Existing CD-B1 Districts are subject to the provisions of 2.4.2: *B1, General Business District*, as may be modified by the conditional district rezoning ordinance associated with a particular property.

#### **2.4.4 CD-CC, COMPACT COMMUNITIES CONDITIONAL DISTRICT<sup>122</sup>**

- A. The CD-CC, Compact Communities Conditional District, was intended to promote new communities that supported mixed-use development, anchored by a village center composed of commercial, civic, and residential uses that add to Chatham County's tax base, help residents meet their daily needs, and preserve Chatham County's small-town atmosphere. The district was replaced on the effective date of this UDO with three new compact conditional districts tailored to better fit different needs around the County.
- B. Existing CD-CC Districts are subject to the conditional district rezoning ordinance and associated site plan associated with the particular CD-CC District.

#### **2.4.5 CD-MU, MIXED USE CONDITIONAL DISTRICT**

- A. The CD-MU, Mixed Use Conditional District, was intended to accommodate mixed use developments that provided for an integration of diverse but compatible uses into a single development.
- B. Existing CD-MU Districts are subject to the conditional district rezoning ordinance and associated site plan associated with the particular CD-MU District.

#### **2.4.6 MH, MOBILE HOME DISTRICT**

- A. The MH, Mobile Home District was intended to provide for a grouping of mobile homes as mobile home courts and provide standards for the layout of the property, configuration of individual sites, and permitted accessory uses.
- B. All existing MH Districts in existence on the effective date of this UDO may continue, and are subject to the development standards and requirements applicable at the time of approval.

# CHAPTER 3 USE REGULATIONS<sup>123</sup>

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## 3.1 GENERAL PROVISIONS<sup>124</sup>

### 3.1.1 PURPOSE

- A. **In General.** The purpose of this Article is to promote the public health, safety, morals, and general welfare, and to protect and preserve places and areas of historical, cultural, and architectural importance and significance. These regulations are adopted in accordance with the Comprehensive Plan and are designed to:
1. Distribute land uses to meet the physical, social, cultural, economic, and energy needs of present and future populations;
  2. Ensure that new development is compatible with surrounding development in use, character, and size;
  3. Provide for land uses that serve important public needs, such as affordable housing and employment generators;
  4. Promote mixed-use districts and neighborhoods;
  5. Promote infill housing and retail and residential development;
  6. Integrate civic uses into neighborhoods;
  7. Integrate small-scale commercial uses into neighborhoods where appropriate;
  8. Protect natural resources; and
  9. Encourage retail development in community, neighborhood, and village centers in appropriate locations.
- B. **Regulation of Land Use.** In accordance with the purposes described in Paragraph 3.1.1.A, this Chapter:
1. Establishes the land uses allowed in each zoning district;
  2. Establishes supplemental regulations for limited and conditional district uses, which have unique operational characteristics or impacts; and
  3. Establishes regulations for accessory and temporary uses.

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<sup>123</sup> The use-specific standards for principal, accessory, and temporary uses are provided in their own sections (rather than as a subsection under the use type) so that each individual use will have its own numbered subsection. This makes the standards easier for users to locate and cite.

<sup>124</sup> This Section explains the intent and applicability of this Chapter—i.e., to establish the uses allowed in each zoning district, to add supplemental regulations that apply to certain uses, to clarify issues relating to uses (e.g., permitted accessory uses), and to implement state and federal law regarding certain land uses.

### 3.1.2 APPLICABILITY

- A. This Chapter regulates the use of land in each zoning district.
- B. Section 3.2: *Principal Use Tables* specifies the principal uses allowed in each zoning district.
- C. Section 3.3: *Use-Specific Standards for Principal Uses* applies to principal uses with unique operational characteristics or impacts. The use tables in Section 3.2: *Principal Use Tables* specify the uses to which use-specific standards apply. These standards supplement the other requirements of this UDO.
- D. Section 3.4: *Accessory Uses & Structures* specifies the accessory uses, buildings, and structures allowed in each zoning district.
- E. Section 3.5: *Use-Specific Standards for Accessory Uses & Structures* applies to accessory uses with unique operational characteristics or impacts. Subsection 3.4.5: *Accessory Use Table* specifies the uses and structures to which use-specific standards apply.
- F. Section 3.6: *Temporary Uses & Structures* specifies the temporary uses of land allowed in each zoning district.
- G. Section 3.7: *Use-Specific Standards for Temporary Uses & Structures* applies to temporary uses and structures with unique operational characteristics or impacts. Subsection 3.6.5: *Temporary Use Table* specifies the uses and structures to which use-specific standards apply.
- H. Section 3.8: *Wireless Telecommunications Facilities* applies to all wireless telecommunications facilities established in unincorporated Chatham County.

### 3.1.3 OTHER APPLICABLE REGULATIONS & PERMITTING REQUIREMENTS

- A. **Other Regulations Apply.** All land uses are also subject to all other applicable provisions of the Chatham County Code and this UDO, including:
  1. [Chapter 50: Solid Waste Management](#);
  2. [Chapter 51: Water Conservation](#);
  3. [Chapter 92: Noise Regulations](#);
  4. [Chapter 93: Fire Prevention & Protection](#); and
  5. [Chapter 110: Construction and Demolition Recycling](#).
- B. **Proof of Permits to be Provided with Application.** The applicant for any permit under this Chapter shall submit one complete digital (PDF) copy of all final approvals to operate from any other required local, state, and/or federal permitting agencies. All approvals must be demonstrated to be up-to-date and in effect.
- C. **Permit Not Issued at Time of Application.** In cases where final permitting agency approval is not issued without evidence of all necessary local zoning approvals, the applicant shall provide one complete digital (PDF) copy of the application submitted to all permitting agencies. Once final approval is received, the applicant shall provide

one complete digital (PDF) copy of the permit to the Zoning Administrator prior to the start of operations.

### 3.1.4 RELATIONSHIP OF BUILDINGS TO LOTS<sup>125</sup>

- A. Every building hereafter erected, moved, or placed shall be located on a lot of record.
- B. In no case shall there be more than one principal residential building on a lot except in an apartment complex, in a cottage court, in a Conditional Zoning District, and as provided in 3.1.4C below.
- C. There may be more than one principal single-family dwelling on a lot if:
  - 1. The average lot area per dwelling is greater than 10 acres; and
  - 2. The dwellings are situated in such a manner that the distance between the dwellings is not less than the applicable setback distances required under this Ordinance for residential dwellings situated upon adjoining lots.
- D. Each principal dwelling unit may have one accessory dwelling unit if it meets the requirements in Section 3.4: *Accessory Uses & Structures*.

## 3.2 PRINCIPAL USE TABLES<sup>126</sup>

### 3.2.1 INTRODUCTION<sup>127</sup>

- A. **Generally.** The use tables in this Section establish the categories of uses specified in Table 3.2.1-1: *Types of Uses* for all of the base zoning districts.
- B. **Use Definitions.** Each broad use category is described in Subsection 3.2.4: *Descriptions of Principal Use Categories*. Individual uses are defined in Chapter 17: *Definitions & Acronyms*.
- C. **Conditional Districts.**

<sup>125</sup> Carries forward current provisions related to multiple principal dwellings on a lot (ZO Section 8.1 Relationship of Buildings to Lot). Revises to replace reference to Planned Residential Developments with conditional districts. Removes provisions for “more than one building of single family attached or detached units” on one lot, as this is addressed by allowing apartment complexes in commercial and conditional districts and cottage courts in conditional districts. Removes requirement for one of the dwellings to be a manufactured home.

<sup>126</sup> This Section carries forward, consolidates, and audits the list of uses allowed in each base zoning district and adjusts uses in districts as needed. Rather than listing all uses alphabetically, the proposed use tables divide uses into broad use categories. Each use category is included in a separate subsection and table for document navigation purposes (each subsection is bookmarked and thus easier to locate and cite). Use-specific standards are relocated to Section 4.3. **Bold, blue text** indicates new districts, new uses, new uses allowed in a district, or changes to use classification (e.g., from permitted to limited).

<sup>127</sup> Carries forward explanation of how to read the use table and converts it to a table format.



1. Allowed uses in the CD-CR, CD-CMU, CD-CN, CD-NC, and CD-AC conditional zoning districts are specified in the use tables, but may be modified by the rezoning ordinance that establishes the district and any amendments thereto.
2. Within a parallel conditional zoning district, only those uses listed as conditional district uses (“C”) for the corresponding conventional district in Section 3.2: *Principal Use Tables* may be allowed.
3. A use is only allowed in a conditional zoning district if expressly authorized by the Board of Commissioners through the conditional zoning district rezoning process.
4. Where a use allowed in a conditional zoning district is a limited use or a conditional district use, the use-specific standards in Section 3.3: *Use-Specific Standards for Principal Uses* apply.

**D. Zoning Compliance Permit Required.**

1. Prior to a change in use or establishment of a new principal use, an applicant must receive zoning compliance approval (see Section 12.20: *Zoning Compliance Permits*). Expansions of existing uses also require zoning compliance approval.
2. All conditional district uses also require zoning compliance approval, following conditional district rezoning approval by the Board of Commissioners (see Section 12.15: *Rezoning (Conditional Districts)*) and prior to the establishment of the use. When a principal use requires a conditional district, all proposed accessory uses and structures must be shown on the associated site plan. Any proposed accessory uses and structures not shown on the site plan require approval of a revised conditional district.

**E. Explanation of Principal Use Tables.**

1. The top row of the Principal Use Tables lists the zoning districts and the left side of the tables lists various land uses.
2. The uses listed in the Principal Use Tables are allowed or prohibited in each zoning district according to the letter coding described in in Table 3.2.1-1: *Types of Uses*.

**Table 3.2.1-1: Types of Uses**

Notation	Type	Description
P	Permitted Use	The use is allowed by-right in the respective zoning district, if the use complies with all other applicable provisions of this Ordinance.

Table 3.2.1-1: Types of Uses		
Notation	Type	Description
L	Limited Use	The use is allowed only when it complies with the applicable use-specific standards in Section 3.3: <i>Use-Specific Standards for Principal Uses</i> or Section 3.8: <i>Wireless Telecommunications Facilities</i> , as applicable, in addition to all other applicable provisions of this Ordinance. The second column in the Principal Use Tables reference the subsection containing the applicable use-specific standards.
C	Conditional District Use	The use is allowed only if it is located in a parallel conditional zoning district and complies with the applicable use-specific standards in Section 3.3: <i>Use-Specific Standards for Principal Uses</i> , in addition to all other applicable provisions of this Ordinance. The second column in the Principal Use Tables references the subsection containing the applicable use-specific standards.
[blank cell]	Prohibited Use	A blank cell indicates that a use is not allowed in the respective zoning district, unless it is otherwise expressly allowed by other provisions of this Ordinance.

**3.2.2 CLASSIFICATION OF NEW & UNLISTED USES<sup>128</sup>**

- A. The Zoning Administrator must determine whether an unlisted use is allowed in one or more zoning districts as a permitted use, limited use, or conditional district use based on the use’s similarity in nature and impact to a permitted, limited, or conditional district use listed in one of the principal use tables.
- B. In making this determination, the Zoning Administrator may refer to any of the following factors as guidance:
  - 1. The definitions contained in Chapter 17: *Definitions & Acronyms*;
  - 2. Whether the use is consistent with the purpose of the zoning district in which it would be allowed;

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<sup>128</sup> This is a significant change from the current provisions in ZO Section 8.6: *Interpreting Permitted Uses*, which states “[a]ny use that is not specifically listed in a district shall be deemed to be prohibited.” Proposed here is to establish a process for the Zoning Administrator to determine whether and how unlisted uses are allowed, including rules for determining whether an unlisted use simply falls within the definition of a permitted use or requires a conditional district. This business-friendly approach allows the County to quickly accommodate new and emerging land uses that are similar to other types of uses already allowed. Further, this approach complies with North Carolina case law (see “[Regulating Land Uses Not Specifically Mentioned in a Zoning Ordinance](#)” by David Owens).

3. Whether the use has visual, traffic, environmental, or other impacts similar to an expressly listed use. The Zoning Administrator may refer to empirical studies or generally accepted planning or engineering sources in making this determination; and
  4. Whether the use is within the same industry classification as another allowed use. In making this determination, the Zoning Administrator may refer to the most recent edition of the [North American Industry Classification Manual](#) (“NAICS”) and/or the American Planning Association’s [Land-Based Classification Standards \(LBCS\) Tables](#).
- C. The burden is on the applicant to establish that the unlisted proposed use is similar to the expressly listed use. The applicant shall submit verification that shows the proposed use is similar to another permitted, limited, or conditional district use and could be allowed.
- D. If the Zoning Administrator determines that:
1. The proposed use is sufficiently similar in nature and impact to a permitted use, the applicant may proceed with any application necessary to establish the use;
  2. The proposed use is sufficiently similar in nature and impact to a limited use, the applicant may submit a Zoning Compliance Permit application (see Section 12.20: Zoning Compliance Permits) demonstrating compliance with the applicable use-specific standards specified in Section 3.3: Use-Specific Standards for Principal Uses;
  3. The proposed use is sufficiently similar in nature and impact to a conditional district use, the applicant may submit a Conditional District Rezoning application (see Section 12.15: *Rezoning (Conditional Districts)*) demonstrating compliance with any applicable use-specific standards specified in Section 3.3: Use-Specific Standards for Principal Uses.
- E. The applicant may appeal this determination to the Board of Adjustment. [See Section 12.2: *Appeals of Administrative Decisions*]
- F. The Zoning Administrator shall maintain a record of all determinations made concerning unlisted uses. On at least an annual basis, the County may update the use tables to reflect the Zoning Administrator’s determinations.<sup>129</sup> [See Section 12.17: *UDO Interpretations*]

### 3.2.3 PREEMPTION

- A. Uses regulated by the State of North Carolina and exempt from local control are allowed, subject to state regulations.

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<sup>129</sup> This provision is new. While this does require additional staff time to maintain a formal record and initiate an annual set of text amendments, it ensures the UDO remains up-to-date and reflects the Zoning Administrator’s determinations—which is helpful for applicants and staff.

- B. Agricultural uses may be exempt from zoning requirements if they are conducted on a farm that has obtained bona fide farm exemption status (see Section 1.4: *Applicability*).

### 3.2.4 DESCRIPTIONS OF PRINCIPAL USE CATEGORIES

- A. **Accommodations & Lodging Uses.** This category includes uses that provide short-term accommodations for travelers, vacationers, and others. Some provide accommodations only, while others provide meals, laundry services, recreational facilities, and other services, as well as accommodations.
- B. **Agriculture & Horticulture Uses.**
1. This category includes uses that involve growing crops, raising animals, harvesting timber, or harvesting fish and other animals from a farm, ranch, or their natural habitats.
  2. Many of the uses listed in this category may be exempt from zoning requirements if they are conducted on a farm that has obtained bona fide farm exemption status (see Section 1.4: *Applicability*).
  3. Section 8.4.3: Use Regulations provides additional standards for agricultural uses and silviculture.
- C. **Arts, Entertainment, & Recreation Uses.** This category includes a wide range of uses that include facilities or services that meet varied cultural, entertainment, and recreational interests of the community.
- D. **Business, Professional, Scientific, & Technical Uses.** This category includes establishments that perform professional, scientific, and technical services for others. Such services require a high degree of expertise and training.
- E. **Government Uses.** This category includes uses typically owned and operated by a local, state, or federal government or a quasi-government agency.
- F. **Healthcare Uses.** This category includes uses that provide acute, preventative, short-term, and long-term medical care; medical diagnostic services; and supportive care for senior citizens and disabled people.
- G. **Heavy Commercial, Manufacturing, & Industrial Uses.** This category includes uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage, and handling of these products and the materials from which they are produced.
- H. **Institutional & Civic Uses.** This category includes uses that provide unique services that are of benefit to the public at-large.
- I. **Natural Resources Extraction Uses.** This category includes uses that extract naturally occurring materials from the earth.
- J. **Mixed Uses.** This category includes buildings that contain both residential and non-residential uses.
- K. **Residential Uses.** This category includes uses provide long-term living accommodations for one or more people.

- L. **Retail, Service, and Food & Beverage Uses.** This category includes:
1. Retail uses that form the final step in the distribution of merchandise. They are organized to sell in small quantities to many customers. Many have stores, but some also sell merchandise from non-stores. Establishments in stores operate as fixed point-of-sale locations, which are designed to attract a high volume of walk-in customers. Retail establishments often have displays of merchandise and sell to the general public for personal or household consumption, though they may also serve businesses and institutions. Some establishments may further provide after-sales services, such as repair and installation;
  2. Service uses that provide frequent or recurrent services of a personal nature; and
  3. Food and beverage uses where meals, snacks, and beverages are prepared to customer order for immediate on-premises and off-premises consumption. There is a wide range of establishments in this use category. Some establishments provide food and drink only, while others provide various combinations of seating space, wait staff services, and incidental amenities, such as limited entertainment.
- M. **Transportation, Warehousing, & Storage Uses.** This category includes uses that provide and distribute goods in large quantities, principally to retail sales, commercial services, or industrial establishments. Long-term and short-term storage of supplies, equipment, commercial goods, and personal items is included.
- N. **Utility Uses.** This category includes uses that provide services necessary for modern development such as electric power, natural gas, potable water, and sewage treatment and disposal.
- O. **Vehicle-Related Uses.** This category includes uses primarily dedicated to the sale, maintenance, servicing, and/or storage of automobiles, motorcycles, boats, and similar vehicles.
- P. **Waste Management Uses.** This category includes uses engaged in the collection, treatment, and disposal of waste materials.

**3.2.5 ACCOMMODATIONS & LODGING PRINCIPAL USES**

<b>Table 3.2.5-1: Accommodations &amp; Lodging Principal Uses</b>																					
<b>Land Use</b>	<b>Use-Specific Standards</b>	<b>Zoning District</b>																			
		<b>PP</b>	<b>AG</b>	<b>RA</b>	<b>R5</b>	<b>R2</b>	<b>NR</b>	<b>RI</b>	<b>RV</b>	<b>OI</b>	<b>NB</b>	<b>CB</b>	<b>RB</b>	<b>RHC</b>	<b>IL</b>	<b>IH</b>	<b>CD-CR</b>	<b>CD-CMU</b>	<b>CD-CN</b>	<b>CD-NC</b>	<b>CD-AC</b>
Bed & breakfast homes	<b>3.3.5</b>		L	L	L	L	L	L	L								L	P			
Bed & breakfast inns	<b>3.3.5</b>		L	C	C	C	C	L			P	P	P				L	P		P	P
Hotels, motels, and inns											P	P	P	P				P	P	P	P
<b>Short-term rentals</b>	<b>3.3.27</b>		L	L	L	L	L	L	L	C		C	C	C				L	L	L	L

3.2.6 AGRICULTURE & HORTICULTURE PRINCIPAL USES

Table 3.2.6-1: Agriculture & Horticulture Principal Uses																				
Land Use	Use-Specific Standards	Zoning District																		
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC
Agricultural processing, storage, & support services (more than 20,000 sf) <sup>130</sup>			P											P	P	P				
Agricultural processing, storage, & support services (20,000 sf or less)			P	P	P	P			P				P	P	P	P				
Animal husbandry, specialized			C		C	C		C												
Bona fide farm		Bona fide farm exemption status is obtained through the Chatham County Planning Department (see Section 1.4: Applicability).																		
Community garden		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Equine stable			P	P	P	P	P	P	P					P						

<sup>130</sup> New use category to correspond with American Planning Association's [Land Based Classifications Standards \(LBCS\) F9200](#).

Table 3.2.6-1: Agriculture & Horticulture Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Farm Market <sup>131</sup>	3.3.13		L	L	L	L			P		P	P	P	P			L	P	P	P	P
Farming, Indoor <sup>132</sup>			P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Farming, Outdoor <sup>133</sup>			P	P	P	P	P	P	P					P							
Greenhouses, cultivation facilities, and warehousing for wholesale and related retail sales			P	P	P									P	P	P					
Grain elevator			P											P	P	P					
Landscaping and grading business			P	P									P	P	P						

<sup>131</sup> This new principal use allows for farm markets in districts that do not otherwise allow general retail uses (AG, RA, R5, and R2). To qualify for participation in the [Certified Roadside Farm Market](#) program, a roadside farm market must (among other requirements) sell primarily agricultural commodities direct to the public, with a minimum of 51% of total sales from farm products grown by the market operator. This Chapter also proposes to allow *farmstands* as an accessory use in the rural districts and as a temporary use in all districts.

<sup>132</sup> This use and *farming, outdoor* replace the current uses *avocational farming* and *horticulture, specialized*. This would eliminate the use-specific standards for *specialized horticulture* (minimum lot area of 3 acres and setbacks that are twice the district minimum).

<sup>133</sup> This use and *farming, indoor* replace the current uses *avocational farming* and *horticulture, specialized*. This would eliminate the use-specific standards for *specialized horticulture* (minimum lot area of 3 acres and setbacks that are twice the district minimum).



Table 3.2.6-1: Agriculture & Horticulture Principal Uses																				
Land Use	Use-Specific Standards	Zoning District																		
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC
Meat processing and packing related to on-site raising of livestock			P	P												P				
<b>Sale/service of agricultural equipment</b>			P						P					P	P					

3.2.7 ARTS, ENTERTAINMENT, & RECREATION PRINCIPAL USES

Table 3.2.7-1: Arts, Entertainment, & Recreation Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Amusements, indoor, <b>unless otherwise listed</b>											P	P	P	P				P	P	P	P
<b>Amusements, outdoor, unless otherwise listed</b>	3.3.3			C							C	C	C				L	L		C	
<b>Artisan workshops and related sales</b>			C	C	C	C			P		P	P	P	P	P			P	P	P	P

Table 3.2.7-1: Arts, Entertainment, & Recreation Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Assembly halls, coliseums, gymnasiums, and similar structures																					
Clubs and other places of entertainment operated as commercial enterprises																					
Drive-in or outdoor motion picture show																					
<b>Equestrian center</b>			P	C	C	C			C												
Golf courses				C	C	C		C		P											
Hunting or fishing clubs	<b>3.3.16</b>	L	L	C	C	C	C	C													
<b>Neighborhood recreation amenities</b>	<b>3.3.20</b>			L	L	L	L	L	L												
Non-profit clubs										P	P	P	P	P							

Table 3.2.7-1: Arts, Entertainment, & Recreation Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	RI	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Museums and art galleries <sup>134</sup>									P	P	C	P	P	P				P	P	P	P
Paintball gaming, outdoor				C									P	P	P	P			P		
Recreation camps and grounds	3.3.23	L	L	C	C	C	C	C	L		L	L	L	L							
Parks and recreation areas	3.3.21	P		C	C	C	C	C	C	C	C	C	C	C			L	P	P	C	C
Recreational facilities (gyms, yoga studios, etc.)									P		P	P	P	P				P	P	P	P
Sexually-oriented businesses	3.3.25															P					
Shooting range, indoor													C	C	C	P					
Shooting range, outdoor	3.3.26													C		C					
<b>Sports (including horse racing) wagering establishments</b>												P	P					P	P	P	P

<sup>134</sup> Libraries moved to Institutional & Civic Uses.  
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**3.2.8 BUSINESS, PROFESSIONAL, SCIENTIFIC, & TECHNICAL PRINCIPAL USES**

**Table 3.2.8-1: Business, Professional, Scientific, & Technical Principal Uses**

Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Banks and financial institutions								P	P	P	P	P	P				P	P	P	P	
<b>Business &amp; facilities support services<sup>135</sup></b>								P	P	P	P	P	P	P			P	P	P	P	
<b>Communications &amp; information</b>								P	P		P	P	P						P		P
<b>Computing infrastructure providers</b> , data processing, <b>web</b> hosting, and related services															C <sup>1</sup>	C <sup>1</sup>			P		
<b>Life sciences facilities, unless otherwise listed</b>									P			P		P	P		P	P			
Professional offices, <b>unless otherwise listed</b>								P	P	P	P	P	P	P	P		P	P	P	P	

<sup>135</sup> New use category that corresponds with LBCS F2422 and LBCS F2424.  
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Table 3.2.8-1: Business, Professional, Scientific, & Technical Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Research and development facilities										P		P	P	P	P	P		P	P		

<sup>1</sup>When Chatham County Water or Town of Sanford water and sewer infrastructure is utilized the use is allowed by right.

### 3.2.9 GOVERNMENT PRINCIPAL USES

Table 3.2.9-1: Government Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Emergency operations facilities	3.3.10		L/C	L/C	L/C	L/C	L/C	L/C	P	P	P	P	P	P	P	P	L	P	P	P	P
Government offices and facilities		P	P	C	C	C	C	C	P	P	P	P	P	P	P	P	P	P	P	P	P
Jails and penal institutions														C	C						
Libraries <sup>136</sup>					C	C	C	C	P	P	P	P	P				P	P	P	P	P

<sup>136</sup> Museums and art galleries moved to Arts, Entertainment, & Recreation Uses.

Table 3.2.9-1: Government Principal Uses																				
Land Use	Use-Specific Standards	Zoning District																		
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC
Post offices				P	<del>CP</del>	<del>CP</del>	<del>CP</del>	<del>CP</del>	P	P	P	P	P			P	P	P	P	P

3.2.10 HEALTHCARE PRINCIPAL USES

Table 3.2.10-1: Healthcare Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AC	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Congregate care facilities									P	P	P			P			P	P		P	P
Continuing care retirement communities										P		P	P	P			P	P			P
Group care home					C	C	C		P	P	P			P			P	P		P	P
Hospitals										P		P	P	P				P	P		
Inpatient care facilities, nursing homes, convalescent homes									P	P	P			P				P	P		
Medical and diagnostic laboratories										P		P	P	P	P			P	P		P
Medical offices and clinics (more than 10,000 sf)										P		P	P	P				P	P		P
Medical offices and clinics (10,000 sf or less)									P	P	P	P	P	P				P	P	P	P



3.2.11 HEAVY COMMERCIAL, MANUFACTURING, & INDUSTRIAL PRINCIPAL USES

Table 3.2.11-1: Heavy Commercial, Manufacturing, & Industrial Principal Uses

Land Use	Use-Specific Standards	Zoning District																				
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC	
Animal slaughtering and processing (non-farm)																C						
Automobile and truck assembly															C	P						
Aviation/ aerospace equipment, engine, and instrument manufacturing and/or assembly																S <sup>1,2</sup>						
Coal or coke yards															C <sup>2</sup>	C <sup>2</sup>						
Computer and electronic product manufacturing																C <sup>1</sup>						
Contractor storage yards <sup>137</sup>												C	C	C	C	C						

<sup>137</sup> The current Zoning Ordinance includes “staging areas,” now referred to as laydown and storage yards, which are included in Section 3.6: Temporary Uses & Structures.

**Table 3.2.11-1: Heavy Commercial, Manufacturing, & Industrial Principal Uses**

Land Use	Use-Specific Standards	Zoning District																				
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC	
Cosmetics and perfume manufacturing															C <sup>1,2</sup>	C <sup>1,2</sup>						
Dye stuff manufacturing and dyeing plants															C	C						
Electrical equipment, appliance, and component manufacturing																C <sup>1</sup>						
<b>Industrial uses, heavy, unless otherwise listed</b>																						
<b>Industrial uses, light, unless otherwise listed</b>															P	P						
<b>Industrial uses, restricted, unless otherwise listed</b>																C <sup>2</sup>						
Laundries, steam													C		P	P						
<b>Life sciences</b> product manufacturing															SC <sup>1,2</sup>	C <sup>1,2</sup>						
Machine shops													P	P	P	P						

**Table 3.2.11-1: Heavy Commercial, Manufacturing, & Industrial Principal Uses**

Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Meat processing and packing																P					
Metal manufacturing																C					
Millwork															P	P					
Mulch – grinding, screening (sifting and separating of particles), mixing, blending, processing, or dyeing of mulch															C	C					
<b>Nonmetallic mineral product manufacturing, unless otherwise listed</b>																<b>C<sup>2</sup></b>					
Planing or sawmills															P	P					
Rentals, sales, repair, and servicing of industrial equipment <b>and</b> machinery, except railroad equipment													<b>P</b>	P	P						

**Table 3.2.11-1: Heavy Commercial, Manufacturing, & Industrial Principal Uses**

Land Use	Use-Specific Standards	Zoning District																				
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC	
Semiconductor manufacturing															C <sup>1,2</sup>	C <sup>1,2</sup>						
Sheet metal shops													P	P	P	P						
Sign manufacture, painting, and maintenance													P	P	P							
Tar manufacturing																C						
Textile manufacturing																C						
Transportation equipment manufacturing															C <sup>1</sup>	C <sup>1</sup>						

<sup>1</sup> When Chatham County Water or Town of Sanford water and sewer infrastructure is utilized, the use is permitted.

<sup>2</sup> The use requires submittal of a special study (see Section 18.6: *Special Studies*).

**3.2.12 INSTITUTIONAL & CIVIC PRINCIPAL USES**

**Table 3.2.12-1: Institutional & Civic Principal Uses**

Land Use	Use-Specific Standards	Zoning District																				
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC	
Cemeteries				C	C	C	C	C		P				P								

Table 3.2.12-1: Institutional & Civic Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Churches and other places of worship	3.3.7		P	C	C	C	C	C	P	P	P	P	P				L	P	P	P	P
Colleges and universities									P			P	P					P	P	P	P
Day care centers or preschools for 15 or fewer people <sup>138</sup>				C	C	C	C	C	P	P	P	P	P				P	P	P	P	P
Day care centers or preschools for more than 15 people									P	P	P	P	P					P	P	P	P
Emergency shelters <sup>139</sup>												P	P					P	P	P	P
Family cemeteries		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Funeral homes, undertaking establishments, embalming including crematoria									P	P		P	P	P	P	P					

<sup>138</sup> Proposed here is to use the term *people* rather than *children* to accommodate adult day care facilities.

<sup>139</sup> This use is added pursuant to a recommendation in the *Health & Equity Assessment*.

Table 3.2.12-1: Institutional & Civic Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Schools, <b>primary or secondary</b> <sup>140</sup>	3.3.24				C	C	C	C		P	C	C	P	P	C	C		P	P	C	C

3.2.13 NATURAL RESOURCES EXTRACTION PRINCIPAL USES

Table 3.2.13-1: Natural Resources Extraction Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Mining															C <sup>1</sup>						
Oil and gas exploration, development, and production					C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>		C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>		C <sup>1</sup>	C <sup>1</sup>					

<sup>1</sup>The use requires submittal of a special study (see Section 18.6: *Special Studies*).

<sup>140</sup> "Training and conference centers" moved to Retail, Service, and Food & Beverage Uses.

3.2.14 MIXED PRINCIPAL USES

Table 3.2.14-1: Mixed Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Live-work unit									P	P	P	P	P	P				P	P	P	P
Mixed use building										C	C	C	C	P				P	P	P	P

3.2.15 RESIDENTIAL PRINCIPAL USES

Table 3.2.15-1: Residential Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Apartment complex <sup>141</sup>										C		C	C	C			P	P	P	P	P
<b>Cottage court</b>	<b>3.3.8</b>													C			L	L			
<b>Two-family dwelling (duplex)</b>						P	P	P									P	P		P	
Family care homes	<b>3.3.12</b>				L	L	L	L									L	L		L	
<b>Manufactured home park</b>																	P	P			
<b>Multi-family building</b>										C		C	C	C			P	P	P	P	P
<b>Recreational vehicle dwelling unit</b>			P	P	P	P	P	P									P	P			
Single-family detached dwelling (including site built, modular, and manufactured)			P	P	P	P	P	P	P								P	P		P	

<sup>141</sup> The current definition of apartment complex notes the individual dwelling units in an apartment complex “may be leased separately or developed as condominiums” (ZO Section 7 Definitions), so there is no need to list condos here.



Table 3.2.15-1: Residential Principal Uses																				
Land Use	Use-Specific Standards	Zoning District																		
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC
Townhouse																P	P		P	P

3.2.16 RETAIL, SERVICE, AND FOOD & BEVERAGE PRINCIPAL USES

Table 3.2.16-1: Retail, Service, and Food & Beverage Principal Uses																				
Land Use	Use-Specific Standards	Zoning District																		
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC
ABC stores	3.3.2									L	L	L	L				L	L		L
Bait and tackle shops			P					P		P	P	P	P	P	P		P	P	P	P
Breweries, distilleries, wineries											P	P	P	P	P					P
Cigar bars <sup>142</sup>											P	P					P	P	P	P

<sup>142</sup> N.C.G.S. § 130A-498 preempts local governments from restricting or prohibiting smoking in cigar bars “if smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited pursuant to this Article [N.C.G.S. Chapter 130A, Article 23].” The statute requires cigar bars that allow smoking and that begin operation after July 1, 2009 to be located in a freestanding structure occupied solely by the cigar bar. However, [SL 2024-41](#) provides that cigar bars that do not serve prepared food are not required to be located in a freestanding structure.

Table 3.2.16-1: Retail, Service, and Food & Beverage Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Commercial kitchens, caterers, and banquet services								P		P	P	P	P				P	P		P	
Corner stores	3.3.8		L	L	L	L	L						L			L	L		L		
Dry cleaning, pressing, and related retail service counter								P		P	P	P	P	P	P		P	P	P	P	
Eating and drinking establishments								P		P	P	P	P				P	P	P	P	
Events center	3.3.11									L	L	L	P				P	P		L	
Feed, seed, fertilizer retail sales			P					P		C	C	P	P	P	P						
Flea markets <sup>143</sup>												C	C	C	C						
Food pantries <sup>144</sup>								<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Gunsmiths					C	C				P	P	P	P	P	P		P	P		P	

<sup>143</sup> The proposed definition of *flea market* allows the use to occur outside of a building. Chapter 16: *Rules of Interpretation & Measurement* clarifies that all components of a principal use, including outdoor sales areas, must meet the district setback requirements.

<sup>144</sup> This use is added pursuant to a recommendation in the *Health & Equity Assessment*.

Table 3.2.16-1: Retail, Service, and Food & Beverage Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Hookah lounges	3.3.15											L	L					L	L	L	L
Kennels, boarding and/or breeding <sup>145</sup>	3.3.6			C	C	C	C				L	L	L	L				L	L		
Locksmiths					C	C			P		P	P	P	P	P			P	P	P	P
Lumberyards, building materials storage and sales												C	P	P	P						
Mobile home sales and service												C	P	P	P						
Music stores including repair and craft manufacture					C	C			P		P	P	P	P				P	P	P	P
Open air sales and service of accessory buildings and gazebos and like free-standing structures												C	P	P							

<sup>145</sup> Proposed here is to consolidate “boarding kennels” and “breeding kennels.” The minimum acreage and increased setback requirements are carried forward. The use is proposed as a conditional district use in all three residential districts (the current Zoning Ordinance allows boarding kennels in R1, but not breeding kennels).

Table 3.2.16-1: Retail, Service, and Food & Beverage Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Personal services, unless otherwise listed									P		P	P	P	P				P	P	P	P
Pet day care facilities	3.3.22			C	C	C	C	C	L		L	L	L	L			L	L	L	L	L
Repair and service of household equipment <sup>146</sup>					C	C	C	C					P	P	P	P		P	P	P	P
Retail stores, unless otherwise listed									P		P	P	P	P				P	P		P
Tobacco, vape, and hemp retailers	3.3.29											L	L	L							
Training and conference centers												P	P	P	P	P		P	P		P
Veterinary clinics & hospitals, with outdoor dog runs or equivalent facilities												C	C	C	C	C			P		
Veterinary clinics & hospitals									P			P	P	P	P	P		P	P	P	P

<sup>146</sup> Repair and service of office equipment is proposed to be included under “Business & Facilities Support Services.”



**3.2.17 TRANSPORTATION, WAREHOUSING, & STORAGE PRINCIPAL USES**

**Table 3.2.17-1: Transportation, Warehousing, & Storage Principal Uses**

Land Use	Use-Specific Standards	Zoning District																				
		PP	AG	RA	R5	R2	NR	RI	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC	
Airports and landing fields for fixed and rotary wing aircraft															C	C						
Boat <b>and recreational vehicle</b> storage facilities											C	C	C	C	C	C						
Bus <b>and rail</b> passenger stations													P	C				P	P			
Flammable liquids – bulk plants and storage																C <sup>1</sup>						
Railroad freight yards <b>or</b> terminals																C						
Self- <b>service</b> storage facility <sup>147</sup>	3.3.29											C	C	C	C	C						
Storage yards (outdoor storage)														C	C	C						

<sup>147</sup> This use is renamed to align with [N.C.G.S. § 44A-40\(7\)](#).  
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Table 3.2.17-1: Transportation, Warehousing, & Storage Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Street and railway rights-of-way <sup>148</sup>		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Truck terminal														C	P	P					
<b>Wholesaling, warehousing, flex space, and distribution, unless otherwise listed</b>													P	P	P	P				P	

<sup>1</sup>The use requires submittal of a special study (see Section 18.6: *Special Studies*).

<sup>148</sup> Railroad rights-of-way are listed separately above.  
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3.2.18 UTILITY PRINCIPAL USES

Table 3.2.18-1: Utility Principal Uses																				
Land Use	Use-Specific Standards	Zoning District																		
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC
Electric light or power generating stations															C <sup>1</sup>	C <sup>1</sup>				
Major utilities, <b>unless otherwise listed</b>															P	P				
Minor utilities <sup>149</sup>		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Natural gas compressor stations			C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>
Public utility transmission lines		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Solar <b>energy systems, level 2</b> (less than ½ acre)	3.3.28		L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
<b>Solar energy systems, level 2 or level 3 (10 acres or less)</b>	3.3.28		C	C	C	C	C	C	L	L	L	L	L	L	L	L	L	L	L	L

<sup>149</sup> The setback requirement for noise-producing equipment is carried forward in Chapter 2: Zoning Districts.



Table 3.2.18-1: Utility Principal Uses																					
Land Use	Use-Specific Standards	Zoning District																			
		PP	AG	RA	R5	R2	NR	R1	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC	CD-AC
Solar energy systems, level 2 or level 3 (more than 10 acres)	3.3.28		C	C	C	C	C	C	C	C	C	C	C	C	L	L			L		
Wireless Support Structures (≤ 60 feet or less in height)	3.8		L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Concealed Wireless Facilities (≤ 60 feet or less in height)	3.8		L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Concealed Wireless Facilities (> 60 feet and ≤ 150 feet or less in height)	3.8		C	C	C	C	C	L	L	L	L	L	L	L	L	L	C	L	L	L	L
Wireless Support Structures (> 60 feet and ≤ 199 feet in height)	3.8		C	C	C	C	C	C	C	C	C	C	C	C	L	L	C	C	C	C	C
Wireless Support Structures (> 199 feet and ≤ 400 feet in height)	3.8		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C

<sup>1</sup>The use requires submittal of a special study (see Section 18.6: *Special Studies*).

3.2.19 VEHICLE-RELATED PRINCIPAL USES

Table 3.2.19-1: Vehicle-Related Principal Uses																				
Land Use	Use-Specific Standards	Zoning District																		
		PP	AC	RA	R5	R2	NR	RI	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC
Automobile, automobile accessory, motorcycle, <b>boat, trailer, and other utility vehicle</b> sales and service												C	P	P						
<b>Electric vehicle charging stations</b>								P		P	P	P	P				P	P	P	P
<b>Gas stations</b>	3.3.14			L				L			L	L	L							
<b>Heavy machinery sales, rental, and service</b>													P	P	P					
Tire recapping and re-treading														P	P					

# WASTE MANAGEMENT PRINCIPAL USES

Table 0-1: Waste Management Principal Uses																				
Land Use	Use-Specific Standards	Zoning District																		
		PP	AG	RA	R5	R2	NR	RI	RV	OI	NB	CB	RB	RHC	IL	IH	CD-CR	CD-CMU	CD-CN	CD-NC
Garbage and waste incinerators (except hazardous waste)																C <sup>1</sup>				
Inert debris (beneficial fill) landfill	3.3.17		P/C	P/C	P/C	P/C	P/C	P/C					C	C	C	C				
Junk yards and auto wrecking facilities	3.3.18														C	C				
Land clearing debris landfills (for beneficial fill see "Inert Debris")	3.3.19		C	C	C	C	C	C					C	C	C	C				
Recycling industries that do not include the storage and/or processing of hazardous waste																P				
Sanitary landfills, excluding the burning of trash outdoors																C <sup>1</sup>				

<sup>1</sup>The use requires submittal of a special study (see Section 18.6: *Special Studies*).

## 3.3 USE-SPECIFIC STANDARDS FOR PRINCIPAL USES<sup>150</sup>

### 3.3.1 APPLICABILITY

The use-specific standards in this Section apply to all uses designated in the use tables in Section 3.2: Principal Use Tables as “limited uses” or “conditional district uses.”

### 3.3.2 ABC STORES<sup>151</sup>

#### ~~A. Purpose.~~

#### ~~1. According to the National Institute on Alcohol Abuse and Alcoholism:~~

~~(a) Alcohol is one of the leading preventable causes of death in the United States; and~~

~~(b) Alcohol-impaired driving fatalities accounted for 13,524 deaths (or 32% of overall driving fatalities) in 2022.~~

~~2. The 2023 National Survey on Drug Use and Health indicates nearly one-quarter of adults in the United States reported binge drinking within the past month.~~

~~3. Excessive drinking cost the United States approximately \$249 billion in 2010.~~

~~4. A study in Durham, North Carolina, found racial and ethnic disparities in alcohol outlet density.~~

~~5. Research demonstrates a relationship between alcohol outlet density and violence.<sup>152</sup>~~

<sup>150</sup> Carries forward current use-specific standards and adds uses recommended in the [Audit Report](#) (p. 65).

<sup>151</sup> This minimum separation distance is proposed pursuant to input from the Board of Commissioners and a recommendation in the [Health & Equity Assessment](#). N.C.G.S. § 18B-901 requires the North Carolina Alcoholic Beverage Control Commission to consider local zoning laws regulating the location of new ABC stores in its decision on whether to issue an ABC permit, but states the Commission has “the authority to determine the suitability of the location to which the permit may be issued.”

<sup>152</sup> L. Zhu, D., et al., *Alcohol and Alcoholism*, Volume 39, Issue 4, July 2004, Pages 369–375; <https://doi.org/10.1093/alcalc/agh062>;

Gruenewald PJ, Remer L. Changes in outlet densities affect violence rates. *Alcohol Clin Exp Res*. 2006 Jul; 30(7):1184–93. <https://onlinelibrary.wiley.com/doi/10.1111/j.1530-0277.2006.00141.x>;

6. ~~Studies demonstrate a link between proximity of alcohol outlets and alcohol use among college students.~~<sup>153</sup>
7. ~~The Community Preventative Services Task Force recommends limitations on "alcohol outlet density as a strategy to reduce excessive alcohol consumption and related harms."~~<sup>154</sup>

~~8.A.~~ The purpose of this Subsection; ~~therefore,~~ is to impose separation and location requirements for ABC stores in order to protect and promote the public health, safety, and general welfare and reduce health disparities related to alcohol use.

B. **Minimum Separation Between Uses and Districts.** A new ABC store must be located at least 1,320 feet<sup>155</sup> from any of the following land uses, regardless of whether the use is located in the incorporated or unincorporated area of Chatham County:

1. An existing ABC store;
2. Any lot containing a park or playground;
3. Any lot containing a day care center, preschool, primary school, or secondary school;

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~~Snowden, Aleksandra J., "Alcohol Outlet Density and Intimate Partner Violence in a Nonmetropolitan College Town: Accounting for Neighborhood Characteristics and Alcohol Outlet Types" (2016). Social and Cultural Sciences Faculty Research and Publications. 310. [https://epublications.marquette.edu/socs\\_fac/310](https://epublications.marquette.edu/socs_fac/310);~~

~~Snowden AJ, et al. The Neighborhood Level Association Between Alcohol Outlet Density and Female Criminal Victimization Rates. J Interpers Violence. 2020 Aug;35(15-16):2639-2662. Available: <https://pubmed.ncbi.nlm.nih.gov/29294829/>;~~

~~Zhang X, et al. Changes in density of on-premises alcohol outlets and impact on violent crime, Atlanta, Georgia, 1997-2007. Prev Chronic Dis. 2015 May 28; 12:E84. Available: <https://pubmed.ncbi.nlm.nih.gov/26020548/>~~

~~<sup>153</sup> Tanumihardjo, J., et al. (2015). Association between alcohol use among college students and alcohol outlet proximity and densities. *Wmj*, 114(4), 143-147. Available: [https://www.researchgate.net/profile/Jacob-Tanumihardjo/publication/282889390\\_Association\\_Between\\_Alcohol\\_Use\\_Among\\_College\\_Students\\_and\\_Alcohol\\_Outlet\\_Proximity\\_and\\_Densities/links/5cb525a092851c8d22ee0689/Association-Between-Alcohol-Use-Among-College-Students-and-Alcohol-Outlet-Proximity-and-Densities.pdf](https://www.researchgate.net/profile/Jacob-Tanumihardjo/publication/282889390_Association_Between_Alcohol_Use_Among_College_Students_and_Alcohol_Outlet_Proximity_and_Densities/links/5cb525a092851c8d22ee0689/Association-Between-Alcohol-Use-Among-College-Students-and-Alcohol-Outlet-Proximity-and-Densities.pdf)~~

~~Elissa R Weitzman, et al., The relationship of alcohol outlet density to heavy and frequent drinking and drinking-related problems among college students at eight universities, *Health & Place*, Volume 9, Issue 1, 2003, Pages 1-6, <https://www.sciencedirect.com/science/article/pii/S135382920200014X>~~

~~<sup>154</sup> The Community Preventative Services Task Force is an independent, non-federal panel of 15 public health and prevention experts. See more info [here](#).~~

~~<sup>155</sup> 1,320 feet equals one-quarter mile, which is an approximately 5 to 7 minute walk.~~

- 4. Any lot containing a college or university; and
  - 5. Any lot containing a place of worship.
- C. **Relationship to State Law.** N.C.G.S. [§ 18B-901\(c\)](#) requires the Alcoholic Beverage Control (ABC) Commission to consider local zoning laws when issuing new ABC permits. However, the ABC Commission is not bound by local zoning laws in determining whether to issue new permits.

**3.3.3 AMUSEMENTS, OUTDOOR<sup>156</sup>**

- A. **Outdoor Lighting.** An outdoor amusement use that is illuminated using artificial lighting shall be located at least 500 feet from any dwelling unit not located on the same parcel as the outdoor amusement use, whether or not such dwelling unit is located in the incorporated or unincorporated area of Chatham County.
- B. **Measurement.** The distance in this Section is measured in a straight line from the edge of the proposed illuminated area of the outdoor amusement use nearest a dwelling unit to the dwelling unit.

**3.3.4 ANIMAL HUSBANDRY, SPECIALIZED<sup>157</sup>**

- A. **Minimum Lot Area.** All specialized animal husbandry uses shall be located on a lot with an area at least two times the minimum required for the zoning district in which the use is located.
- B. **Minimum Setbacks.** All buildings, structures, and areas where animals are kept shall be set back at least two times the minimum setback required for the district in which the use is located.

**3.3.5 BED & BREAKFAST HOMES & INNS<sup>158</sup>**

- A. **Dimensional Standards.** All bed and breakfast homes and inns shall comply with the standards specified in Table 3.3.5-1: *Dimensional Standards for Bed & Breakfast Homes & Inns*.

Table 3.3.5-1: Dimensional Standards for Bed & Breakfast Homes & Inns		
	Bed & Breakfast Home	Bed & Breakfast Inn

<sup>156</sup> This is a new use.

<sup>157</sup> Carries forward use-specific standards from ZO Section 10.13, Table 1: Zoning Table of Permitted Uses, but removes the requirement “lot area and setback for the AG district measured as if R5.” This is an existing requirement, but the County does not currently have an AG District. A new AG District is proposed in Chapter 2, but applying R5 standards would reduce the minimum lot area and setbacks required for this use.

<sup>158</sup> Carries forward use-specific standards from ZO Section 10.13, Table 1: Zoning Table of Permitted Uses. Revisions to the maximum length of stay and the maximum number of guest rooms for B&B Inns are proposed to align with [N.C.G.S. § 130A-247](#). The current limit of two guest rooms for B&B homes is maintained; the statutory definition allows up to eight guest rooms.

Lot Area (min)	1.5 ac	3 ac
Setbacks (min)	Per zoning district	Two times the zoning district requirements <sup>1</sup>
Number of Guest Rooms (max)	2	12

**Key:** min = minimum required | max = maximum allowed | ac = acres

<sup>1</sup> Increased setbacks apply to all elements of the use, whether located inside or outside a building.

- B. **Maximum Length of Stay.** A bed and breakfast home or inn may provide accommodations to a guest for a period of 14 days or less ~~than one week~~.<sup>159</sup>
- C. **Owner or Manager Occupancy Required.**
  - 1. *Bed & Breakfast Homes.* A bed and breakfast home must be the permanent residence of the property owner.
  - 2. *Bed & Breakfast Inns.* A bed and breakfast inn must be the permanent residence of the property owner or the inn manager.
- D. **Events.**
  - 1. Bed and breakfast inns may host events such as weddings, small business meetings, and the like, if the event is associated with a particular guest and occurs while such guest is staying at the inn.
  - 2. Such events are not subject to Section 3.6: *Temporary Uses & Structures*.

**3.3.6 BOARDING & BREEDING KENNELS<sup>160</sup>**

- A. **Overnight Boarding.** Kennels or portions of kennels where animals are housed overnight shall be located indoors.
- B. **Noise Mitigation.**
  - 1. *Applicability.* This Paragraph applies when the use is located on a lot that is adjacent to:
    - (a) Any lot located in the RA, R5, R2, NR, R1, CD-AC, CD-CR, or CD-MU zoning district; or
    - (b) Any lot containing a dwelling unit, day care center, or school, whether or not such lot is located in the incorporated or unincorporated area of Chatham County.
  - 2. *Noise Mitigation Required.*

<sup>159</sup> The current limit of “seven consecutive days” for B&B homes is revised to use the language in [N.C.G.S. § 130A-247](#). A maximum length of stay for B&B inns is proposed, also to align with the statute.

<sup>160</sup> Carries forward use-specific standards from ZO Section 10.13, Table 1: Zoning Table of Permitted Uses (breeding kennels) and Section 17.5.A. Boarding Kennels.

- (a) Outdoor kennels, runs, and play areas shall be fenced or walled with an acoustic fence or other sound-absorbing materials.
  - (b) At all times, the facility shall comply with the standards specified in County Code [Chapter 92: Noise Regulations](#).
3. *Exceptions.* This Paragraph does not apply when all portions of the outdoor kennels, runs, and play areas are located at least 100 feet from all lot lines.

### 3.3.7 CHURCHES & OTHER PLACES OF WORSHIP<sup>161</sup>

- A. **Minimum Lot Area.** A church or other place of worship shall be located on a lot that is at least three acres in area.
- B. **Minimum Setbacks.**
  - 1. The minimum side and rear setbacks are 50 feet.
  - 2. The minimum front setback is the same as required for the zoning district, plus 25 feet. If the district front setback varies based on building type, the church or other place of worship is subject to the largest required front setback, plus 25 feet.

### 3.3.8 CORNER STORES<sup>162</sup>

- A. **Purpose.** The purpose of this Subsection is to:
  - 1. Maintain the character of residential districts; and
  - 2. Promote mixed use neighborhoods in appropriate locations; and
  - 3. Encourage entrepreneurship and remove barriers to the establishment of small businesses; and
  - 4. Reduce vehicle trips and encourage walkable neighborhoods by making it convenient for neighbors to walk down the street to make quick, incidental purchases; and
  - 5. Help build a sense of community amongst neighborhood residents.
- B. **Maximum Gross Floor Area.** The maximum gross floor area of a corner store is 2,000 square feet.
- C. **Business Types.** Corner store businesses are limited to newsstands, bookstores, barbershops, beauty salons, bakeries, ice cream and yogurt shops, coffee shops, delis, food and convenience markets, and art galleries.<sup>163</sup>

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<sup>161</sup> Carries forward use-specific standards from ZO Section 10.13, Table 1: Zoning Table of Permitted Uses, footnote 2.

<sup>162</sup> This new use is intended to promote mixed-use neighborhoods by allowing “corner stores” in the AG, RA, R5, R2, NR, R1, CD-NC, CD-CR, and CD-CMU Districts. The proposed definition of corner store is “a small retail or service business located on a corner lot at the street level.”

<sup>163</sup> In Review Draft #1, these business types were listed in the definition of *corner store*.



- D. **Drive-Throughs Prohibited.** A corner store shall not contain drive-through facilities.
- E. **Gas Pumps Prohibited.** A corner store business shall not include gas pumps.

### 3.3.9 COTTAGE COURTS

- A. **Minimum Lot Area.** Minimum lot area for a cottage court and for individual cottage dwellings is established in the rezoning ordinance establishing the conditional zoning district in which the cottage court is located.
- B. **Setbacks.**
  - 1. The setbacks specified in the rezoning ordinance establishing the conditional zoning district apply along the perimeter of a cottage court lot.
  - 2. Cottage dwellings within a cottage court shall be spaced at least six feet apart, measured from building wall to building wall.
- C. **Maximum Dwelling Size.** A cottage dwelling may have a maximum gross floor area of 1,000 square feet.
- D. **Site Design.**
  - 1. *Central Courtyard.*
    - (a) Cottage courts shall be designed with individual cottage dwellings surrounding and fronting upon a central courtyard that is adjacent to the primary street.
    - (b) The central courtyard shall:
      - (1) Have a minimum width of 50 feet along the primary street frontage;
      - (2) Not have a dimension less than 20 feet at any point;
      - (3) Contain a pedestrian path that connects to each dwelling unit, any common structure, the adjacent street sidewalk, and to the parking area(s) provided for the cottage court;
      - (4) Not contain parking or vehicle access areas.
  - 2. *Access to Cottage Dwellings.* The only allowable means of vehicular access to a cottage court is from an access drive that provides access to the side(s) and/or rear of the cottage court. Direct access from a public street to an individual cottage dwelling is prohibited.
  - 3. *Parking.* Each cottage dwelling shall have at least one off-street parking space, which may be located in a common off-street parking area or in a carport, detached garage, or other detached parking structure.
- E. **Orientation of Cottage Dwellings.** Each cottage dwelling shall be oriented so that the front of the building faces the central courtyard.
- F. **Porches.** Covered front porches are required on each cottage dwelling. Each front porch shall have a minimum depth of six feet and occupy at least 70% of the width of the front building façade.

- G. **Sample Site Plan.** Figure 3.3.8-1 illustrates a potential layout for a cottage court that generally depicts the proposed design standards. This sample site plan is provided for illustrative purposes only. Other layouts may meet the standards in this Subsection.

**Figure 3.3.8-1: Sample Cottage Court Site Design**



### 3.3.10 EMERGENCY OPERATIONS FACILITIES

- A. **Minimum Lot Area.** An emergency operations facility located on a lot less than three acres in area must be established through a conditional zoning district.
- B. **Minimum Setbacks.** All elements of the use shall be set back at least two times the minimum setback required for the district in which the emergency operations facility is located.

**3.3.11 EVENTS CENTER<sup>164</sup>**

- A. **Purpose.** This Subsection is intended to provide the opportunity for smaller scale event centers to serve as a venue for business opportunities and gathering space in the county while protecting the health, safety, and welfare of the community.
- B. **Size & Capacity Limits.** Gathering, meeting, or hosting area event space is limited to a maximum of 5,000 square feet in size.

**Permitted Accessory Uses.** Accessory uses are limited to those directly related to the event being held. Examples include food and beverages service, dance floors, outdoor speakers, music, festive lighting, decorations, and tents.

**3.3.12 FAMILY CARE HOMES<sup>165</sup>**

- A. **Separation Requirements.** A new family care home shall not be located within 1,125 feet of an existing family care home.
- B. **Measurement of Separation Distance.** Measurement shall be made in a straight planar line, without regard to the intervening structures or objects, from the nearest portion of the existing family care home to the nearest portion of the new family care home.

**3.3.13 FARM MARKETS<sup>166</sup>**

- A. **Certification.** A farm market shall be certified as a [Certified Roadside Farm Market](#) by the North Carolina Department of Agriculture & Consumer Services.
- B. **Vehicular Access.** Farm markets shall provide safe ingress and egress. Vehicles must be able to enter and exit the site without using a right-of-way for maneuvering area.

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<sup>164</sup> Carries forward ZO Section 17.7 Standards for Events Center Limited with minor edits, but removes the paragraph related to signs since it is a content-based regulation. The sign regulations were comprehensively revised in Module 2 to reflect a content-neutral approach to regulation in accordance with case law and best practices. All sign regulations are tied to districts rather than specific uses.

<sup>165</sup> Carries forward use-specific standards from ZO Section 10.13, Table 1: Zoning Table of Permitted Uses.

<sup>166</sup> This new principal use allows for farm markets in districts that do not otherwise allow general retail uses (AG, RA, R5, and R2). To qualify for participation in the [Certified Roadside Farm Market](#) program, a roadside farm market must (among other requirements) sell primarily agricultural commodities direct to the public, with a minimum of 51% of total sales from farm products grown by the market operator.

### 3.3.14 GAS STATIONS<sup>167</sup>

#### A. Purpose.

1. Gas stations can have a detrimental impact on nearby residential properties due to their potential to operate 24 hours per day, produce noise, generate traffic, and encourage queuing of automobiles.
2. Gas stations also contribute to air pollution through the release of harmful vapors, such as benzene, from fueling hoses, vent pipes, and other equipment.<sup>168</sup>
3. Spilled fuel, even in small amounts, can enter stormwater runoff and contribute to soil and water pollution. Gasoline can leak from underground storage tanks and also contribute to soil and water pollution. According to the [U.S. Environmental Protection Agency](#), “[o]f the estimated 450,000 brownfield sites in the U.S., approximately one-half are thought to be impacted by petroleum, much of it from leaking underground storage tanks at old gas stations.”
4. Therefore, the purposes of the separation distances required by this Subsection are to protect the public health, safety, and welfare by requiring new gas stations to locate one-eighth of a mile or more from sensitive land uses and zoning districts.

B. **Gas Stations in the RA and RV Districts.** A gas station located in the RA or RV District shall not contain more than four fueling pumps.

#### C. Minimum Separation Between Uses and Districts.

1. The required separation distances specified in this Paragraph are based on the number of fueling pumps at a gas station.
2. The separation distance requirements in Table 3.3.14-1: *Gas Station Separation Distance Requirements* apply between a new gas station and:

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<sup>167</sup> This Subsection carries forward the current setback and canopy standards for automobile service stations. This Subsection also proposes to add separation requirements between gas stations and between gas stations and other uses, such as dwellings. This Subsection is added pursuant to public input received following completion of the Audit Report. The public input cited [this report](#) and recommended a complete prohibition on new gas stations; proposed here is a more moderate approach. The County could consider increasing (or decreasing) the proposed separation distances; changing the number of pumps subject to separation distances; adding sensitive land uses from a which a gas station must be separated, such as schools, day cares, and parks; adding zoning districts from a which a gas station must be separated; or prohibiting new gas stations altogether.

<sup>168</sup> A recent study found such emissions are higher than previously thought (see [article](#) and [study abstract](#)). Another recent study “found that clusters of gas stations have increased cancer risk compared to a single station because of cumulative emissions from the individual gas stations” (Hsieh, P.Y., J.A. Shearston, and M. Hilpert. 2021. “[Benzene emissions from gas station clusters: a new framework for estimating lifetime cancer risk.](#)” *Journal of Environmental Health Science and Engineering*, 19(1): 273–283).

- (a) Any lot zoned R5, R2, NR, R1, or CD-CR; and
- (b) Any of the following land uses, regardless of whether the use is located in the incorporated or unincorporated area of Chatham County:
  - (1) An existing gas station;
  - (2) Any lot containing a dwelling unit; and
  - (3) Any lot containing a hospital, inpatient care facility, nursing home, or convalescent home.

**Table 3.3.14-1: Gas Station Separation Distance Requirements**

Zoning District	Number of Fueling Pumps	Separation Distance (min)
RA, RV	4 or fewer	1,320 ft <sup>169</sup>
All other districts	12 or fewer	None
All other districts	More than 12	1,320 ft <sup>170</sup>

**Key:** min = minimum required | ft = feet

- D. **Setbacks.** Fuel, oil, and similar pumps and appliances may be located within the minimum required front and side setbacks, but must be located at least 15 feet from any lot line and outside any required buffers.
- E. **Canopies.** Fuel, oil, and similar pumps and appliances may be covered by an attached or freestanding unenclosed canopy, if the canopy does not:
  - 1. Extend nearer than 10 feet to any property line; and
  - 2. Cover more than 30% of the required setback area.

### 3.3.15 HOOKAH LOUNGES

A hookah lounge must be located in a freestanding building that has no occupants or tenants other than the hookah lounge.

### 3.3.16 HUNTING OR FISHING CLUBS

- A. **Minimum Lot Size.** Hunting or fishing clubs shall be located on a lot that is at least 20 acres in area.
- B. **Setbacks.** All elements of the use shall be set back a minimum of two times the minimum setback requirement for the district in which the hunting or fishing club is located.
- C. **Outdoor Shooting Ranges Prohibited.** A hunting or fishing club shall not include an outdoor shooting range.

<sup>169</sup> 1,320 feet equals one-quarter mile.

<sup>170</sup> 1,320 feet equals one-quarter mile.

### 3.3.17 INERT DEBRIS LANDFILLS<sup>171</sup>

- A. In the AG, RA, R5, R2, NR, and R1 Districts, individual lot owners using inert debris landfill materials (beneficial fill) on an area more than two acres in size must establish a conditional zoning district.
- B. In the RB, RHC, II, and IH Districts, all inert debris landfills must be established through a conditional zoning district.

### 3.3.18 JUNK YARDS & AUTO WRECKING FACILITIES<sup>172</sup>

- A. **Intent.** The purpose and objectives for which this Subsection is adopted and enacted are as follows:
  - 1. To promote the public health, safety, and general welfare;
  - 2. To preserve the natural scenic beauty of areas in the vicinity of state-maintained public roads; and
  - 3. To protect the public from health nuisances and safety hazards by controlling vectors, concentrations, or volatile or poisonous materials and sources of danger to children.
- B. **Consistency With N.C.G.S.** This Section is consistent with the provisions of the North Carolina Junk Yard Control Act, N.C.G.S. §§ 136-141 through 136-155 ([Article 12](#)), which delegate to the State Department of Transportation the responsibility to regulate "junk yards" and "automobile graveyards" located on interstate and federal-aid primary system highways.
- C. **Definitions.** For the purpose of this Subsection, the following definitions apply unless the context clearly indicates or requires a different meaning. These definitions supplement those in Chapter 17: *Definitions & Acronyms*. In the case of conflicts, the definitions in this Paragraph control.
  - 1. *Garage.* Any establishment or place of business that is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles, and that may store as many as six motor vehicles that are not capable of being driven under their own power and are not actively being restored to operable condition, regardless of the length of time that individual motor vehicles are stored or kept at the property. If the garage is listed as a

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<sup>171</sup> These provisions are from the existing definition of "land clearing and inert debris landfill" in ZO Section 7 Definitions.

<sup>172</sup> Consolidates Chatham County Code Chapter 111: Junk Yard Control with zoning regulations for junk yards and auto wrecking facilities. Removes registration provisions, since existing junk yards were required to register within 30 days of the original effective date of the Junk Yard Control Ordinance (March 9, 1992) in order to be considered "pre-existing." Relocates some definitions to Chapter 17: Definitions & Acronyms. Relocates Section 111.09 Enforcement Provisions and Section 111.99 Penalty to Chapter 18: Enforcement. Relocates Section 111.10 Relief; Variance; Decision to Chapter 14: Procedures. Minor edits to eliminate passive voice.

- business in the Tax Assessor's Office by January 31 of each year and consists of two acres, six additional motor vehicles as described herein may be allowed.
2. *Health or Safety Nuisance.* A motor vehicle, used machinery, or other used materials may be declared a health nuisance or safety hazard when it is found to be:
    - (a) A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests;
    - (b) A point of collection for pools or ponds of water;
    - (c) An unsafe concentration of gasoline, oil, or other flammable or explosive materials;
    - (d) So located that there is a danger of the vehicle falling or turning over without assistance;
    - (e) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or through the overturning of heavy items; or
    - (f) An unsafe concentration of car radiators, batteries, or other materials that pose either a hazard of immediate or long-term environmental degradation.
  3. *New Junk Yard.* A junk yard established after the original effective date of the Chatham County Junk Yard Control Ordinance (March 9, 1992) or junk yards in existence at the time of the original effective date of the Chatham County Junk Yard Control Ordinance that did not register within the timeframes specified in that ordinance in order to meet the designation of pre-existing.
  4. *Pre-Existing Junk Yard.* A junk yard in existence at the time of the original effective date of the Chatham County Junk Yard Control Ordinance (March 9, 1992) that registered within the timeframes specified in that ordinance.
  5. *Public Road.* Any road or highway that is now or hereafter designated and maintained by the North Carolina Department of Transportation as part of the state highway system.
  6. *Residence.* A house, an apartment, a group of homes, or a single room occupied or intended for occupancy as separate living quarters for one or more humans.
  7. *School.* Any public or private institution for the teaching of children under 18 years of age that is recognized and approved by the State Board of Education or other appropriate licensing boards.
  8. *Service Station.* Any establishment that is maintained and operated for the purpose of making retail sales of fuels, lubricants, air, water, and other items for the operation and routine maintenance of motor vehicles and/or for making mechanical repairs, servicing, and/or washing of motor vehicles and that is used to store not more than six motor vehicles that are not capable of being driven under their own power and that are not actively being restored to operable condition regardless of the length of time that individual motor

vehicles are stored or kept at the property. If the service station is listed as a business in the Tax Assessor's Office by January 31 of each year and consists of two acres, six additional motor vehicles as described herein may be allowed.

9. *Vegetation.* All-season or evergreen vegetation shall mean evergreen trees with leaves or foliage at all seasons of the year and shall include, but not be limited to, white pine, southern pine, hemlock, and spruce trees.
10. *Vectors.* An organism that carries disease-causing micro-organisms from one host to another (e.g., rats, mosquitoes, and the like).

D. **Exemptions.** The following uses and activities are exempt from the provisions of this Subsection:

1. Service stations and garages as defined in 3.3.18.C, above;
2. Recycling centers using enclosed structures or solid waste containers, bins, truck trailers, or rolling stock to store materials and equipment; and
3. Salvage material or junk cars located in enclosed buildings.

E. **Development Standards.**

1. *Auto Wrecking Facilities.* All activities associated with an auto wrecking facility shall be conducted within an enclosure at least six feet in height and with an opacity<sup>173</sup> of at least 60%. The enclosure is subject to the minimum setback requirements of the district.<sup>174</sup>
2. *Pre-Existing Junk Yards.* Pre-existing junk yards shall meet the requirements specified in Paragraphs 3.3.18.E.3(d) through 3(f), below.
3. *New Junk Yards.* All new junk yards shall meet the use-specific standards specified below.
  - (a) *Use Separation.* A junk yard shall be located at least 500 feet from a pre-existing church, school, day care center, nursing home, skilled health care facility, hospital, public building, public recreation facility, or residence (excluding the residence of the junk yard owner or operator).
  - (b) *Minimum Lot Area.* A junk yard shall be situated on a parcel at least four acres in area, excluding rights-of-way, that is undivided by public road right-of-way or public dedication.
  - (c) *Driveway Location.* The NCDOT must approve all proposed driveway locations.
  - (d) *Setbacks.* All elements of the use shall be located at least 50 feet from all lot lines.

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<sup>173</sup> Proposed here is to use "opacity" rather than "solidity," as opacity is a more common metric for fences, walls, and vegetated buffers.

<sup>174</sup> Carries forward use-specific standards from ZO Section 10.13, Table 1: Zoning Table of Permitted Uses.



- (e) Fencing. A junk yard shall have a fence surrounding the entire facility that is at least six feet in height. The fence must be set back at least 20 feet from all lot lines in order to accommodate the screening required by 3.3.18.E.3(f), below.
- (f) Additional Screening.
  - (1) The property owner shall install vegetation between the required fence and all lot lines. The vegetation shall provide a continuous (all-season) opaque screen at least six feet in height within four years of planting the vegetation.
  - (2) Each owner, operator, or maintainer of a junk yard shall utilize good husbandry techniques, such as pruning, mulching, and proper fertilization, so that the vegetation will have maximum density and foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.
  - (3) All junk and/or inoperable motor vehicles shall be kept within the confines of the fence and vegetative screening at all times unless in motion by transport to or from the site.
- (g) Vehicular Access. On-site traffic areas shall be provided and arranged in a manner to provide adequate areas to prevent backward movement onto the state maintained road.

**F. Maintenance.**

1. All junk yards shall be maintained to protect the public from health nuisances and safety hazards.
2. Failure to comply with this Subsection may result in revocation of the Zoning Compliance Permit as well as other penalties and remedies for violation as provided for in Chapter 15: *Enforcement*.

**3.3.19 LAND CLEARING DEBRIS LANDFILLS<sup>175</sup>**

- A. In the AG, RA, R5, R2, NR, and R1 Districts, all land clearing debris landfills that exceed two acres in size must be established through a conditional zoning district.
- B. In the RB, RHC, II, and IH Districts, all land clearing debris landfills must be established through a conditional zoning district.

**3.3.20 NEIGHBORHOOD RECREATION AMENITIES**

When a neighborhood recreation amenity use is located adjacent to a lot that contains or is planned to contain a dwelling unit, all associated structures shall be set back at least 50 feet from the common lot line.

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<sup>175</sup> These provisions are from the existing definition of “land clearing and inert debris landfill” in ZO Section 7 Definitions.

### 3.3.21 PARKS & RECREATION AREAS

- A. **Minimum Lot Area.** Parks and recreation areas shall be located on a lot that is at least three acres in area.
- B. **Setbacks.** All elements of the use shall be set back a minimum of two times the minimum setback requirement for the district in which the use is located.

### 3.3.22 PET DAY CARE FACILITIES

- A. Outdoor areas must be fenced or walled with an acoustic fence or other sound-absorbing materials.
- B. Secure fencing and barriers must be installed to ensure the safety of both pets and people.

### 3.3.23 RECREATION CAMPS & GROUNDS<sup>176</sup>

- A. **Minimum Lot Area.**
  - 1. Residential Districts. In the RA, R5, R2, NR, and R1 Districts, recreation camps and grounds shall be located on a lot that is at least 10 acres in area.
  - 2. Non-Residential Districts. In the PP, AG, RV, NB, CB, RB, and RHC Districts, recreation camps and grounds shall be located on a lot that is at least 10 acres in area.
- B. **Setbacks.** All elements of the use shall be set back at least 100 feet from all lot lines.
- C. **Manager's Residence.** Recreation camps and grounds may have one manager residence. This residence is the only structure on the site that may be used as a permanent residence and must meet the definition of a detached single-family dwelling.
- D. **Cooking Facilities.**
  - 1. Other than in the manager's residence, structures designed or intended for overnight occupancy shall not be equipped with any interior cooking facilities.
  - 2. Common cooking and dining facilities may be provided in an accessory structure that is not attached to any structure intended for overnight occupancy.
- E. **Parking & Vehicular Access.**

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<sup>176</sup> Carries forward ZO Section 17.5.B Public and Private Recreation Camps and Grounds and consolidates with the use-specific standards for private recreation camps and grounds in ZO Section 10.13, Table 1: Zoning Table of Permitted Uses. The current regulations appear to only allow private recreation camps and grounds in the non-residential districts, while both public and private recreation camps and grounds are allowed in the residential districts. Proposed here is to allow recreation camps and grounds, whether public or private, in the specified districts. Incorporates a 2023 text amendment to reduce the minimum required lot area in the residential districts from 20 acres to 10 acres.

1. Off-street parking areas and interior access roads may be constructed of gravel or pervious material.
  2. Recreation camps and grounds are exempt from 4.4.7: *Parking Lot Landscaping*.
- F. **Numbering Required.** Each structure or campsite shall be clearly marked and identified by a numbering system approved by the Chatham County Emergency Management Department.

### 3.3.24 SCHOOLS, PRIMARY & SECONDARY<sup>177</sup>

- A. **Minimum Lot Area.** A primary or secondary school must be located on a lot at least three acres in area.
- B. **Setbacks.** All elements of the use shall be set back from the lot lines at least two times the minimum setback requirement for the district in which the school is located.

### 3.3.25 SEXUALLY-ORIENTED BUSINESSES<sup>178</sup>

- A. **Separation Requirements.** Sexually oriented business(es) shall not be located in any building, or portion thereof, that is located within 1,000 feet of a/an:
1. Existing sexually oriented business;
  2. Residential zoning district or any residential land use, including any **open space** established as part of the residential subdivision approval process;
  3. A place of worship or building that is primarily used for religious worship and related religious activities;
  4. Primary and secondary schools;
  5. Public or private library;
  6. State licensed childcare facility; or
  7. A public or private park or recreational area that has been designated for park or recreational activities including, but not limited to, parks, playgrounds, nature trails, swimming pools, reservoirs, athletic fields, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar land.
- B. **Measurement of Separation Distance.** Measurement shall be made in a straight planar line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted to the nearest portion of a building, structure, or **open space** area of a use listed above.

<sup>177</sup> Carries forward use-specific standards from ZO Section 10.13, Table 1: Zoning Table of Permitted Uses.

<sup>178</sup> Carries forward ZO Section 17.8 Standards for Sexually Oriented Businesses.

### 3.3.26 SHOOTING RANGE, OUTDOOR

- A. **Purpose.** Outdoor shooting ranges are a unique land use that present the risk of significant on-site and off-site impacts, The provisions in this Subsection are intended to mitigate potential negative impacts of the use.
- B. **Setbacks.** All elements of the outdoor shooting range must be located at least 300 feet from all lot lines, except that access roads and utilities may be located in the 300-foot setback area.
- C. **Shot Containment.** All personal outdoor shooting ranges shall be designed to contain all of the bullets, shot, arrows, projectiles, and any other debris on the range facility.
- D. **Design.** Design of personal outdoor shooting ranges should be consistent with the NRA Range Source Book.

### 3.3.27 SHORT-TERM RENTALS

- A. **Generally.** A short-term rental shall only occur in a dwelling unit. The entire dwelling unit must be rented to a single renter.
- B. **Meals.** The serving of meals is prohibited.
- C. **Special Events and Gatherings Prohibited.** Luncheons, banquets, charitable fundraisers, commercially advertised activities, or other gatherings for direct or indirect compensation are prohibited at a short-term rental.

### 3.3.28 SOLAR ENERGY SYSTEMS, LEVEL 2 & LEVEL 3<sup>179</sup>

- A. **Purpose.** This Subsection is intended to provide the opportunity for solar energy to serve as a viable form of energy generation while protecting public health, safety, and general welfare.
- B. **Applicability.**
  - 1. This Subsection applies to:
    - (a) All new Level 2 and Level 3 solar energy systems (SES); and
    - (b) Any modifications to an existing Level 2 or Level 3 SES that increases the footprint of the SES area or changes the solar panel type (e.g. photovoltaic to solar thermal).

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<sup>179</sup> Carries forward a portion of ZO Section 17.6 Standards for Solar Energy Uses. Regulations for Level 1 solar energy systems (formerly called solar collectors) are in Subsection 3.5.10. This Subsection incorporates provisions of the [Template Solar Energy Development Ordinance for North Carolina](#), including requirements to notify airports within five nautical miles of the proposed SES and to submit a decommissioning plan with the permit application. The County's current setback standards for solar farms are carried forward, as they are more restrictive than the template ordinance. The County's current height limit for solar farms is carried forward, as it is less restrictive than the template ordinance (which limits height to 20 ft).

- 2. This Subsection does not apply to maintenance and repair of existing SES.
- C. **General Standards for All Level 2 and Level 3 Solar Energy Systems.** All level 2 and level 3 solar energy systems shall:
  - (a) Comply with all Building and Electrical Codes;
  - (b) Not create a visual safety hazard for passing motorists or aircraft; and
  - (c) Be removed, at the owner’s expense, within 180 days of determination by the Planning Department that the facility is no longer being maintained in an operable state of good repair or is no longer supplying solar power.
- D. **Height.** Collectors and all their components shall not exceed 25 feet in height, as measured from the grade of the base of the collector to its highest point.
- E. **Setbacks.** All structures and collectors associated with a Level 2 or Level 3 SES shall meet the setbacks specified in Table 3.3.28-1.

Table 3.3.28-1: Setbacks for Level 2 & Level 3 Solar Energy Systems			
SES Type	Site Acreage	Setback (min)	
		From Lot Lines	From Public Road
Level 2 or Level 3	0 ac to 1.99 ac	50 ft	50 ft
Level 2 or Level 3	2.0 ac or more	50 ft	100 ft

**Key:** min = minimum required | ac = acres | ft = feet

- F. **Buffers.** In cases where buffers do not exist, a Type B buffer shall be installed (see 4.4.8: *Transitional Buffers*).<sup>180</sup>
- G. **Lighting.** If lighting is provided on the site, all luminaires must be fully shielded. Motion sensor control is preferred.
- H. **Identification of Owner.** One placard no more than two square feet in area must be placed in a visible location along the property perimeter identifying the owner’s name and an all-hours emergency telephone number.
- I. **Airport Notification.**<sup>181</sup>
  - 1. Notice to Airports Required. Prior to submittal of the Zoning Compliance Permit or Conditional District Rezoning application, as applicable, the applicant shall notify any airport located within a radius of five nautical miles

<sup>180</sup> The current standard in ZO Section 17.6 Standards for Solar Energy Uses is “[i]n cases where buffers do not exist, a modified version of the Type B buffer as described in Section 12 of the Zoning Ordinance shall be appropriate to the location of the site, the adjacent land use, and the area topography.” It is unclear what modifications are allowed, so this provision is revised to simply require a Type B buffer.

<sup>181</sup> These provisions are new and are recommended by the [Template Solar Energy Development Ordinance for North Carolina](#). The template ordinance includes requirements to notify military airports as well; however, there are no military airports located within five nautical miles of any location in Chatham County.

- of the center of the proposed SES. The applicant shall submit proof of delivery of the notification with the permit application.
2. Content of Notice. The notice shall include the following:
    - (a) Location map of the proposed SES;
    - (b) Site acreage and acreage of proposed SES;
    - (c) Type of solar technology;
    - (d) Approximate number of solar panels/modules;
    - (e) Maximum height of the proposed SES;
    - (f) Maximum height of any new utility poles;
    - (g) Contact information for the applicant; and
    - (h) Contact information for the Chatham County Zoning Administrator.
  3. Airports in the National Plan of Integrated Airport Systems (NPIAS). For airports in the current [NPIAS](#),<sup>182</sup> the applicant shall notify the [Federal Aviation Administration's Airport District Office](#) with oversight of North Carolina.<sup>183</sup>
  4. Airports Not in the NPIAS. For airports in the current [NPIAS](#), the applicant shall notify the airport owner or manager.
- J. **Decommissioning Plan.**<sup>184</sup> A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with the Zoning Compliance Permit or Conditional District Rezoning application, as applicable:
1. Name and address of person or party responsible for decommissioning;
  2. Defined conditions upon which decommissioning will be initiated (e.g., end of land lease, no power production for 12 months);
  3. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations;
  4. Restoration of property, as nearly as practicable, to its condition prior to development of the SES or to an alternative condition agreed upon in a

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<sup>182</sup> As of August 2024, the only NPIAS airport in Chatham County is the Siler City Municipal Airport. However, the Raleigh Executive Jetport at Sanford-Lee County, which is also in the NPIAS, is located within five miles of the Chatham County line and could be affected by the construction of SES in certain portions of the County.

<sup>183</sup> As of August 2024, this is the Memphis Airport District Office.

<sup>184</sup> The State recently adopted legislation pertaining to decommissioning of utility-scale solar projects ([SL 2023-58](#)). These requirements take effect on November 1, 2025. Since the statute expressly allows local governments to adopt more stringent decommissioning (and financial guarantee) requirements, the UDO proposes to align the decommissioning plan requirements with that in the statute even though the UDO will take effect before the statute.

- written contract or lease agreement between the landowner and the project owner;
5. Timeframe for completion of decommissioning activities, not to exceed one year;
  6. Description and copy of any lease or any other agreement with the landowner regarding decommissioning;
  7. Plans and schedule for updating this decommissioning plan; and
  8. All other information required by N.C.G.S. [§ 130A-309.240\(c\)](#), including the establishment of financial assurance that will ensure sufficient funds are available to implement the decommissioning plan.<sup>185</sup>

### 3.3.29 SELF-SERVICE STORAGE FACILITY

- A. **Visual Impact.** Buildings shall be situated to minimize visual impact of storage units. Portions of the facility not dedicated to storage, such as office and visitor parking areas, shall be located at the front of the property nearest to the public right-of-way to shield storage units from view from the public right-of-way.
- B. **Design Standards.** Buildings fronting onto a public right-of-way shall adhere to the following design standards:
  1. *Materials.* The majority of the façade, including the base of the building, must be of a high-finish material such as brick, stone, or masonry cladding.
  2. *Exterior Wall Planes.* The wall plane facing a public right-of-way shall vary in architecture and materials so that there is no expanse of blank exterior wall greater than 80 feet. Variation in the exterior wall planes may be achieved through the following design strategies:
    - (a) Use of architectural features such as window openings, columns, awnings, canopies, or other similar features;
    - (b) Use of horizontal or vertical wall plane offsets, projections, or recesses at least one foot in depth to differentiate building masses, forms, and/or components; or
    - (c) A break in the cornice, parapet, or roof lines to reduce the massing of the building.

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<sup>185</sup> N.C.G.S. [§ 130A-309.240\(j\)](#) requires NCDEQ to adopt rules establishing criteria to set the amount of financial assurance required for utility-scale solar projects as well as rules for decommissioning plan requirements. [SL 2023-58](#) requires NCDEQ to adopt these rules by August 1, 2025.

### 3.3.30 TOBACCO, VAPE, & HEMP RETAILERS<sup>186</sup>

#### A. Purpose.

1. According to the [Centers for Disease Control & Prevention](#) and the [American Lung Association](#), while adult smoking rates have significantly declined over the past 50 years, smoking remains the leading cause of preventable disease, disability, and death in the United States.<sup>187</sup>
2. [Data](#) shows disparities in tobacco use, with higher smoking rates among low income people; Black, indigenous, and people of color; people living with disabilities or mental health disorders; people with less education; rural populations; and populations in the Southern and Midwestern United States.<sup>188</sup>
3. [Research](#) demonstrates that the presence of tobacco retailers in proximity to schools leads to increased smoking among youth.<sup>189</sup>
4. [Research](#) demonstrates that limiting the proximity of tobacco retailers to schools has the potential to reduce existing socioeconomic and racial/ethnic disparities in tobacco retailer density.<sup>190</sup>

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<sup>186</sup> Use regulations for tobacco, vape, and CBD shops are proposed pursuant to a recommendation in the [Health & Equity Assessment](#). This is one of a number of provisions the UDO proposes related to improving health and increasing equity in the land development and zoning process. See: [https://changelabsolutions.org/sites/default/files/CLS-BG214-Tobacco\\_Retail\\_Density-Factsheet\\_FINAL\\_20190131.pdf](https://changelabsolutions.org/sites/default/files/CLS-BG214-Tobacco_Retail_Density-Factsheet_FINAL_20190131.pdf) and <https://publichealthlawcenter.org/sites/default/files/resources/tclc-guide-licensing-and-zoning-2016.pdf>.

<sup>187</sup> Centers for Disease Control & Prevention, "Current Cigarette Smoking Among Adults in the United States,"

[https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/adult\\_data/cig\\_smoking/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/adult_data/cig_smoking/index.htm);

American Lung Association, "Trends in Cigarette Smoking Rates,"

<https://www.lung.org/research/trends-in-lung-disease/tobacco-trends-brief/data-tables/ad-cig-smoke-rate-sex-race-age>.

<sup>188</sup> Centers for Disease Control & Prevention, "Health Equity in Tobacco Prevention and Control,"

<https://www.cdc.gov/tobacco/stateandcommunity/guides/pdfs/bp-health-equity.pdf>.

<sup>189</sup> ChangeLab Solutions, "Tobacco Retailer Density: Place-Based Strategies to Advance Health and Equity," [https://changelabsolutions.org/sites/default/files/CLS-BG214-Tobacco\\_Retail\\_Density-Factsheet\\_FINAL\\_20190131.pdf](https://changelabsolutions.org/sites/default/files/CLS-BG214-Tobacco_Retail_Density-Factsheet_FINAL_20190131.pdf).

<sup>190</sup> Ribisl, Kurt M., Douglas A. Luke, Doneisha L. Bohannon, Amy. A Sorg, and Sarah Moreland-Russell. Reducing Disparities in Tobacco Retailer Density by Banning Tobacco Product Sales Near Schools. *Nicotine & Tobacco Research*, Volume 19, Issue 2, 1 February 2017, Pages 239–244. Available: <https://doi.org/10.1093/ntr/ntw185>.



5. Studies show that adults are more likely to abstain from smoking after quitting when tobacco retailers are not located in close proximity to residential areas.<sup>191</sup>
  6. The purpose of this Subsection, therefore, is to impose separation and location requirements for tobacco retailers in order to protect and promote the public health, safety, and general welfare and reduce health disparities related to tobacco use.
- B. **Minimum Separation Between Uses and Districts.** A new tobacco, vape, or hemp retailer must be located at least 1,320 feet<sup>192</sup> from:
1. Any lot zoned RA, R5, R2, NR, R1, or CD-CR; and
  2. Any of the following land uses, regardless of whether the use is located in the incorporated or unincorporated area of Chatham County:
    - (a) An existing tobacco, vape, or hemp retailer;
    - (b) Any lot containing a dwelling unit;
    - (c) Any lot containing a day care center, preschool, or school;
    - (d) Any lot containing a library;
    - (e) Any lot containing a park or playground; and
    - (f) Any lot containing a hospital, inpatient care facility, nursing home, or convalescent home.
- C. **Business Location.** If a tobacco, vape, or hemp retailer allows patrons to smoke indoors, the business must be located in a freestanding building that has no occupants or tenants other than the tobacco, vape, or hemp retailer. N.C.G.S. [§ 130A-498](#) already requires new tobacco shops (as defined in N.C.G.S. [§ 130A-492](#)) that allow smoking indoors to be located in a freestanding building occupied solely by the tobacco shop.
- D. **Building Appearance.**<sup>193</sup>

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<sup>191</sup> Reitzel LR, Cromley EK, Li Y, et al. The effect of tobacco outlet density and proximity on smoking cessation. *Am J Public Health*. 2011; 101(2): 315-20. Available: <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2010.191676>.

<sup>192</sup> 1,320 feet equals one-quarter mile, which is an approximately 5 to 7 minute walk. Communities that limit tobacco retailer density use of range of separation distances (200 ft to 1,500 ft or more), with the most common distance appearing to be 1,000 feet. Orange County recently adopted a 1,000 ft separation between tobacco and hemp retail uses and other tobacco and hemp retail uses, schools (including colleges and universities), parks and recreational facilities, and all residential uses. Research links tobacco retailer density to smoking rates in a community but few, if any, studies compare the relationship between different separation distances (e.g., ¼-mile and 1 mile) and smoking rates or health disparities.

<sup>193</sup> The standards in this Paragraph are based on standards in the Zebulon, NC Unified Development Ordinance ([UDO Article 4](#), Subsection 4.3.5.UU. *Vape, Tobacco, & CBD Shop*).

1. Illuminated signs located inside a building must be placed at least 36 inches from all windows.
2. Metal gates or similar elements located in front of or behind windows are prohibited.

### 3.4 ACCESSORY USES & STRUCTURES<sup>194</sup>

#### 3.4.1 APPLICABILITY

- A. This Section applies to any subordinate use of a building or other structure or use of land that is:
  1. Conducted on the same lot as the principal use to which it is related; and
  2. Clearly incidental to, and customarily found in connection with, the principal use or structure.
- B. Where a principal use or structure is allowed by the use tables in Section 3.2: *Principal Use Tables*, such use includes customary accessory uses and structures subject to this Section.
- C. Any principal use allowed in a district is also allowed as an accessory use.
  1. Any standards in Section 3.3: *Use-Specific Standards for Principal Uses* apply to the use whether it is established as the principal use or as an accessory use.
  2. Section 3.4: *Accessory Uses & Structures* also applies to all accessory uses.

#### 3.4.2 MAJOR & MINOR ACCESSORY USES & STRUCTURES DEFINED

- A. **Generally.** For the purposes of this Section, accessory uses and structures are categorized as major or minor depending on their characteristics.
- B. **Major Accessory Uses and Structures.**
  1. Major accessory uses and structures are substantial uses and structures that are generally obvious from outside the parcel and vary by district.
  2. Examples of major residential accessory uses and structures include detached garages and carports, storage sheds, workshops, utility buildings, gazebos, stables, private kennels, tennis courts, swimming pools, barns and stables, and antennas (ham radio, CB, TV).

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<sup>194</sup> This Section carries forward, consolidates, clarifies, and augments existing regulations for accessory uses. Proposed is to categorize accessory uses and structures as “major” or “minor” depending on their characteristics. This allows the UDO to prescribe different setbacks and height for major vs. minor accessory uses and structures.

3. Examples of major commercial and industrial accessory uses and structures include detached garages, storage buildings, utility buildings, garbage dumpster surrounds and pads, and storage tanks.

**C. Minor Accessory Uses and Structures.**

1. Minor accessory uses and structures include uses and structures that are not unique to a particular land use.
2. Examples include mailboxes; fences; well houses; landscape features; fruit, vegetable, and ornamental gardens; driveways; parking areas; swing sets, play houses, and play equipment, including basketball goals; and satellite dishes.

### 3.4.3 ZONING COMPLIANCE PERMIT REQUIRED

- A. Prior to the establishment of a major accessory use, an applicant must receive zoning compliance approval (see Section 12.20: *Zoning Compliance Permits*).
- B. Major accessory uses must comply with all applicable provisions of this Section, in addition to any applicable standards in Section 3.5: *Use-Specific Standards for Accessory Uses & Structures*.
- C. Unless otherwise specified in Section 3.4.5: *Accessory Use Table*, minor accessory uses do not require zoning compliance approval, but must comply with all applicable provisions of this Section.
- D. When the associated principal use requires rezoning to a conditional district, all proposed accessory uses and structures must be shown on the associated site plan. Any proposed accessory uses and structures not shown on the site plan may require approval of a revised conditional district site plan (see Section 12.15: *Rezoning (Conditional Districts)*) and a revised Zoning Compliance Permit.

~~E. All permits required from other local and state agencies (e.g., Chatham County Central Permitting, Chatham County Environmental Health, North Carolina Department of Transportation) must be obtained prior to the issuance of the Zoning Compliance Permit.<sup>195</sup>~~

### 3.4.4 DIMENSIONAL STANDARDS<sup>196</sup>

All accessory uses and structures are subject to the setbacks and height specified in Table 3.4.4-1: *Dimensional Standards for Accessory Uses & Structures*, unless otherwise specified in Section 3.5: *Use-Specific Standards for Accessory Uses & Structures*.

<sup>195</sup> ~~This Paragraph is carried forward from ZO Section 16 Home Occupations.~~

<sup>196</sup> This Subsection carries forward the required setbacks for accessory buildings and structures in ZO Section 10: Schedule of District Regulations, but eliminates the provision allowing telephone booths to be located in required yards if they are at least 10 feet from the lot line since there are few (if any) telephone booths remaining in the County.

**Table 3.4.4-1: Dimensional Standards for Accessory Uses & Structures**

Accessory Use or Structure	Setbacks (min)	Height (max)
Major accessory uses & structures	Same as principal structures in the zoning district	Same as principal structures in the zoning district
Minor accessory uses & structures, unless otherwise listed	10 ft	15 ft
Fences	0 ft	10 ft
Flagpoles	10 ft	35 ft
Well houses	0 ft	15 ft

**Key:** min = minimum required | max = maximum allowed | ft = feet

**3.4.5 ACCESSORY USE TABLE<sup>197</sup>**

**Table 3.4.5-1: Accessory Use Table**

Accessory Use or Structure	Use-Specific Standards	Zoning Compliance Permit Required	Allowed Districts or Associated Principal Use
Major Accessory Uses & Structures (as defined in Section 3.4.2), unless otherwise listed	None	Yes	All districts
Minor Accessory Uses & Structures (as defined in Section 3.4.2), unless otherwise listed	None	No	All districts
Accessory Dwelling Units	3.5.1	Yes	AG, RA, R5, R2, NR, R1, CD-CR, CD-CMU, CD-NC, CD-AC
<u>Caretaker's Residence</u>	3.5.2	<u>Yes</u>	<u>RV, OI, NB, CB, RB, RHC, IL, IH, CD-CMU, CD-CN, CD-NC, CD-AC</u>
Childcare Center Located in a Residence	3.5.3	Yes	CD-RA, CD-R5, CD-R2, CD-NR, CD-R1, CD-CR, CD-CMU, CD-AC, CD-NC
Electric Vehicle Charging Points	None	No	All districts
Family Childcare Homes	3.5.4	Yes	RA, R5, R2, NR, R1, CD-CR, CD-CMU, CD-AC, CD-NC

<sup>197</sup> This Subsection is new since the October 20, 2022 draft of Section 4.4: Accessory Uses & Structures.

<b>Table 3.4.5-1: Accessory Use Table</b>			
<b>Accessory Use or Structure</b>	<b>Use-Specific Standards</b>	<b>Zoning Compliance Permit Required</b>	<b>Allowed Districts or Associated Principal Use</b>
Farmstands	3.5.5	Yes	AG, RA, R5, R2, RV, RHC
Home Occupations	3.5.6	Yes, with exceptions	Dwelling unit
Outdoor Play Equipment (e.g., swing sets, playhouses, basketball goals, tennis courts)	None	No	AG, RA, R5, R2, NR, R1, CD-CR, CD-CMU, CD-AC, CD-NC
Outdoor Play Equipment (e.g., swing sets, playhouses, basketball goals, tennis courts)	None	Yes	PP, RV, OI, NB, CB, RB, RHC, IL, IH
Outdoor Storage	3.5.7	Yes	Non-residential use
Personal Outdoor Shooting Ranges	3.5.8	Yes	All districts
Private Use Airports	3.5.9	Yes	AG, RA, R5, R2
Recreational Vehicle Storage	3.5.10		RA, R5, R2, NR, R1, CD-CR
Short-Term Rental	3.5.11	Yes	RA, R5, R2, NR, R1, CD-CR, CD-CMU, CD-NC, CD-AC
Solar Energy Systems, Level 1	3.5.12	No	All districts
Spray irrigation of tertiary tested wastewater (reclaimed water)	None	No	All districts

**3.5 USE-SPECIFIC STANDARDS FOR ACCESSORY USES & STRUCTURES**

**3.5.1 ACCESSORY DWELLING UNITS**

An accessory dwelling unit located in a building that is fully detached from the principal dwelling unit is limited to 1500 square feet of heated space or the square footage of the principal DU, whichever is less.

**3.5.2 CARETAKER’S RESIDENCES**

A caretaker’s residence:

- A. Shall only be occupied by an employee of the principal non-residential use; and
- B. Shall not be used as a short-term rental or other general residential use.

### 3.5.23.5.3 CHILDCARE CENTER LOCATED IN A RESIDENCE

- A. **Applicability.** A childcare center located in a residence is allowed as an accessory use to a dwelling unit in the conditional zoning districts specified in Table 3.4.5-1: *Accessory Use Table* if it meets the requirements of this Subsection.
- B. **License Required.** At all times, a childcare center located in a residence shall have a valid license from the North Carolina Department of Health and Human Services, Division of Child Development and Early Education.
- C. **Maximum Number of Children.** A childcare center located in a residence may serve up to 15 children.
- D. **Minimum Lot Area.** A childcare center located in a residence must be located on a lot at least one acre in area.
- E. **Minimum Setbacks.** All elements of the use shall be set back a minimum of two times the minimum yard requirement for the district in which the childcare center located in a residence is located.

### 3.5.33.5.4 FAMILY CHILDCARE HOMES<sup>198</sup>

- A. **Applicability.** A family childcare home is allowed as an accessory use to a principal dwelling unit in the districts specified in Table 3.4.5-1: *Accessory Use Table*.
- B. **License Required.** At all times, a family childcare home shall have a valid license from the North Carolina Department of Health and Human Services, Division of Child Development and Early Education.
- C. **Maximum Number of Children.** Pursuant to N.C.G.S. [§ 110-86\(3\)b](#), N.C.G.S. [§ 110-91\(7\)b](#), and [10A NCAC 09.0102](#), a family child care home may serve up to five preschool age children, including the children of the operator, and an additional three school age children, excluding the school age children of the operator.
- D. **Minimum Lot Area.** A family childcare home must be located on a lot at least one acre in area.
- E. **Minimum Setbacks.** All elements of the use shall be set back a minimum of two times the minimum yard requirement for the district in which the family childcare home is located.<sup>199</sup>

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<sup>198</sup> Pursuant to a 2023 text amendment, this use is renamed from “day care centers in the principal residence” to align with State requirements. The number of children allowed is reduced from 15 to 9, also to align with State requirements. The minimum required lot area and setbacks are carried forward from ZO Section 10.13.

<sup>199</sup> This Paragraph was revised since the October 20, 2022 draft of Section 4.4: Accessory Uses & Structures to remove the term “high intensity activity areas” and clarify all elements of the use are subject to greater setbacks.

### 3.5.43.5.5 FARMSTANDS

#### A. **Location.**

1. Farmstands may be located within required right-of-way screening areas (see 4.4.8: *Transitional Buffers*).
2. Farmstands shall be located at least 10 feet from the edge of the right-of-way.

#### B. **Vehicular Access.** Farmstands shall provide safe ingress and egress. Vehicles must be able to enter and exit the site without using a right-of-way for maneuvering area.

### 3.5.53.5.6 HOME OCCUPATIONS<sup>200</sup>

#### A. **Applicability.**

1. This Subsection applies to any occupation, profession, or business activity that is customarily conducted, incidental, and subordinate to the use of a dwelling unit for dwelling purposes. A home occupation is carried on by a resident of the dwelling unit and does not change the residential character of the dwelling unit.
2. A home occupation is allowed as an accessory use to a dwelling unit in any zoning district if it meets the requirements of this Subsection.
3. This Subsection does not apply to child care centers located in a residence, which are subject to the provisions in 3.5.3: *Childcare Center Located in a Residence*.
4. This Subsection does not apply to family child care homes, which are subject to the provisions in 3.5.4: *Family Childcare Homes*.

#### B. **Zoning Compliance Permit.**<sup>201</sup>

1. Except as provided by this Subsection, home occupations use may not be initiated, established, or maintained without a valid Zoning Compliance Permit (see Section 12.20: *Zoning Compliance Permits*).
2. After a Zoning Compliance Permit has been issued for a home occupation, it must be renewed whenever there is a change in the type of use or the intensity of the approved use.
3. Zoning Compliance Permits for home occupations are not transferrable.

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<sup>200</sup> This Subsection carries forward the provisions for home occupations in ZO Section 16 and adds a third tier of home occupations for small lots. Additional performance standards are proposed, such as a limitation on the number of daily client visits and hours of operation. This Subsection does not carry forward provisions for signs, which are addressed in Section 4.7: *Signs*.

<sup>201</sup> In order to streamline the zoning-related procedures, this Section proposes to require a Zoning Compliance Permit rather than a separate Home Occupation Permit.

- C. **Exempt Home Occupations.**<sup>202</sup> The activities listed in Paragraphs 3.5.6.C.1 through 3.5.6.C.5, below, are not required to obtain a Zoning Compliance Permit, if all persons engaged in the home occupation reside on the premises:
  1. Internet retail sales, such as the sale or resale of clothing and goods through online marketplaces;
  2. Artists, sculptors, and composers, with no retail sales on the premises except through internet retail sales;
  3. Craft work, such as jewelry-making and pottery, with no retail sales on the premises except through internet retail sales;
  4. Home offices with no client visits to the home; and
  5. Home-based food businesses approved by the North Carolina Department of Agriculture & Consumer Services, Food & Drug Protection Division. Catering kitchens located in a structure that is accessory to a dwelling are not considered home-based food businesses and are subject to the provisions of this Subsection.
- D. **Types of Home Occupations.** Table 3.5.6-1 establishes the three types of home occupations.
- E. **Performance Standards.** Home occupations must comply with the performance standards set forth in Table 3.5.6-2.

**Table 3.5.6-1: Types of Home Occupations**

Type of Home Occupation	Lot Area	Characteristics
Rural	3 acres or more	May be more intensive than other types of home occupations; typically not compatible on small lots near other residences; may require an outdoor storage area for goods and materials associated with the business
Large Lot	Between 1 acre and 3 acres	May be more intensive than small lot home occupations, but less intensive than rural home occupations
Small Lot	1 acre or less	Requires stricter performance standards to be compatible with other residences

<sup>202</sup> This Paragraph allows the least intensive uses without a permit in order to match residents' expectations, improve compliance, and alleviate permitting administration for staff.



**Table 3.5.6-2: Home Occupation Performance Standards**

Performance Standard	Type of Home Occupation		
	Rural	Large Lot	Small Lot
The use is clearly incidental and secondary to residential occupancy and does not change the character of the premises.	✓	✓	✓
The use is conducted entirely within the principal dwelling or entirely within an accessory building.		✓	✓
If conducted within the principal dwelling, not more than 25% of the heated living space (excluding basements) of the principal dwelling is used for the conduct of the home occupation. Basements may also be used for home occupations in addition to the 25% of heated living space.	✓	✓	✓
If conducted within an accessory building, the accessory building does not exceed 2,500 square feet. If multiple accessory buildings are used, the total combined square footage does not exceed 2,500 square feet. Basements may also be used for home occupations in addition to accessory buildings.	✓		
If conducted within an accessory building, the accessory building does not exceed 1,000 square feet. If multiple accessory buildings are used, the total combined square footage does not exceed 1,000 square feet. Basements may also be used for home occupations in addition to accessory buildings.		✓	✓
Buildings, material storage, and operations meet the setback requirements specified in Paragraph 3.5.6.F, below.	✓		
Storage of goods and materials occurs inside an enclosed building and does not include flammable, combustible, or explosive materials.		✓	✓
Displays of merchandise are not visible from the street.	✓	✓	✓
The driveway is located and improved such that it provides all weather access and does not interfere with other traffic using said drive. A commercial driveway permit may be required to ensure traffic hazards are minimized.	✓	✓	

**Table 3.5.6-2: Home Occupation Performance Standards**

Performance Standard	Type of Home Occupation		
	Rural	Large Lot	Small Lot
There is no entrance or exit way specifically provided in the dwelling or on the premises for the conduct of the home occupation.		✓	✓
The use involves up to 3 non-resident employees working on-site, with a maximum of 4 total employees working on-site.	✓	✓	
The use involves up to 1 non-resident employee working on-site.			✓
Client visits occur between 6:00 a.m. and 9:00 p.m.	✓	✓	
Client visits occur between 8:00 a.m. and 8:00 p.m.			✓
Parking is provided off-street in an area other than a required front yard.	✓	✓	
Parking is provided only in the driveway.			✓
Any commercial vehicle associated with the home occupation is not parked outside of an enclosed building on a regular basis, except those used primarily as passenger vehicles. <sup>203</sup>		✓	✓
Any equipment or process used does not create visual or audible interference in any radio or television receivers off the premises or cause fluctuation in line voltage off the premises.	✓	✓	✓
Dust, vibration, glare, fumes, odors, or electrical interference do not create a nuisance off the premises, and all operations conform with Chatham County Code <a href="#">Chapter 92: Noise Regulations</a> .	✓		
Dust, noise, vibration, glare, fumes, odors, or electrical interference are not detectable to the normal senses beyond the lot line.		✓	✓
No traffic is generated by the use in greater volumes than would normally be expected in a residential neighborhood.	✓	✓	✓

<sup>203</sup> The proposed definition of *passenger vehicle* is “a motor vehicle, except for motorcycles and mopeds, designed for carrying 10 or fewer passengers and used primarily for the transportation of people.”

**Table 3.5.6-2: Home Occupation Performance Standards**

Performance Standard	Type of Home Occupation		
	Rural	Large Lot	Small Lot
Deliveries and pickups are made by carriers that typically serve residential areas and do not block traffic circulation.	✓	✓	✓
Visual screening of outdoor storage areas is provided as required by Paragraph 3.5.6.G, below.	✓	✓	
Public facilities and utilities are adequate to safely accommodate equipment used for the home occupation.	✓	✓	✓

**Key:** ✓ = the performance standard applies | [blank cell] = the performance standard does not apply | sf = square feet

**F. Setbacks for Rural Home Occupations.**

1. Except as provided in 3.5.6.F.2, below, all buildings, material storage areas, and operations shall be located at least:
  - (a) 50 feet from side and rear lot lines; and
  - (b) 40 feet from the front lot line or the edge of the road right of way, whichever is greater.
2. Noise-generating operations, as determined by staff, shall be located at least 100 feet from side and rear lot lines.

**G. Visual Screening Standards for Rural and Large Lot Home Occupations.**

1. To lessen the impact on adjacent properties, visual screening of outdoor storage areas shall be installed to provide a minimum a 15-foot wide opaque screen.
2. This may include, but is not limited to, a 6-foot high opaque fence and/or the planting of vegetation that at a minimum provides a continuous all season opaque screen at least 6 feet in height within 4 years of planting.
3. Plants shall comply with the minimum size standards specified in 4.4.4: *General Landscaping Standards*.

**3.5.63.5.7 OUTDOOR STORAGE**

Outdoor storage areas must be:

- A. Located to the side or rear of the principal building; and
- B. Shielded from view by either opaque vegetation or an opaque fence.

### 3.5.73.5.8 PERSONAL OUTDOOR SHOOTING RANGES

- A. **Applicability.** This Subsection applies to non-commercial accessory outdoor shooting ranges used for shooting events or by non-profit clubs. This Subsection does not apply to the use of an accessory shooting range by the property owner.
- B. **Setbacks.** All elements of the outdoor shooting range must be located at least 300 feet from all lot lines, except that access roads and utilities may be located in the 300-foot setback area.
- C. **Shot Containment.** All personal outdoor shooting ranges shall be designed to contain all of the bullets, shot, arrows, projectiles, and any other debris on the range facility.
- D. **Design.** Design of personal outdoor shooting ranges shall be consistent with the NRA Range Source Book.

### 3.5.83.5.9 PRIVATE-USE AIRPORTS<sup>204</sup>

- A. A private-use airport is allowed as an accessory use in district specified in Table 3.4.5-1: *Accessory Use Table* if it meets the requirements of this Subsection.
- B. An applicant proposing to construct, alter, activate, or deactivate a private-use airport must notify the Federal Aviation Administration (FAA) in accordance with [14 CFR Part 157: Notice of Construction, Alteration, Activation, and Deactivation](#).<sup>205</sup>
- C. Prior to the issuance of a Zoning Compliance Permit for the use, a private-use airport owner shall:
  - 1. Provide a copy of the FAA's determination to the Zoning Administrator; and
  - 2. Demonstrate compliance with any conditions placed on the airport by the FAA.

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<sup>204</sup> This use is added pursuant to staff input. This includes drones, ultralights, single-engine planes, and small dual engine planes flown as an accessory use (i.e., there's a home or business on the property). The use may include associated structures (e.g., hangars), may involve land clearing for runways, and may generate noise impacts. While this is typically associated with personal (private property owner) use, it could also include municipal use (e.g., drone use by local governments).

<sup>205</sup> When private-use airport owners notify the FAA about a new private-use airport, the airport is included the FAA's aeronautical information databases used "in the dissemination of aviation information to the public, preparation of government and private industry aeronautical charts and related flight information publications...and the planning and programming of various programs within the FAA" ([FAA Advisory Circular 150/5300-19](#)). This can provide protection of private-use airports from encroachments, such as telecommunications towers and utility lines.

**3.5.93.5.10 RECREATIONAL VEHICLE STORAGE<sup>206</sup>**

- A. An RV may be stored on a lot in any zoning district specified in Table 3.4.5-1: *Accessory Use Table* if the vehicle:
1. Is unoccupied;
  2. Is not used to store any materials, items, pets, farm animals, or the like; and
  3. Is not stored within any required setback.
- B. An RV stored in accordance with this Section shall:
1. Have its wheels and axels remain at all times;
  2. Maintain proper insurance and registration and be fully licensed and ready for highway use;
  3. Not support any accessory structures such as, but not limited to, decks, porches, and awnings; and
  4. Not be connected to any permanent utility service. The use of extension cords for cleaning and/or repair is allowed on a temporary basis.

**3.5.103.5.11 SHORT-TERM RENTALS**

- A. **Generally.** An accessory short-term rental ~~may: shall only~~
1. Occur in a detached accessory dwelling unit: ~~if~~ the entire accessory dwelling unit ~~must be is~~ rented to a single renter; ~~or~~
  - A.2. Involves the rental of one or more rooms in the principal dwelling to one or more renters.
- B. **Meals.** The serving of meals is prohibited.
- C. **Special Events and Gatherings Prohibited.** Luncheons, banquets, charitable fundraisers, commercially advertised activities, or other gatherings for direct or indirect compensation are prohibited at a short-term rental.

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<sup>206</sup> Carries forward provisions in ZO Section 8.1.4: Regulation of Recreational Vehicles (RV's) related to storage of RVs on residential lots. Pursuant to staff input, the prohibition on use of RVs as permanent dwellings is eliminated, and the UDO proposes to allow RVs to be used as temporary and permanent dwellings.

### 3.5.113.5.12 SOLAR ENERGY SYSTEMS, LEVEL 1<sup>207</sup>

- A. **Applicability.** Level 1 solar energy systems (SESs) are allowed as an accessory use in any zoning district.
- B. **Roof-Mounted Solar Energy Systems.** A roof-mounted SES:
1. Shall not extend beyond the exterior perimeter of the building on which the system is mounted or built;
  2. Is not subject to any screening requirements that apply to rooftop mechanical equipment; and
  3. Is not subject to the height limit for the zoning district in which it is located.<sup>208</sup>
- C. **Ground-Mounted Solar Energy Systems.**
1. A ground-mounted SES shall meet the minimum setbacks for the zoning district in which it is located; and
  2. The maximum height for a ground-mounted SES is 20 feet, as measured from the grade of the base of the collector to its highest point.<sup>209</sup>

## 3.6 TEMPORARY USES & STRUCTURES<sup>210</sup>

### 3.6.1 PURPOSE

Temporary uses and structures are allowed in accordance with the provisions of this Section, which are intended to minimize or mitigate potential negative impacts of such

<sup>207</sup> Carries forward a portion of ZO Section 17.6 Standards for Solar Energy Uses. The regulations for solar farms are carried forward in Subsection 3.3.28. Revises terminology to align with the [Template Solar Energy Development Ordinance for North Carolina](#). The County could consider offering incentives (or implementing requirements) for new buildings to include features that make it easier and less expensive to install solar panels in the future. According to Appendix B in the template ordinance, “[t]he American Planning Association recommends that...local governments require the installation of solar ‘stub-ins’ on rooftops of appropriate new construction and building renovation. Stub-ins and their installation are very affordable and can significantly reduce the cost of installing a solar system in the future.” The template ordinance provides a link to Energy Star specifications: [https://www.energystar.gov/partner\\_resources/residential\\_new/related\\_programs/erh](https://www.energystar.gov/partner_resources/residential_new/related_programs/erh).

<sup>208</sup> This new provision is intended to encourage the use of roof-mounted solar collectors. Alternatively, the County could consider allowing a limited encroachment beyond the maximum height (e.g., 5 to 15 feet).

<sup>209</sup> Proposed here is to increase the maximum height for ground-mounted solar energy systems from 15 feet to 20 feet, in accordance with the [Template Solar Energy Development Ordinance for North Carolina](#).

<sup>210</sup> This Section carries forward, consolidates, and expands existing regulations for temporary uses. Adds provisions for common temporary uses, such as seasonal tree and pumpkin sales lots, mobile vending, and filming and production activities.

uses and structures on the surrounding area and to provide safe and convenient access to permitted temporary uses and structures.

### 3.6.2 EXEMPTIONS

The following uses are exempt from the requirements of this Section:

- A. Lawful picketing and demonstrations; and
- B. Weddings, receptions, parties, and similar private, non-commercial events held on private property.

### 3.6.3 ZONING COMPLIANCE PERMIT REQUIRED

Prior to the establishment of a temporary use, an applicant must receive zoning compliance approval if required by Subsection 3.6.5: Temporary Use Table (see Section 12.20: *Zoning Compliance Permits*). Temporary uses that do not require zoning compliance approval must comply with all applicable provisions of this Section.

### 3.6.4 PROPERTY OWNER CONSENT REQUIRED

- A. The applicant proposing a temporary use must obtain permission from the property owner to operate at the proposed location.
- B. For temporary uses that require zoning compliance approval, the applicant shall provide with the zoning compliance application written permission from the property owner to operate at the proposed location.

### 3.6.5 TEMPORARY USE TABLE

#### A. **Generally.**

1. Temporary uses and structures are allowed for the length of time and in the locations specified in Table 3.6.5-1: *Temporary Use Table*, if the use complies with all applicable provisions in this Section.
2. Certain temporary uses, classified as “limited temporary uses,” are also subject to additional standards in Section 3.7: Use-Specific Standards for Temporary Uses & Structures. Table 3.6.5-1: Temporary Use Table provides a cross-reference to these standards where applicable.
3. In conditional zoning districts, allowable temporary uses are specified in the rezoning ordinance establishing the district and any amendments thereto. If not expressly allowed by the rezoning ordinance, temporary uses are prohibited.

#### B. **Classification of New & Unlisted Temporary Uses.**<sup>211</sup>

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<sup>211</sup> This new section authorizes the Zoning Administrator to classify new and unlisted temporary uses. Provides criteria to assist the Zoning Administrator in making determinations regarding new and unlisted uses.

1. The Zoning Administrator may determine that an unlisted temporary use is allowed as a permitted use or limited use, if sufficiently similar in nature and impact to a permitted or limited temporary use listed in Table 3.6.5-1: Temporary Use Table.
2. The Zoning Administrator shall use the following criteria to make this determination:
  - (a) Whether the temporary use or structure:
    - (1) Meets the purpose and intent of the zoning district in which it is proposed to be located;
    - (2) Is allowed as a principal use in the zoning district in which it is proposed to be located;
    - (3) Is prohibited by other County codes or ordinances;
    - (4) Is compatible with other uses allowed in the zoning district in which it is proposed to be located;
  - (b) Whether similar temporary uses or structures are allowed in the same zoning district; and
  - (c) Whether similar temporary uses or structures have use use-specific standards that should be applied to the proposed use.



**Table 3.6.5-1: Temporary Use Table**

Temporary Use	Use-Specific Standards	Zoning Compliance Required?	Maximum Duration of Use (per site)	Allowed Location(s)
Construction-related offices and storage (other than real estate sales offices)	None	Yes, if the use is not located on the same project site as the associated construction.	No maximum, if the associated construction has an active building permit.  Must be removed within 30 days of issuance of a final certificate of occupancy.	All districts, if the use is located on or adjacent to the associated project site.  RB, RHC, IL, and IH if the use is not located on or adjacent to the associated project site.
Commercial filming and film production activities (outdoor) <sup>212</sup>	None	Yes	No maximum	All districts
Farmers' and artisans' markets	3.7.1	No	No maximum	All districts
Laydown & storage yards	3.7.1	Yes, if the use is not located on the same site as the associated construction.	No maximum, if the associated construction is active.  Must be removed within 30 days of issuance of a final certificate of occupancy or completion of the utility or road project.	All districts if the use is located on or adjacent to the associated construction site.  RB, RHC, IL, and IH if the use is not located on or adjacent to the associated construction site.

<sup>212</sup> This Section does not regulate commercial filming and film production activities that occur inside a building (this use is allowed in any building in any zoning district).

**Table 3.6.5-1: Temporary Use Table**

Temporary Use	Use-Specific Standards	Zoning Compliance Required?	Maximum Duration of Use (per site)	Allowed Location(s)
Mobile food vending	3.7.4	No	No maximum, but mobile food units shall not remain on-site overnight	PP, RV, OI, NB, CB, RB, RHC  In parks and <del>open space</del> located in any district
Mobile health clinics	3.7.3	No	No maximum	All districts
Mobile retail vending	3.7.4	Yes	No maximum, but mobile retail units shall not remain on-site overnight	RV, NB, CB, RB, RHC
Open-air sales and displays from a temporary building or structure <sup>213</sup>	None	Yes	No maximum	CB, RB, IL, IH; CD-NB
Parking areas	3.6.6.A	Yes, if required for the associated temporary use	Same as associated temporary use	All districts, if the parking area serves an allowed temporary use
Portable classrooms	None	Yes	No maximum	All districts that allow schools
Portable office units (other than construction-related offices or real estate sales offices)	None	Yes	1 year, with annual renewals upon a showing of good cause <sup>1</sup>	RV, OI, NB, CB, RB, RHC

<sup>213</sup> Carries forward the provisions in the use table (ZO Section 10.13) for this use.

**Table 3.6.5-1: Temporary Use Table**

Temporary Use	Use-Specific Standards	Zoning Compliance Required?	Maximum Duration of Use (per site)	Allowed Location(s)
Real estate sales offices	None	Yes	No maximum, but must be removed once 100% of the dwelling units in the development have initially sold	All districts, if the office is located in the same development as the units offered for sale
Seasonal farmstands <sup>214</sup>	3.7.5	No	195 cumulative days per calendar year <sup>215</sup>	All districts
Seasonal sales—trees or pumpkins	None	No	60 consecutive days per occurrence; up to 2 occurrences per calendar year	AG, RV, OI, NB, CB, RB, RHC; any district, if the use is located on the same site as a school or place of worship
Special events on private property	None	No, but submittal of a <a href="#">Special Events Notification Form</a> is required	Up to 4 events per calendar year; up to 14 days total per calendar year	All districts
Special events on public property	None	No, but submittal of a <a href="#">Special Events Notification Form</a> is required	As specified by the property owner	Public facilities and public rights-of-way

<sup>214</sup> The accessory use table allows permanent farmstands in the AG, RA, R5, R2, RV, and RHC Districts. The principal use table allows farm markets, which is a larger scale use than a farmstand, in most districts (including AG, RA, R5, R2, RV, and RHC).

<sup>215</sup> The typical growing season in Chatham County is approximately 195 days per year (<https://chatham.ces.ncsu.edu/chatham-county-climate/>).

**Table 3.6.5-1: Temporary Use Table**

Temporary Use	Use-Specific Standards	Zoning Compliance Required?	Maximum Duration of Use (per site)	Allowed Location(s)
Temporary living quarters associated with a special event	None	No, but submittal of a <a href="#">Special Events Notification Form</a> is required	Up to 5 days longer than the duration of the associated special event <sup>216</sup>	All districts
Temporary living quarters in a recreational vehicle	3.7.6	No	180 days per calendar year	AG, RA, R5, R2, NR, R1

<sup>1</sup> The applicant must satisfactorily demonstrate a rational basis for the extension of a Zoning Compliance Permit for a temporary portable office unit. Examples of “good cause” include events and conditions beyond the applicant’s reasonable control, such as natural disasters, certain construction delays, an inability to obtain sufficient project financing due to economic and market conditions, or scarcity of labor or materials.

<sup>216</sup> The current use table allows temporary living quarters associated with a special event to remain on-site for up to five days longer than the duration of the event, but not more than 30 total days in any 12 month period for any one individual event. Since this table proposes to limit the duration of individual special events on private property to 14 days, there is no need to carry forward the 30-day limit.

### 3.6.6 DEVELOPMENT & DESIGN STANDARDS

#### A. **Parking.**

1. All temporary uses shall provide off-street parking as needed to adequately serve the use.
2. Parking may be located on the same site as the temporary use or may be located off-site, if the off-site parking area provides safe, accessible pedestrian access to the site on which the temporary use is located, and the property owner provides written permission.
3. To determine whether the amount of parking provided is adequate, the Zoning Administrator shall consider the ratios specified in 4.6.4: *Parking Ratios* as well as the operational characteristics of the proposed temporary use.

#### B. **Lighting.** Lighting associated with a temporary use or structure shall be shielded or directed away from adjoining properties and streets in order to minimize light trespass and glare.

#### C. **Temporary Structures.** Temporary structures shall:

1. Meet all applicable principal structure setback requirements for the district in which the temporary use is located, unless otherwise specified in Section 3.7: Use-Specific Standards for Temporary Uses & Structures;
2. Not be located within a required buffer or screening area, unless otherwise specified in Section 3.7: Use-Specific Standards for Temporary Uses & Structures; and
3. Meet all applicable Building and Fire Code requirements.

## 3.7 USE-SPECIFIC STANDARDS FOR TEMPORARY USES & STRUCTURES

### 3.7.1 FARMERS' & ARTISANS' MARKETS

#### A. **Setbacks.** Temporary farmers' and artisans' markets are not subject to principal structure setback requirements.

#### B. **Market Manager Required.** All temporary farmers' and artisans' markets shall have a market manager authorized to direct the operations of all vendors participating in the market on the site of the market during all hours of operation.

#### C. **Trash & Recycling Receptacles.** A temporary farmers' and artisans' market shall:

1. Provide trash and recycling receptacles for patron use; and
2. Remove all trash and recycling from the site each day.

### 3.7.2 LAYDOWN & STORAGE YARDS

- A. **Generally.** A laydown or storage yard must be associated with one or more specific projects with an approved land disturbance, building, or demolition permit or an approved utility or road construction project.
- B. **Access.**
  - 1. A laydown and storage yard must have direct vehicular access to a public or private street.
  - 2. Proposed curb cuts require approval of an encroachment permit by the NCDOT.
- C. **Emergency Access.** A laydown and storage yard must meet design and construction standards for fire and emergency apparatus access.

### 3.7.3 MOBILE HEALTH CLINICS

A mobile health clinic:

- A. May operate on a privately owned lot in the zoning districts specified in Subsection 3.6.5: Temporary Use Table;
- B. Shall not operate while parked in a public right-of-way, unless approved by the NCDOT;
- C. Is not subject to principal structure setback requirements;
- D. Shall minimally affect required parking for the principal business(es) on the lot; and
- E. Shall not obstruct emergency access lanes, fire lanes, loading areas, driveways, sidewalks, or other vehicular or pedestrian access to or within a lot.

### 3.7.4 MOBILE VENDING<sup>217</sup>

- A. **Applicability.**
  - 1. This Subsection applies to all mobile vending uses, except:
    - (a) Mobile vendors that are part of an approved special event;
    - (b) Mobile vendors that actively move throughout their business hours, generally stopping only to make a sale;
    - (c) Mobile food vendors that actively move to multiple sites during one mealtime;
    - (d) Mobile vendors hired to cater or serve a private event; and

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<sup>217</sup> These new standards are intended to apply to mobile food vendors and mobile retail vendors.

- (e) Temporary food establishments, as defined by N.C.G.S. [§ 130A-247\(13\)](#).<sup>218</sup>
2. This Subsection does not apply to mobile service providers that provide services upon request by the occupant of a lot (e.g., mobile pet grooming, vehicle windshield repair) and that do not make sales or offer services to walk-up or drive-up customers.
- B. **Location.** A mobile food unit or mobile retail unit:
1. May operate on a privately owned lot in the zoning districts specified in Subsection 3.6.5: Temporary Use Table;
  2. Shall not operate while parked in a public right-of-way, unless approved by the NCDOT;
  3. Is not subject to principal structure setback requirements;
  4. Shall minimally affect required parking for the principal business(es) on the lot; and
  5. Shall not obstruct emergency access lanes, fire lanes, loading areas, driveways, sidewalks, or other vehicular or pedestrian access to or within a lot.
- C. **Trash & Recycling Receptacles.** A mobile food vendor shall:
1. Provide trash and recycling receptacles for patron use; and
  2. Remove all trash and recycling from the site each day.
- D. **Additional Permitting Requirements for Mobile Food Units.** All mobile food units require a permit from the Chatham County Public Health Department, [Division of Environmental Health](#).

### 3.7.5 SEASONAL FARMSTANDS

- A. **Location.** A seasonal farmstand:
1. Shall be located on the same lot as a farm, dwelling unit, or business;
  2. Is not subject to principal structure setback requirements, but must be located at least 15 feet from the edge of a right-of-way; and
  3. May be located within required transitional buffer areas (see 4.4.8: *Transitional Buffers*).
- B. **Vehicular Access.** Seasonal farmstands shall provide safe ingress and egress. Vehicles must be able to enter and exit the site without using a right-of-way for maneuvering area.

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<sup>218</sup> This exempts a temporary food establishment, defined by N.C.G.S. [§ 130A-247\(13\)](#) as “an establishment not otherwise exempted from this part pursuant to G.S. 130A-250 that (i) prepares or serves food, (ii) operates for a period of time not to exceed 30 days in one location, and (iii) is affiliated with and endorsed by a transitory fair, carnival, circus, festival, public exhibition, or agritourism business.”

### 3.7.6 TEMPORARY LIVING QUARTERS IN A RECREATIONAL VEHICLE

- A. **Principal Use.** A maximum of one recreational vehicle may be used as a temporary dwelling unit on an undeveloped lot in any of the districts specified in Table 3.6.5-1: Temporary Use Table.
- B. **Accessory Use.** A maximum of one recreational vehicle may be used as a temporary dwelling unit on a lot in any of the districts specified in Table 3.6.5-1: Temporary Use Table if the lot contains an existing single-family detached dwelling or duplex.

## 3.8 WIRELESS TELECOMMUNICATIONS FACILITIES<sup>219</sup>

### 3.8.1 AUTHORITY & PURPOSE

- A. **Enactment.** This Section is enacted pursuant to the general police power granted by North Carolina General Statute [§ 153A-121](#).<sup>220</sup>
- B. **Short Title.** This Section shall be known and may be cited as the “Wireless Telecommunications Facilities Ordinance” except as referred to herein where it shall be known as “this Section.”
- C. **Purpose & Legislative Intent.**
  1. The purpose of this Section is to provide for the public health, safety, and welfare by ensuring that residents, businesses, and public safety operations in Chatham County have reliable access to wireless telecommunications networks and state of the art mobile broadband communications services, while also ensuring that this objective is accomplished according to Chatham County’s planning standards where applicable.
  2. To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless telecommunications facilities complies with N.C.G.S. [§ 160D-930](#) and with all applicable federal laws, including without limitation Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, which, among other things, creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, Chatham County adopts these comprehensive wireless telecommunications regulations.
  3. By enacting the regulations in this Section, it is Chatham County’s intent to ensure the County has sufficient wireless infrastructure to support its public

<sup>219</sup> This Section carries forward the current Chatham County Wireless Telecommunications Facilities Ordinance, last updated in April 2019, with minor updates to reflect its transition from a stand-alone ordinance to a part of the UDO.

<sup>220</sup> Corrected N.C.G.S. reference (was 150A-121).



safety communications and to ensure access to reliable wireless communications services throughout all areas of the County.

**D. Definitions & Terms.**

1. **Abandonment.** Cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this Section.
2. **Accessory Equipment.** Any equipment serving or being used in conjunction with a Wireless Facility or Wireless Support Structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar structures.
3. **Administrative Approval.** Approval that the Zoning Administrator is authorized to grant after Administrative Review.
4. **Administrative Review.** Non-discretionary evaluation of an application by the Zoning Administrator. This process is not subject to a public hearing. The procedures for Administrative Review are established in Section 3.8.2: Permits.
5. **Antenna.** Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
6. **Base Station.** A station at a specific site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.
7. **Carrier on Wheels or Cell on Wheels (COW).** A portable self-contained Wireless Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.
8. **Collocation.** The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term ‘collocation’ does not include the installation of new utility poles or wireless support structures.
9. **Concealed Wireless Facility.** Any tower, ancillary structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two types of concealed facilities:
  - (a) **Antenna Attachments.** Antenna Attachments, including painted antenna and feed lines to match the color of a building or structure, faux windows, dormers, or other architectural features that blend with an existing or proposed building or structure; and

- (b) Freestanding. Freestanding concealed towers usually have a secondary, obvious function which may include church steeple, bell tower, clock tower, light standard, flagpole, or tree.
10. Electrical Transmission Tower. An electrical transmission structure used to support high voltage overhead power lines. The term does not include any Utility Pole.
  11. Equipment Compound. An area surrounding or near the base of a Wireless Support Structure, within which are located Wireless Facilities.
  12. Existing Structure. A Wireless Support Structure, erected prior to the application for collocation or substantial modification under this Section, that is capable of supporting the attachment of Wireless Facilities, including, but not limited to, Electrical Transmission Towers, buildings, and Water Towers. The term does not include any Utility Pole.
  13. Fall Zone. The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
  14. Monopole. A single, freestanding pole-type structure supporting one or more Antennas. For the purposes of this Section, a Monopole is not a Tower or a Utility Pole.
  15. Ordinary Maintenance. Ensuring that Wireless Facilities and Wireless Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing, and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a Wireless Support Structure's foundation or of the Wireless Support Structure itself. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape, and color and Accessory Equipment within an existing Equipment Compound and relocating the Antennas to different height levels on an existing Monopole or Tower upon which they are currently located. Ordinary Maintenance does not include Substantial Modifications.
  16. Public Safety Service Provider. Public Safety Service Providers means and includes Federal, State, local, tribal emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.
  17. Replacement Pole. Pole of equal proportions and of equal height or such other height that would not constitute a Substantial Modification to an Existing Structure in order to support Wireless Facilities or to accommodate Collocation. Requires removal of the Wireless Support Structure it replaces.
  18. Substantial Modification. The mounting of a proposed Wireless Facility or Wireless Facilities on a Wireless Support Structure that:
    - (a) Increases the existing vertical height of the Wireless Support Structure by:
      - (1) More than 10%; or

- (2) The height of one additional Antenna array with separation from the nearest existing Antenna not to exceed 20 feet, whichever is greater; or
  - (b) Involves adding an appurtenance to the body of a Wireless Support Structure that protrudes horizontally from the edge of the Wireless Support Structure more than 20 feet, or more than the width of the Wireless Support Structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the Antenna from inclement weather or to connect the Antenna to the tower via cable); or
  - (c) Increases the square footage of the existing Equipment Compound by more than 2,500 square feet.
- 19. Tower. A lattice-type, guyed, or freestanding structure that supports one or more Antennas.
- 20. Utility Pole. A structure owned and/or operated by a public utility, municipality, electric membership corporation, or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.
- 21. Water Tower. A water storage tank, a standpipe, or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.
- 22. Wireless Facility or Wireless Facilities. The set of equipment and network components, exclusive of the underlying Wireless Support Structure, including, but not limited to, Antennas, Accessory Equipment, transmitters, receivers, Base Stations, power supplies, cabling, and associated equipment necessary to provide wireless telecommunications services.
- 23. Wireless Support Structure. A freestanding structure, such as a Monopole or Tower, designed to support Wireless Facilities. This definition excludes Utility Poles.
- 24. Wireless Telecommunication Permit. A permit for Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval pursuant to this Section. Wireless Telecommunication permits are granted by the Board of Commissioners in accordance with Section 12.15: *Rezoning (Conditional Districts)*.
- E. **Jurisdiction.** The provisions of this Section are applicable to all unincorporated areas of Chatham County, exclusive of the municipalities located therein and their extraterritorial jurisdiction areas.
- F. **Abrogation.** This Section is not intended to repeal, abrogate, annul, impair, or interfere with any other provision of the Unified Development Ordinance.
- G. **Severability.** Should any subsection, paragraph, sentence, or clause of this Section be held invalid or unconstitutional, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this Section which can be given effect without the invalid provision.

### 3.8.2 PERMITS

#### A. **Approvals Required for Wireless Facilities & Wireless Support Structures.**

1. Administrative Review and Approval. The following types of applications are subject to the review process as provided in Section 3.8.2.B: *Administrative Review & Approval Process* and design requirements of 3.8.2.D: *General Standards & Design Requirements* . No other type of zoning or site plan review is necessary:
  - (a) New Wireless Support Structures that are less than 60 feet in height in any zoning district;
  - (b) New Wireless Support Structures that are up to 199 feet in height in any general use Industrial District or properties coded as industrial uses by Chatham County Tax Record if not within one and a half (1.5) miles of another tower unless need can be demonstrated;
  - (c) Concealed Wireless Facilities that are 60 feet or less in height in any zoning district;
  - (d) Concealed Wireless Facilities that are 150 feet or less in any zoning district *except* residential districts;
  - (e) Substantial Modifications (see definition); and
  - (f) Collocations.
2. *Wireless Telecommunications Permit*. Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval pursuant to this Ordinance shall be permitted in any district upon the granting of a Wireless Telecommunications Permit from the Board of Commissioners in accordance with the standards for granting Conditional Use Permits set forth in the Chatham County Zoning Ordinance.
3. *Exempt from All Approval Processes*. The following are exempt from all Chatham County's approval processes and requirements under this ordinance:
  - (a) Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial modification as defined in this ordinance.
  - (b) Ordinary Maintenance of existing Wireless Facilities and Wireless Support Structures as defined in this Ordinance;
  - (c) Wireless Facilities placed on Utility Poles; and
  - (d) COWs placed for a period of not more than 120 days at any location within the County or after a declaration of an emergency or a disaster by the Governor.

#### B. **Administrative Review & Approval Process.**

1. *Content of Application Package for New Sites*. All Administrative Review application packages must contain the following:

- (a) Commercial Building Permit application form signed by applicant and required fees;
  - (b) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application. Such submissions need not disclose financial lease terms; and
  - (c) Site plans detailing proposed improvements. Drawings must depict improvements related to the applicable requirements, including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements as required by the Central Permitting Department and any other approving body or department if applicable.
  - (d) Documentation from a licensed professional engineer of calculation of the fall zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this ordinance.
2. *Content of Application Package for Other Sites/Facilities.* All Administrative Review application packages must contain the following items. Additional information may be required upon request, including:
  - (a) Commercial Building Permit application form signed by applicant and required fees;
  - (b) For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas.
  - (c) For substantial modifications, drawings depicting the improvements along with their dimensions.
  - (d) All requests for new towers shall identify at least one wireless tenant that intends to locate on the proposed tower at time of application for building permit. If a wireless tenant is not identified, then the building permit shall not be issued.
3. *Procedure & Timing.*
  - (a) *Applications for Collocation, Monopole or Replacement Pole, a Concealed Wireless Facility, a Substantial Modification.* Within 30 days of the receipt of an application for a Collocation, a Monopole or Replacement Pole, a Concealed Wireless Facility, a Substantial Modification, the Planning Department will:
    - (1) Review the application for conformity with this Ordinance. An application under this Section is deemed to be complete unless the Planning Department notifies the applicant in writing (for purposes of clarification, written responses may be made via electronic notification or US Postal Service mail), within 10 calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice

that an application is deficient, an applicant may take 10 calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within 10 calendar days, the application shall be reviewed and processed within 30 calendar days from the initial date the application was received. If the applicant requires a period of time beyond 10 calendar days to cure the specific deficiencies, the 30 calendar days deadline for review shall be extended by the same period of time;

- (2) Make a final decision to approve the Collocation application or approve or disapprove other applications under 3.8.2.B.2: *Content of Application Package for Other Sites/Facilities*; and
  - (3) Advise the applicant in writing of its final decision. If the Planning Department denies an application, it must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Ordinance.
  - (4) Failure to issue a written decision within 30 calendar days shall constitute an approval of the application.
- (b) *Applications for New Wireless Support Structures That Are Subject to Administrative Review and Approval.* Within 45 calendar days of the receipt of an application for a New Wireless Support Structure that is subject to Administrative Review and Approval under this Ordinance, the Planning Department will:
- (1) Review the application for conformity with this Ordinance. An application under this Section is deemed to be complete unless the Planning Department notifies the applicant in writing (for purposes of clarification, written responses may be made via electronic notification or US Postal Service mail), within 15 calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take 15 calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within 15 calendar days, the application shall be reviewed and processed within 45 calendar days from the initial date the application was received. If the applicant requires a period of time beyond 15 calendar days to cure the specific deficiencies, the 45 calendar days deadline for review shall be extended by the same period of time;
  - (2) Make a final decision to approve or disapprove the application; and
  - (3) Advise the applicant in writing of its final decision. If the Planning Department denies an application, it must provide written justification of the denial, which must be based on substantial

evidence of inconsistencies between the application and this Ordinance.

- (4) Failure to issue a written decision within 45 calendar days shall constitute an approval of the application.

**C. Wireless Telecommunication Permit Process.**

1. *Wireless Telecommunication Permit Standards.* Any Wireless Facility or Wireless Support Structures not meeting the requirements of 3.8.2.A.1: *Administrative Review and Approval* or 3.8.2.A.3: *Exempt from All Approval Processes*, may be permitted in all zoning districts upon the granting of a Wireless Telecommunication Permit, subject to:
  - (a) The submission requirements of 3.8.2.C.2: *Content of Wireless Telecommunication Permit Application Package*, below; and
  - (b) The applicable standards of 3.8.2.C.2: *Content of Wireless Telecommunication Permit Application Package*, below; and
  - (c) The requirements for rezoning to a conditional zoning district as established by Section 12.15: *Rezoning (Conditional Districts)*.
2. *Content of Wireless Telecommunication Permit Application Package.* All Wireless Telecommunication permits, application packages for any applicable wireless facility or wireless support structures must contain the following:
  - (a) Completed Wireless Telecommunication Permit Application Permit application and required fees;
  - (b) Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms;
  - (c) Written description and scaled drawings of the proposed Wireless Support Structure or Wireless Facility, including structure height, ground and structure design, and proposed materials;
  - (d) Number of proposed Antennas and their height above ground level, including the proposed placement of Antennas on the Wireless Support Structure;
  - (e) Line-of-sight diagram or photo simulation, showing the proposed Wireless Support Structure set against the skyline and viewed from at least four directions within the surrounding areas;
  - (f) A statement that the proposed Wireless Support Structure will be made available for Collocation to other service providers provided space is available and consistent with Subsection 3.8.2: *Permits*.
  - (g) Proposed towers may not be located closer than one and one-half (1.5) miles from an existing tower unless need can be demonstrated. The Applicant shall provide a map of all other towers located within three miles of the proposed tower location, along with information as to the heights of all such other towers.

- (h) All requests for new towers shall identify at least one wireless tenant that intends to locate on the proposed tower at time of application for building permit. If a wireless tenant is not identified, then the building permit shall not be issued.
  - (i) Notwithstanding the above, telecommunication towers may not be placed in any “Major Wildlife Areas” identified in the *Inventory of Natural Areas and Wildlife Habitats of Chatham County, North Carolina*, 1992.
3. *Procedure and Timing.* Within 150 calendar days of the submittal deadline of an application under 3.8.2.C: *Wireless Telecommunication Permit Process*, the County will:
- (a) Complete the process for reviewing the application for conformity with ordinances applicable to conditional district rezonings.
  - (b) Make a final decision to approve or disapprove the application; and
  - (c) Advise the applicant in writing of the final decision. If the Board of Commissioners denies an application, it must provide written justification of the denial.
  - (d) Failure to issue a written decision within 150 calendar days shall constitute an approval of the application.

D. **General Standards & Design Requirements.**

- 1. *Design.*
  - (a) Wireless Support Structures shall be subject to the following:
    - (1) Shall be engineered and constructed to accommodate a minimum number of Collocations based upon their height:
      - i. Support structures 60 to 100 feet shall support at least two telecommunications providers;
      - ii. Support structures greater than 100 feet but less than 150 feet shall support at least three telecommunications providers;
      - iii. Support structures greater than 150 feet in height shall support at least four telecommunications carriers.
    - (2) The Equipment Compound area surrounding the Wireless Support Structure must be of sufficient size to accommodate Accessory Equipment for the appropriate number of telecommunications providers in accordance with 3.8.2.D.1(a), above.
- 2. Concealed Wireless Facilities shall be designed to accommodate the Collocation of other Antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured, or otherwise not readily apparent to a casual observer.



3. Upon request of the Applicant, the County may waive the requirement that new Wireless Support Structures accommodate the Collocation of other service providers if County finds that Collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer Antennas will promote community compatibility.
4. *Setbacks.*
  - (a) Unless otherwise stated herein, Wireless Support Structures and Wireless Support Facilities shall be set back from all property lines a distance equal to its engineered fall zone or 50 feet, whichever is greater. An easement can be acquired on an adjoining property to meet the engineered fall zone setback requirement. The easement language must be reviewed and approved by the County Attorney.
  - (b) For towers greater than 100 feet, a setback of 50% of the Wireless Support Structure tower height is required from adjoining property lines and right-of-way. When adjoining parcels are zoned IL, Light Industrial, or IH, Heavy Industrial, the minimum setback shall never be less than the distance equal to its engineered fall zone or 50 feet, whichever is greater. Provided however, the setback limit shall never be less than the distance equal to its engineered fall zone or 50 feet, whichever is greater. An easement can be acquired on an adjoining property to meet the engineered fall zone setback requirement. The easement language must be reviewed and approved by the County Attorney. The setback requirement also applies to Wireless Support Facilities.
5. *Height.*
  - (a) Wireless Support Structures are not subject to the zoning district height limits specified in Chapter 2: *Zoning Districts*.
  - (b) In residential zoning districts and properties coded as residential uses by Chatham County Tax Record, Wireless Support Structures shall not exceed a height equal to 199 feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the County shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request, the Applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Board of Commissioners.
  - (c) No towers may exceed a height greater than 300 feet. However, Public Safety Service Providers may construct towers exceeding 300 feet when the following conditions are met:
    - (1) The tower is required to and will provide for the public health, safety, and welfare by ensuring that public safety and emergency service responders in Chatham County have reliable access to state of the art telecommunication services.

- (2) No other tower for co-location of emergency communication equipment is reasonably available.
  - (3) The tower will significantly enhance public service communication in the county and reduce the proliferation of towers throughout the county.
  - (4) The Tower does not exceed 400 feet.
6. *Lot Size.* The lot size required for wireless facilities should at a minimum provide the space needed for the access road, tower base, equipment, and setback buffers. Lots created for the sole purpose of locating wireless facilities are not required to comply with otherwise required minimum lot size standards.
7. *Aesthetics.*
  - (a) *Lighting and Marking.*
    - (1) Wireless Facilities or Wireless Support Structures shall not be illuminated unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
    - (2) The desired tower color is gray or natural colors for concealed towers. Towers that are painted alternating patterns are not permitted unless required by the FCC or the FAA.
  - (b) All lighting, other than required by the FAA, must conform to Section 4.5: *Lighting.*
8. *Signs.* Signs located at the Wireless Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signs that are approved for other uses on property on which Wireless Facilities are located (e.g., approved signs at locations on which Concealed Facilities are located).
9. *Accessory Equipment.*
  - (a) Accessory Equipment, including any buildings, cabinets, or shelters, shall be used only to house equipment and other supplies in support of the operation of the Wireless Facility or Wireless Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.
  - (b) If the site is designed for or equipped with on-site generators for electric power supply, then a retention basin for liquids shall be provided that is designed according to recommendations of the County Fire Marshal and/or the County Emergency Operations Office.
10. *Fencing.*
  - (a) Ground mounted Accessory Equipment and Wireless Support Structures shall be secured and enclosed with a fence not less than six feet in height as deemed appropriate by the County.

- (b) The County may waive the requirement of 3.8.2.D.10(a) if it is deemed that a fence is not appropriate or needed at the proposed location.

11. *Landscaping.*

- (a) Sites in heavily wooded locations are strongly preferred. If the site is not heavily wooded, a continuous all-season opaque screen of at least six feet in height and spaced to obscure the security fence within four years of planting shall be placed around the boundaries of the site (excluding the access road). Vegetation shall be not less than two feet in height at the time of planting. It is not the intention that the existing vegetation be removed to then be replaced by the described buffer; substantial vegetation may be supplemented to achieve the desired screening.
- (b) If the tower site is in an open field with no residence within 1,700 feet, where the effect of buffering would yield a ring of vegetation around the tower base in an open field, then this requirement may be reduced or eliminated. If the site is heavily wooded, and a reasonable assurance can be provided that the site will remain that way, the screening planting requirements may be reduced or eliminated. If at a later date, the site changes from a heavily wooded site, the planting screen described above may be required.

### 3.8.3 MISCELLANEOUS PROVISIONS

A. **Abandonment & Removal.**

1. If a Wireless Support Structure is Abandoned, and it remains Abandoned for a period in excess of 12 consecutive months, the County may require that such Wireless Support Structure be removed only after first providing written notice to the owner of the Wireless Support Structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the Wireless Support Structure within 60 days of receipt of said written notice.
2. In the event the owner of the Wireless Support Structure fails to reclaim the Wireless Support Structure within the 60 day period, the owner of the Wireless Support Structure shall be required to remove the same within six months thereafter. The County may ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

- B. **Multiple Uses on a Single Parcel or Lot.** Wireless Facilities and Wireless Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

### 3.8.4 WIRELESS FACILITIES & WIRELESS SUPPORT STRUCTURES IN EXISTENCE ON THE DATE OF ADOPTION OF THIS ORDINANCE

- A. **Facilities and Structures Permitted Prior to UDO Effective Date.** Wireless Facilities and Wireless Support Structures that were legally permitted on or before the effective date of this Ordinance are considered a permitted and lawful use.

- B. **Activities at Non-Conforming Wireless Support Structures.** Notwithstanding any provision of this Ordinance:
1. Ordinary Maintenance may be performed on a Non-Conforming Wireless Support Structure or Wireless Facility.
  2. Collocation of Wireless Facilities on an existing non-conforming Wireless Support Structure shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use and shall be permitted through the Administrative Approval process defined in 3.8.2.B: *Administrative Review & Approval Process*; provided that the collocation does not substantially modify the size of the equipment compound at that location or otherwise substantially modify the existing non-conformity.
  3. Substantial Modifications may be made to non-conforming Wireless Support Structures utilizing the Wireless Telecommunication Permit process defined in 3.8.2.C: *Wireless Telecommunication Permit Process*.

### 3.8.5 ENFORCEMENT & REMEDIES

- A. **Enforcement Officer.** The Chatham County Zoning Administrator shall administer and enforce the provisions of this Section. Such plans and applications as are finally approved shall be incorporated into any permit.
- B. **Violations.** Any violation of this Ordinance or the terms of any tower permit shall be subject to the enforcement remedies and penalties set forth in this Subsection and as by law provided. Each day's violation of any provision of this Section or the terms of any tower permit shall constitute a separate and distinct offense.
- C. **Enforcement Procedure.** Upon finding a violation of this Section, the enforcement officer shall notify the owner and service provider(s) of the nature of the violation and measures necessary to remedy the violation.
- D. **Failure To Comply.** Upon failure of the owners and/or service provider(s) to comply with a notice of corrective action, the owner and service provider(s) shall be subject to such remedies and penalties as may be provided herein.
- E. **Remedies.** Any one or all of the following procedures may be used to enforce the provisions of this Section:
1. *Injunction.* Violations may be enjoined, restrained, abated, or mandated by injunction.
  2. *Civil Penalties.* Any person who violates this ordinance shall be subject to assessment of a civil penalty in the amount of \$50.00 per day for the first violation. If the same violation occurs on the same property within six after the initial violation is remedied, a civil penalty in the amount of \$100.00 per day shall automatically apply. If the same violation occurs on the same property within six years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200.00 per day shall automatically apply. If the same violation occurs on the same property within six years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500.00 per day shall automatically apply. For the purposes of

assessing civil penalties each day such violation continues shall be considered a separate and distinct offense.

3. *Stop Work.* Whenever any tower is being constructed, erected, altered, or repaired in violation of this ordinance or the terms of its permit, the work may be immediately stopped by the authorized code enforcement official/s as allowed by North Carolina General Statutes.
  4. *Revocation of Permit.* A permit may be revoked for any substantial departure from the terms of the approved application including false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of any applicable state, federal, or local law may also be revoked.
  5. *Criminal Penalties.* Any violation of this Section shall be a misdemeanor or infraction as provided in N.C.G.S. [§14-4](#).
- F. **Variations.** An application for a variance from the strict terms of this ordinance shall be submitted in writing to the Board of Adjustment prior to the issuance of a permit in the same manner as applications for variances in zoning matters. A variance may be granted in the same manner and upon the same grounds as set forth in Section 12.19: *Variations*.
- G. **Judicial Review.** Except as otherwise provided, appeals by persons aggrieved by a decision of the Board of Adjustment or the Board of Commissioners upon any application for a variance or permit shall be to a court of competent jurisdiction in the nature of a writ of certiorari. The procedure shall be the same as set forth for conditional district rezoning applications in Section 12.15: *Rezoning (Conditional Districts)*.

# CHAPTER 4 DEVELOPMENT & DESIGN STANDARDS

## 4.1 GENERAL PROVISIONS

### 4.1.1 PURPOSE & DESIGN PRINCIPLES

A. Purpose. This Chapter establishes development and building design, landscaping, screening, lighting, and signage standards that:

- A-1. Implement the Comprehensive Plan;
- A-2. Implement the purposes established for the UDO and its zoning districts; and
3. Ensure development is consistent with best practices for public safety, environmental protection, and community design.

B. Design Principles.<sup>221</sup>

1. Findings.

- (a) The goal of the following design principles is to maintain distinct and cohesive patterns of development and promote context-sensitive design that reinforces the rural character and setting of Chatham County.
- (b) These following design principles:
  - (1) Establish common qualities present in the buildings and settings throughout the County's traditional hamlets, villages, and crossroads communities, generally described as simplistic and utilitarian in their expression of form, design, material, and detail;
  - (2) The following design principles Are derived from vernacular; and
  - (3) Serve as general guidelines for the design of new development and redevelopment throughout the County but are not regulatory standards.

2. Maintaining Rural Character and Ambience of Chatham County.

- (a) The countryside and small-town settings of Chatham County is paramount, with buildings relating to their topography and environs in a unified manner.

<sup>221</sup> Adapted from *Chatham County Design Guidelines*, Draft dated July 1, 2022. Additional resources include *"The Architectural Heritage of Chatham County, North Carolina"* and *"A Guide to the Historic Architecture of Piedmont North Carolina."*

- (b) Ample space allows for protection of historic structures, scenic views, and unique natural features of a site, such as streams, wetlands, floodplains, rock outcroppings, steep slopes, and upland pools.
- (c) Civic and public life is reinforced through built form offering a variety of formal and informal areas for gathering, socializing, and promoting social cohesion.
- (d) Aesthetic design elements are compatible with the surrounding environment, with consideration given to local architectural traditions and vernacular forms evident in the aesthetic of the County's small towns and rural mills, barns, farm structures, covered porches, metal roofs, awnings, and windows.

### 3. Conserving Natural Resources.

- (a) Native trees of significant size and historical value are protected.
- (b) Areas of existing forest and native vegetation are retained, and soil erosion reduced to maintain the site's natural ecosystem.
- (c) Tree stands, vegetated areas, and open space connect within and across sites and minimize fragmentation of wildlife habitat.
- (d) Plants that pollinate and produce edible fruit and nuts are planted to increase access to healthy food within the community and sustain wildlife.

### 4. Resilient and Healthy Communities.

- (a) Buildings define and relate to the street in a manner that is universally accessible to pedestrian travel and include varying facilities that appeal to a range of ages and abilities.
- (b) Building design balances access for varying mobility needs within and across sites, with provisions made for sidewalks, trails, greenways, and future or planned transportation alternatives Complete Streets, where applicable.
- (c) Sustainable and low-maintenance design practices are used to promote energy efficiency, water conservation, and renewable materials while maintaining a rural aesthetic.
- (d) Buildings and sites contain covered and well-shaded areas that reduce the effects of heat island and high temperatures.
- (e) Development incorporates additional strategies that help mitigate the effects of anthropogenic climate change, such as passive solar design and low impact development and green stormwater infrastructure features.

## 4.1.2 APPLICABILITY

A. **Generally.** This Chapter applies to:

1. All zoning districts, and

2. Unless otherwise provided, any application for:
  - (a) Zoning compliance;
  - (b) Rezoning to a conditional district; and
  - (c) A major subdivision.

#### B. **Conditional Zoning Districts.**

1. Any lot located within a conditional zoning district may be subject to additional regulations beyond those in this Chapter.
2. The regulations applicable to a conditional zoning district may be more restrictive than those set out herein, but generally should meet the minimum requirements in this Chapter.

### 4.1.3 ACCESS TO PROPERTY<sup>222</sup>

A building, structure, or use of land shall be established only on a lot that abuts a public or private right-of-way or that abuts an easement that provides access to a public or private right-of-way to which the building, structure, or use of land has legal access.

## 4.2 BUILDING DESIGN<sup>223</sup>

### 4.2.1 PURPOSE

The purpose of the Building Design standards is to promote the improved appearance of buildings across the jurisdiction with desirable standards that achieve goals for aesthetic enhancement of Chatham County's many towns, rural villages, and rural crossroad communities.

### 4.2.2 DESIGN PRINCIPLES<sup>224</sup>

~~A. **Findings.** The goal of the following design principles is to maintain distinct and cohesive patterns of development and promote context-sensitive design that reinforces the rural character and setting of Chatham County. The following design principles Establish common qualities present in the buildings and settings throughout the County's traditional hamlets, villages, and crossroads communities, generally described as simplistic and utilitarian in their expression of form, design, material, and detail. The following design principles Are derived from vernacular and~~

<sup>222</sup> Carries forward a portion of ZO Section 8.4 Access to Property. Expands to include private right-of-way.

<sup>223</sup> Adds new architectural standards for non-residential, mixed use, and multi-family buildings in certain zoning districts and/or certain geographic areas. See discussion of proposed standards in the [Audit Report](#) (pp. 77-78).

<sup>224</sup> ~~Adapted from *Chatham County Design Guidelines*, Draft dated July 1, 2022. Additional resources include "*The Architectural Heritage of Chatham County, North Carolina*" and "*A Guide to the Historic Architecture of Piedmont North Carolina*."~~



Serve as general guidelines for the design of new development and redevelopment throughout the County but are not regulatory standards:

~~B. Maintaining Rural Character and Ambience of Chatham County:~~

- ~~1. The countryside and small-town settings of Chatham County is paramount, with buildings relating to their topography and environs in a unified manner.~~
- ~~2. Ample space allows for protection of historic structures, scenic views, and unique natural features of a site, such as streams, wetlands, floodplains, rock outcroppings, steep slopes, and upland pools.~~
- ~~3. Civic and public life is reinforced through built form offering a variety of formal and informal areas for gathering, socializing, and promoting social cohesion.~~
- ~~4. Aesthetic design elements are compatible with the surrounding environment, with consideration given to local architectural traditions and vernacular forms evident in the aesthetic of the County's small towns and rural mills, barns, farm structures, covered porches, metal roofs, awnings, and windows.~~

~~C. Conserving Natural Resources:~~

- ~~1. Native trees of significant size and historical value are protected.~~
- ~~2. Areas of existing forest and native vegetation are retained, and soil erosion reduced to maintain the site's natural ecosystem.~~
- ~~3. Tree stands, vegetated areas, and open space connect within and across sites and minimize fragmentation of wildlife habitat.~~
- ~~4. Plants that pollinate and produce edible fruit and nuts are planted to increase access to healthy food within the community, and sustain wildlife.~~

~~D. Resilient and Healthy Communities:~~

- ~~1. Buildings define and relate to the street in a manner that is universally accessible to pedestrian travel and include varying facilities that appeal to a range of ages and abilities.~~
- ~~2. Building design balances access for varying mobility needs within and across sites, with provisions made for sidewalks, trails, greenways, and future or planned transportation alternatives, where applicable.~~
- ~~3. Sustainable and low-maintenance design practices are used to promote energy efficiency, water conservation, and renewable materials while maintaining a rural aesthetic.~~
- ~~4. Buildings and sites contain covered and well-shaded areas that reduce the effects of heat island and high temperatures.~~

#### 4.2.34.2.2 APPLICABILITY

A. **General.** Section 4.2: *Building Design* applies to new construction on properties meeting one of the following conditions:

1. A non-residential building within any zoning district, except for those zoning districts and uses exempted below;

2. A multi-family building consisting of ~~5~~five or more units in any zoning district; or
3. A commercial or mixed use building in areas designated as a “Center” on the County’s Future Land Use & Conservation Plan. Where a portion of a property is located within a “Center” designation, buildings within 200 feet of the predominant public right-of-way shall comply with this Section 4.2: *Building Design*.

**B. Exemptions.**

1. Section 4.2: *Building Design* does not apply to the following Zoning Districts:
  - (a) AG, Agricultural District;
  - (b) IL, Light Industrial District; and
  - (c) IH, Heavy Industrial District
2. Section 4.2: *Building Design* does not apply to the following uses.
  - (a) Agriculture & Horticulture Uses;
  - (b) Government Uses, except for the following uses which must adhere to this Chapter:
    - (1) Government Offices and Facilities; and
    - (2) Libraries;
  - (c) Heavy Commercial, Manufacturing, and Industrial Uses;
  - (d) Institutional and Civic Uses, except for the following uses which must adhere to this Chapter:
    - (1) Day Care Centers; and
    - (2) Funeral Homes;
  - (e) Natural Resources Extraction Uses;
  - (f) Transportation, Warehousing, and Storage Uses;
  - (g) Residential Uses including uses with four or fewer dwelling units, family care homes, and cottage courts;
  - (h) Utility Uses; and
  - (i) Waste Management Uses.

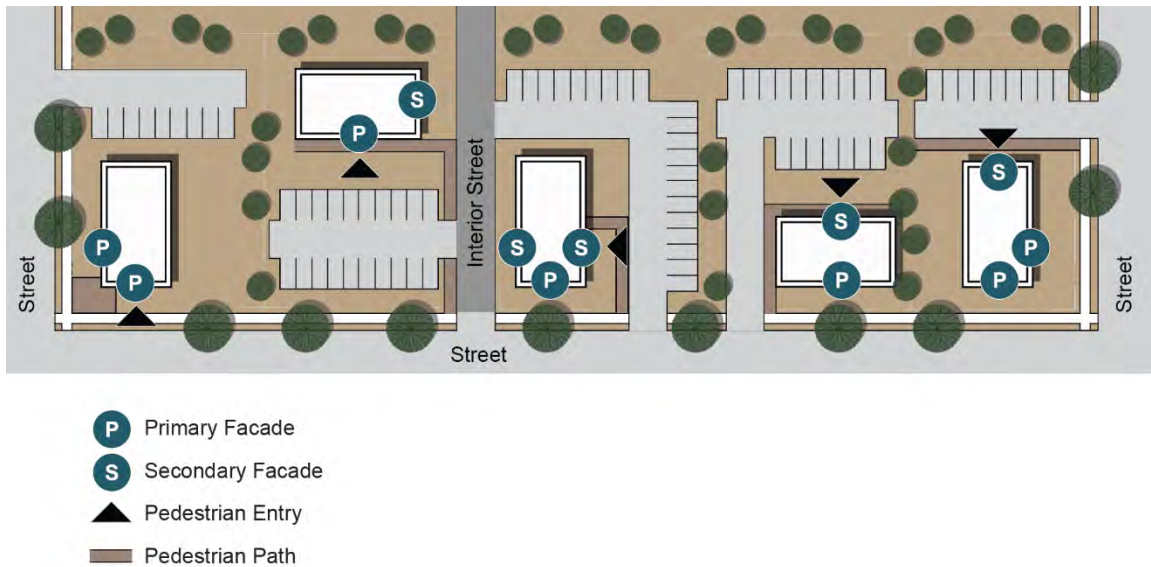
**C. Building Additions.**

1. *Existing Portions of Buildings.* Section 4.2: *Building Design* does not apply to the existing portion of the building where a building addition is planned and designed.
2. *Minor Building Additions.* Minor building additions less than or equal to ~~40~~50% of the ~~taxed value~~gross floor area of the existing structure to be expanded are exempt from this Section.

3. **Major Building Additions.** Major building additions greater than ~~10~~50% of the ~~taxed value~~gross floor area of the existing structure to be expanded must comply with Section 4.2: *Building Design* where applicable, unless the Appearance Commission recommends a modification or waiver of one or more applicable standards during its review of the Zoning Compliance Permit application (see Section 12.20).
- (a) The Appearance Commission may recommend a modification or waiver of a standard if:
    - (1) It will result in a building addition or an element of a building addition that is incompatible with the design of the existing building; or
    - (2) Strict compliance with the standard is infeasible based on the design of the existing building.
  - (b) As part of the Zoning Compliance Permit application, the Zoning Administrator may modify or waive any standard affirmatively recommended by the Appearance Commission.
- D. **Hierarchy of Standards.** The Form and Design Standards outlined in the following zoning districts supersede Section 4.2: *Building Design* where applicable:
1. CD-NC, Neighborhood Center Conditional District; and
  2. CD-AC, Activity Center Conditional District.
- E. **Timing of Review.** Compliance with the standards of this Section shall be evaluated during review of an application for a Zoning Compliance Permit.

#### **4.2.44.2.3 BUILDING ORIENTATION**

- A. The primary façade of a building ~~shall mean~~is the front side of the building facing a street. On corner lots, the building ~~shall~~must have two primary facades, one for each street, as shown in Figure 4.2.3 *Building Orientation*. If a building's architecture incorporates passive solar design, the primary façade is the side of the building containing the primary pedestrian entry regardless of the location of any adjacent streets.
- B. The secondary façade of a building ~~shall~~means any side of the building with a pedestrian entry that is not the front or rear of the building facing and that faces either an interior street, parking area, or a publicly accessible open space.

**Figure 4.2.3 Building Orientation**

#### 4.2.54.2.4 PEDESTRIAN ENTRY & ACCESS

- A. The primary pedestrian entry shall be identifiable as the primary/principal means of pedestrian or customer access to the principal use of the building. The primary pedestrian entry must be differentiated from the rest of the building using one of the building frontage types outlined in 4.2.5: *Building Frontage Types*.
- B. The primary pedestrian entry may be located on either the primary façade or secondary façade. Where the primary pedestrian entry is located on the secondary Façade of the building, the secondary façade must adhere to the following standards:
  1. 4.2.6: *Roofs*;
  2. 4.2.7: *Wall Planes*; and
  3. 4.2.10: *Window Openings*.
- C. A minimum separation of eight feet is required between the front façade of the building and all parking areas. This area may be used for pedestrian amenities or plantings but shall include a clear pathway in accordance with the Americans with Disabilities Act (ADA).
- D. Where sidewalks are present or planned along a public street, a pedestrian pathway shall be provided that connects the public sidewalk to the building's primary pedestrian entry. Pedestrian pathways must be integrated into the site design and coordinated with parking lots, landscaping areas, and buffers and shall be designed so that pedestrians and vehicular conflicts are avoided.

#### **4.2.64.2.5 BUILDING FRONTAGE TYPES**

The following table of frontage types support pedestrian activity and safety and are required along primary and secondary façades to enhance the primary pedestrian entry and access.

**Table 4.2.5-1: Building Frontage Types**



<b>Shopfront or Storefront</b>	<b>Arcade or Gallery</b>
<p>A frontage most often found on commercial retail, restaurant, and service uses that includes a substantial number of windows at the sidewalk level and typically accommodates design features such as lighting, awnings, and signs.</p>	<p>A frontage often found on street-oriented commercial retail that includes an attached colonnade and roof structure overlapping the pedestrian path.</p>



<b>Covered Entrance or Porte Cochère</b>	<b>Stoop</b>
<p>A roofed structure that integrates with and extends from a building's front entrance over a driveway that offers shelter for individuals and can be designed to accommodate loading and unloading of vehicles.</p>	<p>A raised structure typically with a small landing and steps leading to the entry usually covered by a roof structure or overhang.</p>



<b>Commercial Stoop</b>	<b>Porch or Portico</b>
<p>A raised landing with a common area that connects multiple pedestrian entries and often contains either a staircase or ramp to transition from the landing to the ground or sidewalk.</p>	<p>A porch, often found on residential structures but can be adapted to commercial structures, consists of an adequate depth dimension for seating, and includes a roof structure supported by posts that attaches to the front façade of the building.</p>
	

<b>Commercial Terrace or Open Plaza</b>	<b>Forecourt</b>
<p>A frontage where the front entry of the building overlooks an open space designed with amenities for pedestrian use. These areas may be informal such as an outdoor patio or plaza space. The entry should include shade features such as a canopy or roof extension.</p>	<p>A frontage wherein a portion of the façade is setback at the entry far enough to accommodate an enclosed courtyard space for common entry into a lobby or foyer interior of the building, often with a central feature such as a tree or fountain.</p>
	

#### 4.2.74.2.6 ROOFS<sup>225</sup>

Buildings shall avoid long, monotonous rooflines along primary and secondary façades and have varied profiles using one or more of the following design strategies:

- A. Pitched gables or stepped parapets;
- B. A change in the pitch of roof or use of a secondary roof structure such as smaller roof sections covering porches, entryways, window openings, and similar areas; or
- C. Roof elaborations such as towers, cupolas, or dormers.

#### 4.2.84.2.7 WALL PLANES

- A. Buildings are required to modulate or articulate wall planes along primary and secondary façades to avoid long, monotonous expanses.
- B. Wall planes greater than 80 feet shall provide a break in the wall plane constituting one or more of the following design strategies:
  1. An offset or jog in the wall plane with a depth greater than or equal to one foot;
  2. A variation in use of exterior material or architectural features;
  3. A variation of roof form or pitch; or
  4. A change in height in the number of stories.

#### 4.2.94.2.8 BUILDING COMPOSITION

Buildings must be composed of clearly articulated base, middle, and top sections.

- A. **Base.** The base of the building is articulated by distinguishable architectural features such as, but not limited to, a water table, knee wall, bulkhead, or trim work used to transition the wall plane to the ground plane. The base of multi-level buildings may distinguish the entire first level of the building as the base using a separate building material, building frontage type, or significant change in vertical proportion of window openings.
- B. **Middle.** The middle portion of the building consists of the wall plane area between the base and the top portions of the building.
- C. **Top.** The top consists of the roof structure and architectural features that transition between the wall plane and the roof structure. For multi-level buildings, the uppermost level of the building may be considered part of the top using identifiable design elements, such as cornicing, clerestory windows, window treatments, variation in materials, or wall plane detailing.

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<sup>225</sup> The graphics in this Section are placeholders. The consultant team will create new graphics if these standards remain in the draft.



**Figure 4.2.8: Building Composition****4.2.104.2.9 SIGN BAND AREA**

Adequate space for sign bands and/or sign areas shall be integrated into the design of the primary or secondary façades of all commercial and mixed-use buildings. Refer to Section 4.7: *Signs* for general sign standards and dimensions.

**4.2.114.2.10 WINDOW OPENINGS**

Window opening refers to the void of a wall plane, or the rough opening, where a window is to be placed, not to be construed with the individual components of a window such as glass panes or window frames.

- A. Window openings shall emphasize vertical orientation so that the height dimension is greater than the width dimension.
- B. Square window openings are permitted where regularly spaced along the façade of the building and designed in a manner that is proportional in width to adjacent window openings along the facade.
- C. The following window applications are exempt from the above standards:
  1. Shopfront or display windows;
  2. Commercial storefront systems;
  3. Roof-mounted window applications;
  4. Clerestory windows;
  5. Accent windows; and
  6. Transom windows.

#### **4.2.124.2.11 EXTERIOR MATERIALS**

- A. The following building materials are prohibited:
  - 1. Unfinished concrete masonry unit (CMU) block;
  - 2. Textured plywood; and
  - 3. Vinyl or plastic siding.
- B. The following materials are prohibited along the base of the building up to four feet, as measured from the top of sidewalk:
  - 1. Corrugated metal panels; and
  - 2. Exterior insulation and finish systems (E.I.F.S.).
- C. Exterior walls of multi-family buildings shall consist of a high-quality finish material using one or more of the following:
  - 1. Brick, stone, or similar material;
  - 2. Wood;
  - 3. Fiber cement siding; and
  - 4. Stucco.

#### **4.2.134.2.12 HIGH-VISIBILITY CORNER SITES**

- A. **Applicability.** This Section applies to properties at the intersection of major arterials and collector roads.
- B. **Building Presentation.** Buildings located on corner sites of major intersections shall include architectural features that accentuate the building corner, including any of the following design strategies:
  - 1. A building entrance at the corner;
  - 2. Distinguishable massing elements such as towers or covered porches; or
  - 3. Emphasized roof features such as clock towers, cupolas, or clerestory windows.

#### **4.2.144.2.13 ROOF-MOUNTED UTILITY & SERVICE AREAS**

Roof-mounted mechanical and utility equipment shall be located furthest away from the primary and secondary facades or otherwise screened from view by the roof structure or separate structure to have minimum visual impact as seen from the street.

#### **4.2.154.2.14 AUTO-ORIENTED CANOPY STRUCTURES**

Auto-oriented canopy structures associated with fuel islands and drive-through facilities must not be located between the building and the public right-of-way, except where the following design provisions are made.

- A. Auto-oriented canopies and their components are designed to be architecturally integrated with the main building using like materials.

- B. Support columns are wrapped with a durable and high-quality finish brick, stone, or similar material.

#### 4.2.164.2.15 OUTDOOR DISPLAY & STORAGE AREAS

- A. Outdoor display and storage areas must be indicated on a site plan at time of submittal in accordance with the standards described herein.
- B. Generally, outdoor display and storage areas must not:
1. Exceed 25% of the gross square footage of the principal use building footprint;
  2. Impede pedestrian circulation and shall remain clear of pedestrian sidewalks, crosswalks, and pathways.
  3. Be located in required parking areas, unless parking stalls are in excess of the minimum required number of parking stalls.
- C. Display areas associated with commercial uses must be located immediately adjacent to the pedestrian entry and be limited to no more than one-half of the length of the applicable primary or secondary façade.
- D. Outdoor storage areas must be fully enclosed.

#### 4.2.174.2.16 SOLAR ENERGY SYSTEMS

- A. A solar energy system (SES), in accordance with 3.5.12: *Solar Energy Systems, Level 1*, is required for all developments:
1. With more buildings greater than 100,000 square feet of gross square-foot floor area,<sup>226</sup> whether in one building or multiple buildings; or
  2. property That exceeding two acres of built-upon area.
- A.B. The SES must produce at least 25% of the energy needed for the development.
- B.C. Solar energy systems are permitted as a roof-mounted, building-integrated, or as a ground-mounted solar energy system. Ground-mounted solar energy systems are permitted as canopies above surface parking areas or above ground cover vegetation. Ground cover must be a:
1. Perennial vegetation compatible with the SES system used; or
  2. Pollinator-friendly species; and
  3. Non-invasive and native or naturalized species.

<sup>226</sup> According to a commercial real estate [survey](#) of big box retailers and another [article](#) by Environment America, the average size of a Target is 130,000 sf; Wal-Mart is 180,000 sf; Costco is 145,300 sf; Home Depot is 104,000 sf.

## 4.3 FIRE PROTECTION

### 4.3.1 PURPOSE

The purpose of this Section is to provide fire protection standards that supplement, but do not replace or alter, those in Chatham County Code [Chapter 93: Fire Prevention and Protection](#).

### 4.3.2 APPLICABILITY

This Section applies to all new and existing development.

### 4.3.3 PROHIBITED PARKING

- A. As authorized in [§ 93.10: Removal of Obstructions; Prohibited Parking](#), the Fire Marshal may remove or tow any vehicle obstructing a fire hydrant, designated fire protection equipment, designated fire lane, or fire station.
- B. In addition, the Fire Marshal may enforce prohibitions against on-street parking on any public streets not expressly designed and constructed to accommodate it, if the on-street parking obstructs access by fire apparatus.

### 4.3.4 PERMITS REQUIRED

In addition to any permit or approval required by this UDO, the activities described in this Subsection require issuance of a permit by the Fire Marshal prior to initiation of the activity.

- A. **Hazardous Materials.** The use, storage, handling, or processing of hazardous materials in conjunction with any use authorized in Chapter 3: *Use Regulations*. [See [§ 93.05: Permits](#)]
- B. **Aboveground and Underground Tank Installation and Removal.** The installation or removal of any aboveground or underground tank used for the storage of volatile flammable or combustible liquids or any other hazardous material in conjunction with any use authorized in Chapter 3: *Use Regulations*. [See [§ 93.07: Aboveground and Underground Tank Installation](#) and [§ 93.08: Tank Removal; Aboveground and Underground](#)]

## 4.4 LANDSCAPING & SCREENING<sup>227</sup>

### 4.4.1 PURPOSE<sup>228</sup>

The purpose and intent of these landscaping and screening standards are to:

- A. Retain & improve ~~improve~~ the quality of the health, safety, and public welfare in the built and natural environments;
- ~~A.B.~~ Reduce any negative impacts of development on existing communities, natural resources, and environmental health;
- ~~B.C.~~ Soften the visual impact of development;
- ~~C.D.~~ Minimize potential conflicts between incompatible abutting developments;
- ~~D.E.~~ Reduce soil erosion and increase infiltration in permeable land areas essential to stormwater management;
- ~~E.F.~~ Encourage the use of native plants and naturalistic landscaping designs that are visually compatible with the County's natural lands and habitats;
- ~~F.G.~~ Screen unsightly and/or loud equipment or materials from the view of persons on public streets or adjoining properties and buffer them from ~~uncomplementary~~ uncomplimentary land uses;
- ~~G.H.~~ Enhance the appearance and reduce heat radiating off of buildings, parking lots, and loading areas by requiring site-appropriate landscaping be incorporated into development; and
- ~~I.~~ Promote innovative and cost-conscious approaches to the design, installation, and maintenance of landscaping that encourages water and energy conservation ~~xeriscaping and other sustainable landscaping practices that encourage water and energy conservation.~~
- ~~H.J.~~ Encourage vegetated buffers that are compatible with the County's natural lands and habitats

<sup>227</sup> The use of the term “screening” rather than “buffering” is intended to clearly distinguish these standards from riparian buffer requirements as well as convey the intent of these standards, which is to screen certain land uses from one another. See discussion of proposed changes in the [Audit Report](#) (pp. 73-76). This section is based on the regulations in the existing Chatham County Zoning Ordinance, in particular Section 12, Landscaping and Buffering Standards, and the landscaping provisions in the draft Chatham County Design Guidelines, revision 5, that was provided to the consultant team and prepared by the Chatham County Appearance Commission.

<sup>228</sup> This purpose statement is new.

#### 4.4.2 APPLICABILITY<sup>229</sup>

- A. **General.** Unless exempted in accordance with Paragraph B, the standards in this Section apply to:
1. All new development; and
  2. Any individual expansion of a building, including outdoor patio and deck areas, existing prior to the effective date of this Ordinance, if the expansion increases the building's floor area by 25% or more in the IL or IH District or by 50% or more in all other districts, measured cumulatively over the last three years.
- B. **Exemptions.** The following development is exempt from the standards of this Section but is strongly encouraged to comply with the species requirements in 4.4.4B: Species Diversity.
1. Development of single-family detached dwellings or two-family dwellings on an individual lot;
  2. A change of use, unless the new use requires installation of a perimeter buffer in accordance with the standards in 4.4.8: Transitional Buffers.
- C. **Timing of Review.** Compliance with the standards of this Section shall be evaluated during review of an application for a Zoning Compliance Permit or Major Subdivision Preliminary Plat, as applicable.

#### 4.4.3 LANDSCAPE PLAN<sup>230</sup>

A landscape plan is required to be submitted for all development subject to this Section. The purpose of the landscape plan is to demonstrate how landscaping will be designed, installed, and maintained ~~retained and planted~~ on a development site. The landscape plan shall:

- A. Identify all plant speciestypes to be used;
- B. Demonstrate compliance with all planting standards and specifications of this Section;
- C. Designate the location for each planting to be installed;
- D. Designate existing trees and vegetation to be preserved, vegetation or other materials to be removed, and staging areas for materials or storage (see Section 6.1: Tree Preservation & Other Open Space);

<sup>229</sup> The applicability standards build on Section 12.6 of the Chatham County Zoning Ordinance. The exemptions are new.

<sup>230</sup> This adds new, basic requirements for a landscape plan. The plan intended to allow staff and other review bodies to evaluate a development project's compliance with the requirements of this section. Additional submission requirements will be included as an appendix for this section or maintained by staff separate from the Ordinance.

- E. Provide information about the anticipated installation schedule;
- F. Provide information about plans for irrigation and maintenance of the landscaping;
- G. Provide preliminary information on the protection of existing vegetation and important landscape features;
- H. Provide information on how erosion will be controlled during development; and
- I. Include other information requested by the Director.

#### 4.4.4 GENERAL LANDSCAPING STANDARDS<sup>231</sup>

The selection, installation, and maintenance of all plantings and other improvements required by this Section shall comply with the following standards.

##### A. **Plant Selection.**<sup>232</sup>

1. *Permitted Species.* All trees, shrubs, and other vegetative material used to comply with the standards in this Section shall be taken from the list of acceptable species in [Appendix A: Plant List](#). Invasive species identified in [Appendix B: Invasive Plant List](#) are prohibited and shall not be planted.
2. *Native Plant Requirement.* Native plants are those species that evolved naturally in a region without human intervention. These plants developed and adapted to local soil and climate conditions over thousands of years and are vital parts of local ecosystems necessary for the survival of pollinators, insects, birds, mammals, and other wildlife. Except for canopy trees, which shall all be native species, or where otherwise permitted in this Section, at least 75% of the plantings used to meet the standards of this Section shall consist of native plants.~~Plantings should primarily consist of species that are naturally occurring within the County. Except for canopy trees, which shall all be native species, or where otherwise permitted in this Section, no more than 25% of the plantings used to meet the standards of this Section shall consist of non-native species.~~<sup>233</sup>
3. *Edible Plantings.* The use of edible plants included in the list of permitted species is recommended.
4. *Drought-Resistant Plants.* The use of xeriscaping with native, drought-tolerant plants is encouraged to reduce dependency on irrigation.

- B. **Species Diversity.** Landscaping that includes multiple species of vegetation supports a wider variety of wildlife and is more adaptable and resilient to insect and disease pressure. Therefore, when 40 or more new shrub or 10 or more new tree

<sup>231</sup> This builds on and reorganizes the general landscaping standards in the Revised Design Guidelines, largely Section 8.

<sup>232</sup> This builds on Section 8.2, Selection of Plants, from the Revised Guidelines, except where noted. As part of this project, there will be a list of permitted plants developed which will be maintained separate from the UDO.

<sup>233</sup> The general native plant requirement is new.

plantings are required, they shall consist of different species in accordance with Table 4.4.4-1: *Species Diversity*.<sup>234</sup>

Table 4.4.4-1: Species Diversity		
Number of Plants Required	Number of Species Required	Single Species Maximum
40 to 70 shrubs	2	60%
More than 70 shrubs	3	40%
10 to 20 trees	3	40%
21 to 40 trees	4	35%
41 to 80 trees	6	30%
81 to 150 trees	8	25%
More than 150 trees	10	20%

- C. **Minimum Plant Sizes at Installation.** Unless otherwise specifically stated in this Subsection or with respect to particular species or planting types, the minimum plant size of required landscaping at the time of installation shall comply with Table 4.4.4-2: *Minimum Planting Sizes and Planting Areas*.<sup>235</sup>

Table 4.4.4-2: Minimum Planting Sizes and Planting Areas		
Plant Material Type	Minimum Caliper, Height, and Planting Areas <sup>1</sup>	
<b>Large</b> Tree more than 50 feet in height at maturity	2 in caliper, 16 ft height, 400 sf planting area	
<b>Medium</b> Tree between 30 and 50 feet in height at maturity	Single stemmed tree	2 in caliper, 10 ft height 200 sf planting area
	Multiple-stemmed tree	1 in caliper each stem, 8 ft height 200 sf planting area
<b>Small</b> Tree less than 30 feet in height at maturity	Single stemmed tree	1.5 in caliper, 6 ft height 100 sf planting area
	Multiple-stemmed tree	0.5 in caliper each stem, 4 ft height 100 sf planting area
Shrubs	1.5 ft height (3 ft height when planted in perimeter buffer)	

**Key:** in = inch | ft = feet | sf = square feet

<sup>234</sup> Species requirements are new and are intended to ensure that development include sets of plantings that are more resistant to disease and climate extremes. The Revised Design Guidelines include somewhat higher standards in certain circumstances; for example, in perimeter buffers, any one species is allowed to comprise only 25 percent of required trees or shrubs. The proposed species diversity requirements are recommended by the County’s Tree Protection Working Group.

<sup>235</sup> This is carried forward from Section 8.10, Plant Material and Installation Standards, and Section 5.4, Planting Area Minimums for Mature Tree Sizes, of the Revised Design Guidelines.



**Table 4.4.4-2: Minimum Planting Sizes and Planting Areas**

Plant Material Type	Minimum Caliper, Height, and Planting Areas <sup>1</sup>
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<sup>1</sup> Planting areas may be reduced in size for trees planted near development where tree growth is supported by an underground pavement support system that provides adequate space for tree root development.

- D. **Installation Requirements.** Installation of trees and other plant material shall be in accordance with standards established by the American National Standards Institute (ANSI) and the following:
1. *Condition of Plantings.* All new plant material shall conform to the standards in the American Standard for Nursery Stock published by AmericanHort and shall be free of disease and insects, have good structure and branching form, be free from constricting ties, have a healthy root system without girdling roots, have a visible root collar at the time of planting, and be in vigorous health.<sup>236</sup>
  2. *Timing of Installation.* Preparation of planting beds and installation of plants shall not occur until all other site construction activity is finished. Frozen or saturated soils should not be worked, and plants should not be installed during periods of extreme drought and water restrictions. To improve survivability, trees shall be planted after October 1 and before March 31, and other vegetation shall be planted during the optimal planting season as determined by the Zoning Administrator.<sup>237</sup>
  3. *Certificate of Occupancy.* All landscaping required by this Section shall be installed as set forth in the approved landscape plan before the County may issue a certificate of occupancy. If [drought](#), inclement weather, or difficulties acquiring needed landscape materials delay the installation of landscape materials beyond the date specified in the landscape plan, the developer may make a written request to the Zoning Administrator for an extension for completion. The request shall specifically state the reason for the delay as well as a proposed date for completion. The Zoning Administrator may approve a revised date of completion for good cause shown [and approve a certificate of](#)

<sup>236</sup> This carries forward the subsection under “Plant Material” in Section 8.10, Plant Material and Installation Standards, of the Revised Design Guidelines. The American Standard for Nursery Stock is now published by AmericanHort.

<sup>237</sup> This carries forward standards in Section 8.10, Plant Material and Installation Standards, of the Revised Design Guidelines and adds a requirement that plantings be made during the “optimal planting season,” which is determined by the Planning Director to allow for flexibility in administrating this section over time, particularly as growing seasons change.

occupancy. Failure to complete the installation by the specified date shall constitute a violation of this Ordinance.<sup>238</sup>

4. *Tree Staking*. Trees staking is required for all trees that are six feet or taller at time of planting, and is recommended for trees that may be exposed to wind, are planted on slopes, have large crowns in proportion to their roots, experience damage to the root ball during installation, or that are planted in areas where people may pull on them or use them for support. All ropes, wires, straps, or other material attached to the tree shall be secured in such a manner as to avoid injury to the trunk and be removed before trunk growth is restricted or damaged (not more than one year after plant installation). Any staking supports above ground shall be removed at the same time. Staking material below ground shall also be removed at the same time unless it is biodegradable, and removal would result in injury to the tree.<sup>239</sup>
5. *Tree Watering*. Trees must be watered as needed. It is recommended that trees be irrigated using slow-release water bags for the first year after installation.<sup>240</sup>

E. **Soil Cover**. Areas where landscaping is required shall be covered as follows:<sup>241</sup>

1. The use of shrubs, grasses, and perennials, groundcovers isare preferred over mulch or turfgrass. The use of mulch is preferred over turfgrass, particularly in plant beds.
2. Groundcovers shall be regularly weeded until they are sufficiently established to provide natural weed control.
3. If used, turfgrass should be mowed at its highest setting, particularly during periods of drought.
4. All mulch should be comprised of an organic layer of wood chips, composted leaves, shredded bark, or pine straw and installed and maintained in a fine-textured organic layer that is between three and four inches in depth. Inorganic mulches such as gravel or river rock are not preferred, and the use of plastic as a soil cover is prohibited.

F. **Credit for Existing Vegetation**. Existing vegetation in good health that meets all applicable standards in this Section may be used to satisfy any planting requirements, provided the vegetation is in fair or better condition and is protected

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<sup>238</sup> This makes clear that landscaping must be installed before the development can be considered complete and a certificate of occupancy issued, consistent with Section 8.10, Plant Material and Installation Standards, of the Revised Design Guidelines, but allows for flexibility in appropriate circumstances such as inclement weather or, as is more common in recent years, supply chain disruptions.

<sup>239</sup> This carries forward standards in Section 8.10, Plant Material and Installation Standards, of the Revised Design Guidelines.

<sup>240</sup> This carries forward standards in Section 8.9, Water Conservation Standards, of the Revised Design Guidelines.

<sup>241</sup> This carries forward Section 8.4, Soil Cover, of the Revised Design Guidelines.

before and during development in the same manner required for a protected tree in accordance with Section 6.1: [Tree Preservation & Other Open Space](#).<sup>242</sup>

- G. **Irrigation.** As needed, the use of a [temporary or permanent](#) irrigation system is recommended to ensure optimum moisture for healthy growth and survival of plantings. An irrigation system shall be planned, installed, and maintained in accordance with the following:<sup>243</sup>
1. Location. Irrigation systems shall be designed to limit watering of sidewalks, driveways, streets, and other pervious surfaces.
  2. Timing and Scheduling. Irrigation shall occur between 9 pm and 9 am to decrease water loss due to evaporation. Rain sensors shall be used to reduce unnecessary watering.
  3. Zones. Plants should be grouped in zones that have similar water requirements and irrigated by separate zone control.
  4. Irrigation Types. Drip irrigation shall be used in mulched plant beds or on steep slopes to reduce the washing away of mulch or excessive runoff. Overhead watering shall be limited to turfgrass, which shall not be watered daily except while establishing new turfgrass and for no more than three weeks. [Use of drought-tolerant native flowering plants and ornamental grasses within tree and shrub beds encouraged to reduce irrigation needs after establishment.](#)
  5. Rainwater Reuse. The reuse of rainwater for irrigation is recommended.
- H. **Sight Triangles.** Sight triangles shall be maintained [to comply with NCDOT and be](#) free of obstructions, including trees, shrubs, other vegetation, fences, walls, and berms.<sup>244</sup>
- I. **Naturalistic Design.** To preserve the natural character of the County, all landscaping, but particularly landscaping within perimeter buffers and parking lot buffers, should use a “naturalistic” design that is consistent with the following principles:<sup>245</sup>
1. Employ Rhythm. A naturalistic landscape will have a rhythm that is present but not easily defined. In nature, trees are often found in clusters of the same species, and ground layer plants are often found in drifts or sweeps. Large

<sup>242</sup> Section 7.5 of the Revised Design Guidelines provides a credit for maintenance of existing trees that are located in a perimeter buffer. To support the county’s goals of preserving existing vegetation, this standard has been broadened to apply to all landscaping on the site.

<sup>243</sup> This builds on the standards in Section 8.9, Water Conservation Standards, of the Revised Design Guidelines.

<sup>244</sup> This carries forward and broadens Section 8.6, Sight Triangles, of the Revised Design Guidelines, which only prohibits plant installation within sight triangles.

<sup>245</sup> This carries forward the guidelines in Section 8.3, Naturalistic Landscape Design, of the Revised Design Guidelines and makes minor revisions for consistency and to provide direction for code users.

swaths of the same-species plants enlarge a space visually, while their repeated patterns create rhythm and flow.

2. Emphasize Vertical Lines. While horizontal lines create stability, vertical lines help to break up the view and lead the eye around the landscape. Vertical lines also help unify a design and visually contain the exuberance of naturalistic plantings. Massed trees, architecture, or art can serve as outstanding vertical elements.
3. Favor Asymmetry. As found in nature, planting design should be asymmetric but balanced in terms of size, form, and texture.
- ~~4. Limit Color Palette. The color palette should be limited, to focus attention on building entrances, signs, or other areas that are to be noticed. In particular, an over-abundance of flowering species at any given time is not typically found in nature and is not recommended.~~
- 5.4. Preserve Natural Forms. Avoid using plants that require shearing or pruning to maintain a desired size or shape. All plants have a natural shape and form that improves over time if left alone. Allowing each plant to achieve its natural form will result in a natural-appearing landscape.

#### 4.4.5 BUILDING FOUNDATION LANDSCAPING<sup>246</sup>

- A. **Applicability.** The building foundation landscaping standards apply to new development that is any one of the following:
  1. A commercial or mixed use building within any non-residential zoning district except for the AG, IL, and IH districts;
  2. A multi-family building consisting of five or more units in any zoning district; or
  3. A commercial or mixed use building in an area designated as a “Center” on the County’s Future Land Use & Conservation Plan. Where a portion of a property is located within a “Center” designation, buildings within 200 feet of the predominant public right-of-way must comply with this Section.
- B. **Standards.** All buildings facing public or private rights-of-way that are set back from lot lines shall contain foundation landscaping at least seven feet in width along 75% of the entire length of the building façade and pedestrian facing sides, excluding building entrances. The foundation landscaping shall consist of at least one small tree, installed on average every 20 feet, supplemented with shrubs. See Figure 4.4.5-1: *Building Foundation Landscaping Illustration*.

<sup>246</sup> These standards build on Section 8.8, Landscaping Around Buildings, in the Revised Design Guidelines. Section 8.8 requires landscaping “along sides of buildings where devoid of architectural interest.” That is a vague and hard-to-enforce standard. We have replaced it with a general planting requirement.

**Figure 4.4.5-1: Building Foundation Landscaping Illustration**

**Required plantings along building frontage:  
7' width, including trees and shrubs.**

- C. **Native Plant Requirements.** In the NR, R1, OI, NB, CB, and RB districts, at least 75% of the building foundation plantings shall consist of native plants or native cultivars. In all other districts, at least 50% of the building foundation plantings shall consist of native plants or native cultivars.<sup>247</sup>

#### 4.4.6 STREET TREES

- A. **Purpose.** The purpose of this Subsection is to establish requirements for street trees along development to provide shade, improve aesthetics, and improve the appearance of development in the County.
- B. **Applicability.** Street trees shall be planted or retained along every street frontage for which a vegetative buffer is not required in accordance with this Section, excluding areas within sight triangles.
- C. **Number of Trees.** Street trees shall be planted in a straight alignment so there is at least one street tree on average for every 50 feet of street frontage if canopy trees are used, or every 40 feet of street frontage if understory trees are used due to conflicts with overhead utilities or other obstructions.
- D. **Planting Location.** Trees shall be planted within 15 feet of the street, except adjacent to public streets where NCDOT requires a greater separation between the street and street trees, or where they would conflict with underground utilities or overhead powerlines. When utility easements exists, trees should be planted outside of the easement.

<sup>247</sup> The requirements are carried forward from the Revised Design Guidelines but updated to provide greater specificity.

#### 4.4.7 PARKING LOT LANDSCAPING<sup>248</sup>

- A. **Purpose.** The purpose of this Subsection is to establish requirements for landscaping in and around parking lots to enhance their appearance, provide shade to reduce heat and glare, reduce stormwater runoff, and reduce off-site impacts from noise, vehicle headlights, and parking lot lighting.<sup>249</sup>
- B. **Applicability.** These standards apply to the following parking lots with six or more parking spaces:<sup>250</sup>
1. A new parking lot;
  2. The additional or expanded portion of an existing parking lot; and
  3. The existing portion of a parking lot that is used to park vehicles in a new building or an expanded building.
- C. **Species Requirements.** At least 50% of the plants used, excluding evergreen shrubs, shall be natives or native cultivars.<sup>251</sup>
- D. **Parking Lot Screening.** Except for areas that are required to be kept clear such as sight triangles and parking lot entrances and on the interior of a development site, screening in accordance with the Section 4.4.8: *Transitional Buffers* shall be installed and maintained around the perimeter of all parking lots, if applicable. If Section 4.4.8: *Transitional Buffers* does not apply, screening shall be provided that consists of one or more of the following:<sup>252</sup>
1. A landscape strip at least eight feet in width, with evergreen shrubs planted in a staggered fashion and separated by no more than six feet on center. Each evergreen shrub shall be at least two feet in height at installation with an expected height of ~~four~~three to five feet at maturity. In addition, shade trees shall be planted with a maximum average spacing of ~~43~~0 feet on center, except in areas lying under overhead power lines, where ornamental trees shall be planted with a maximum average spacing of 20 feet on center.
  2. A fence or wall at least four feet in height, with vegetative material that can be expected to screen 40% of the fence or wall within one year of installation planted on the side of the fence or wall opposite from the parking lot. The fence or wall may be made of masonry, wood, or other materials compatible with nearby buildings. Chain link fences are prohibited.<sup>253</sup>

<sup>248</sup> This builds on Section 8.7, Landscaping of Parking Areas, in the Revised Design Guidelines, with revisions to improve the quality of parking lot interior and perimeter landscaping and for clarity. Footnotes contain additional details.

<sup>249</sup> The purpose statement is new.

<sup>250</sup> The applicability standards are new.

<sup>251</sup> Carried forward from Section 8.7.

<sup>252</sup> This requires the installation of screening around parking lots if the more extensive perimeter buffer requirements in Section 4.4.8 do not apply.

<sup>253</sup> Prohibition on chain-link fences is new.

3. An earthen berm at least four feet in height, with a maximum slope of 3:1 and a top width that measures at least one-half of the berm height. A berm shall be stabilized to prevent erosion.

E. **Interior Parking Lot Shading.** Parking lots shall be shaded with landscaping or solar canopies in accordance with the following:

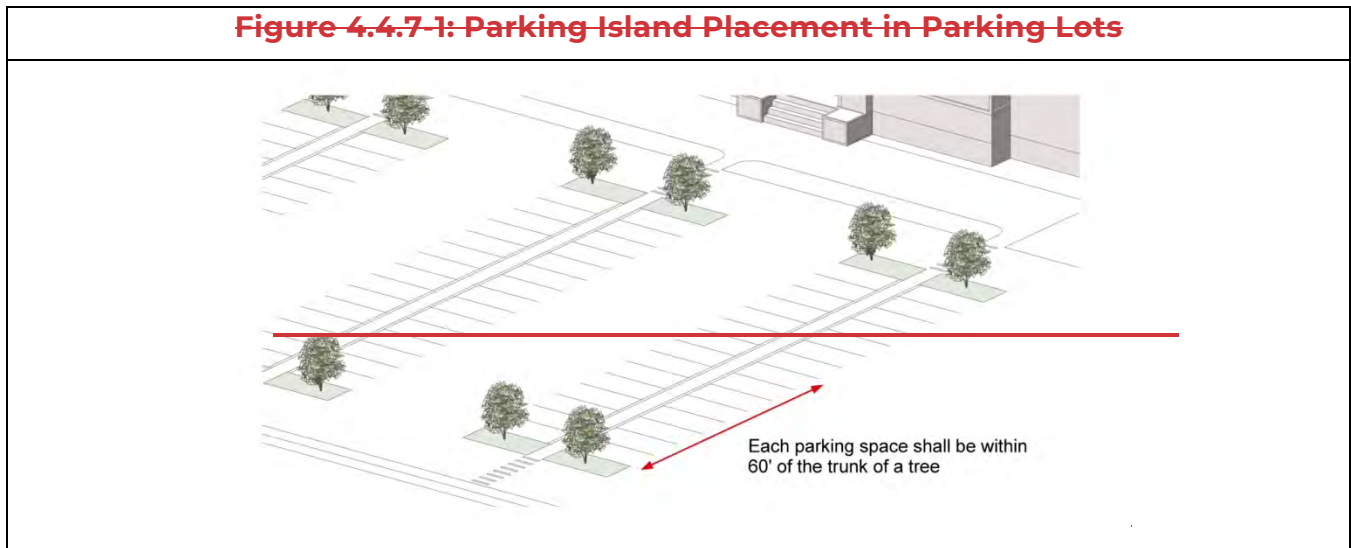
1. *Shading Options.* Parking lots shall include shading provided by landscaping, by solar canopies, or by a combination of both, in accordance with the following:
  - (a) Interior landscaping in accordance with Section 4.4.7E.2: Interior Landscaping, that is applied to the entire interior of the parking lot.
  - (b) Solar canopies in accordance with Section 4.4.7E.5: Solar Canopies, that are applied to cover one-half (50%) of the interior of the parking lot.
  - (c) A combination of interior landscaping in accordance with Paragraph 4.4.7E.1(a) above, and solar canopies in accordance with Paragraph 4.4.7E.1(b) above, based on their proportion. For example, if 40% of the parking area is covered by solar canopies (80% of the solar canopy requirement), then the interior landscaping requirement shall be fulfilled over 20% of the parking lot (20% of the interior landscaping requirement).
2. *Interior Landscaping.*<sup>254</sup> The interior of a parking lot shall be landscaped with plantings within parking islands and additional plantings in accordance with the requirements in 4.4.7E.3: Landscaping of Parking Islands, 4.4.7E.4: Interior Landscaping Plantings, and the following:
  - (a) Each parking space shall be within 60 feet of the trunk of a tree.
  - (b) All plantings shall be designed to minimize interference with lighting, and in no instance shall lighting be closer than 15 feet from medium or large canopy trees, or eight feet from small, understory trees.
  - (c) All interior landscaped areas of the parking lot not dedicated to trees or to preservation of existing vegetation, including parking islands, shall be landscaped with drought tolerant ornamental grasses, groundcovers, shrubs, or other appropriate means of soil cover.
3. *Landscaping of Parking Islands.* Parking islands shall be provided throughout a parking lot and located no more than 150 feet from another parking island and at the terminus of all rows of parking (~~see Figure 4.4.7-1: Parking Island Placement in Parking Lots~~). Each parking island shall:
  - (a) Be at least 200 square feet in area;

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<sup>254</sup> This builds on the current standards. The limit on contiguous spaces is intended to ensure adequate planting islands and shade trees throughout the parking lot.

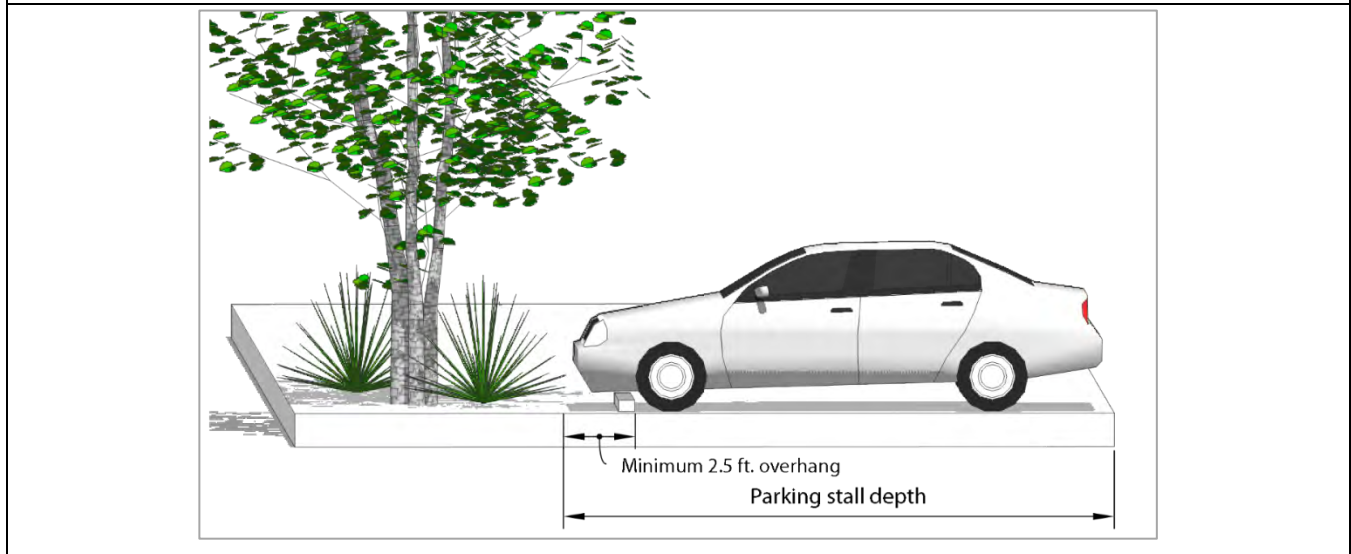
- (b) Contain at least 170 square feet of open planting area, except that if planting islands incorporate collection of stormwater runoff through vegetated swales, rain gardens, or similar features, the minimum planting area shall be 150 square feet;
- (c) Contain at least one shade/canopy tree or two intermediate trees per 180 square feet of area, or fraction thereof;
- (d) Contain stabilizing ground cover such as mulch in all areas that are not planted with trees or shrubs; and groundcovers;
- (e) Place plant material in such a way that it accommodates a two-and-one-half foot bumper overhang of a vehicle over the face of the curb or, if used, wheel stops or other comparable devices (see Figure 4.4.7-12: *Landscaping Accommodation for Vehicle Overhang*).<sup>255</sup>

**Figure 4.4.7-1: Parking Island Placement in Parking Lots**



<sup>255</sup> Planting island standards are new and designed to ensure that trees and other vegetation have adequate room to survive and thrive.



**Figure 4.4.7-12: Landscaping Accommodation for Vehicle Overhang**

4. Interior Landscaping Plantings. In addition to the required tree planting, at least one shrub shall be provided for every 200 square feet of parking lot area, exclusive of perimeter plantings. The shrubs may be placed in the islands, or in other locations within the interior of the parking lot. Any shrub contained in a parking island shall not exceed 30 inches in height.
  5. Solar Canopies. Solar canopies shall include a solar energy system that generates electricity and is connected to the site's electrical system.
- F. **Reservation for Vehicle Overhang.** To prevent vehicle intrusion into vegetated areas, parking lots shall either:<sup>256</sup>
1. Within parking spaces, include wheel stops or comparable devices to prevent vehicle overhang onto perimeter screening and parking lot islands and plantings; or
  2. Within perimeter screens or parking lot islands, arrange the placement of plant materials to accommodate a two-and-one-half foot bumper overhang of a vehicle over the face of the curb.

#### 4.4.8 TRANSITIONAL BUFFERS<sup>257</sup>

- A. **Purpose.** The purpose of this Subsection is to require the installation, enhancement, or preservation of buffers that provide a transitional vegetative buffer, to ensure a natural area of appropriate size and density of plantings is planted or preserved

<sup>256</sup> Builds on existing standard in Section 8.7.

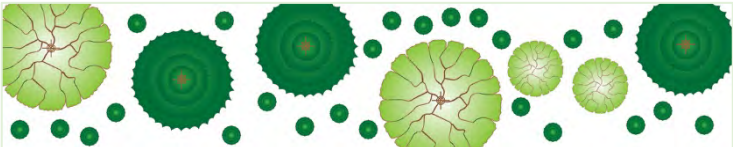
<sup>257</sup> This updates the buffer requirements in Section 7, Buffer and Screening Requirements, of the Revised Design Guidelines. It includes new types of buffers for the development boundary setback established in conditional zoning districts, and along major corridors.

between adjacent sites to mitigate the impacts of incompatible uses, and to preserve and protect the natural character and ecology of the County.

- B. **Applicability.** There are three areas of development that types of required transitional buffers:
  1. **Development Boundary Setback.** A buffer is required in a development boundary setback. See 4.4.8G: *Required Development Boundary Setback Buffer Type*.<sup>258</sup>
  2. **Perimeter Buffer.** A buffer is required between certain adjoining uses or properties. See 4.4.8H: *Required Perimeter Buffer Type*.
  3. **Street Buffer.** A buffer is required between the development and certain streets. See 4.4.8I: *Required Street Buffer Type*.

- C. **Buffer Options.** There are four types of transitional buffers that differ based on function and design.
  1. Type A, B, and C buffers are described and illustrated in Table 4.4.8-1: *Buffer Options*, and the number and variety of plantings required per 100 feet of linear perimeter buffer is set forth in Table 4.4.8-2: *Buffer Width and Plantings*, based on the width of the buffer.
  2. Type D buffers are described in Table 4.4.8-1 and 4.4.8D: *Type D Buffer Standards*.
  3. Plantings within each Type A, B, and C buffer shall be arranged in accordance with the naturalistic design principles described in 4.4.4I: *Naturalistic Design*, and not simply planted in rigid and evenly spaced lines. All plantings shall be designed to accomplish their screening goal within three years of planting. The use of existing vegetation to meet the buffer requirements is encouraged.<sup>259</sup>



**Table 4.4.8-1: Buffer Options**

Buffer Type and Description	Illustration of Required Vegetation in Buffer Segment (20 feet width by 100 feet length) <sup>1</sup>
<p><b>Type A: Opaque</b></p> <p>This buffer is a complete barrier that prevents visual contact between uses and creates a strong separation at any time of year.</p>	

<sup>258</sup> A development boundary setback is required in the CD-CR, CD-CMU, ~~and CD-CN~~, CD-NC, and CD-AC districts.

<sup>259</sup> This incorporates the screening types included in Section 7.5 of the Revised Guidelines. At staff's suggestion, the provision allowing a percentage of the buffer plantings to consist of exotic plants (Section 7.6) has not been carried forward; the standard list of permitted species applies.

**Table 4.4.8-1: Buffer Options**

Buffer Type and Description	Illustration of Required Vegetation in Buffer Segment (20 feet width by 100 feet length) <sup>1</sup>
<p><b>Type B: Semi-Opaque</b></p> <p>This buffer provides a moderate amount of screening that allows views into property from certain areas or during certain seasons.</p>	
<p><b>Type C: Aesthetic</b></p> <p>This buffer functions as an intermittent visual obstruction, creating the impression of separation without eliminating visual contact between uses.</p>	
<p><b>Type D: Successional Growth</b></p> <p>This variable width buffer uses existing natural vegetation to provide separation between uses and a visual screen between development and certain major streets.</p>	

<sup>1</sup> The illustrations in this column reflect the requirements in Table 4.4.8-2: Buffer Width and Plantings. The illustrations include the following plantings:

 <p>Large Canopy Tree</p>	 <p>Evergreen Tree</p>	 <p>Understory Tree</p>	 <p>Deciduous Shrub</p>	 <p>Small Evergreen Shrub</p>
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**Table 4.4.8-2: Buffer Width and Plantings**

Buffer Type	Buffer Width (feet)	Evergreen Tree	Large Canopy Tree	Understory Tree	Evergreen Shrub	Deciduous Shrubs
<b>A</b>	<b>20</b>	3	2	2	24	0
	<b>30</b>	5	3	3	36	0
	<b>40</b>	6	4	4	48	0
	<b>50</b>	8	5	5	60	0
	<b>60</b>	9	6	6	72	0
	<b>80</b>	12	8	8	96	0
<b>B</b>	<b>20</b>	2	1	2	11	5
	<b>40</b>	4	2	4	23	9
	<b>60</b>	6	3	6	34	14

**Table 4.4.8-2: Buffer Width and Plantings**

Buffer Type	Buffer Width (feet)	Evergreen Tree	Large Canopy Tree	Understory Tree	Evergreen Shrub	Deciduous Shrubs
C	20	0	1	2	4	4
D	50	See 4.4.8D: Type D Buffer Standards				

- D. **Type D Buffer Standards.** Where permitted in Table 4.4.8-4: *Required Perimeter Buffer Type and Width*, a Type D buffer is recommended to be used adjacent to vacant land. A Type D buffer shall comply with the following standards:
  - 1. The buffer shall be at least 50 feet wide, except for buffers for land across streets which should may follow the widths specified in Table 4.4.8-4.
  - 2. The buffer shall provide at least a ~~75~~60% visual screen.
  - 3. Native plantings that are consistent with other vegetation in the area may be planted within the buffer. No invasive or non-native plants shall be planted.
  - 4. The buffer shall be cleared of invasive species at least annually.
  
- E. **Permitted Reductions of Perimeter Buffer Width.** One of the following options may be used to reduce width of a required Type A, B, or C buffer:<sup>260</sup>
  - 1. *Fence or Wall.* The buffer width may be reduced by five feet if a fence or wall is placed within the buffer and complies with the following:
    - (a) The fence or wall is at least six feet in height;
    - (b) A wall is built using one or more of brick, stone, or other masonry material, or a fence is built with wood or composite material; and
    - (c) All of the plantings required by Table 4.4.8-1: *Buffer Options* are located between the wall and the adjoining property.
  - 2. *Berm.* The buffer width may be reduced by five feet if a berm is placed within the buffer and the berm:
    - (a) Is at least four feet in height, with a maximum slope of 3:1 and a top width that measures at least one-half of the berm height; and
    - (b) Is landscaped so at least 75% of the raised area is planted with a combination of trees, shrubs, or groundcover, and the remainder of the berm is sodded.
  - ~~3. *Buffer on Abutting Property.* The Director may reduce the width or plantings required to be included in a transitional buffer by up to 50% if the abutting property contains a vegetated buffer that meets the intent of the required~~

<sup>260</sup> This carries forward the option to provide a narrower buffer by including a wall or berm in Section 7.2 of the Revised Design Guidelines. The requirement for berm landscaping is new. Fences made of wood or composite material are also allowed to reduce the buffer, at CCAC’s suggestion.

~~buffer type, or the abutting property is vacant and future development on the site could accommodate the maximum remaining required buffer width.~~

- F. **Native Plant Requirements.** Buffers may include non-native plants up to the limits in Table 4.4.8-3: *Maximum Percentage of Non-Native Plants Permitted in Perimeter Buffer*, based on the applicable zoning district.

Table 4.4.8-3: Maximum Percentage of Non-Native Plants Permitted in Perimeter Buffer		
Buffer Type	R1, OI, NB, CB, and RB Zoning Districts	All Other Zoning Districts
A	50%	25%
B	25%	0%
C	25%	0%
D	0%	0%

- G. **Required Development Boundary Setback Buffer Type.** A development boundary setback shall include a Type D buffer.<sup>261</sup>
- H. **Required Perimeter Buffer Type.** The perimeter of property adjacent to another property shall contain a buffer type and width in accordance with Table 4.4.8-4: *Required Perimeter Buffer Type*; (for non-subdivision developments) or 5.3.7: Perimeter Buffers for Subdivisions, as applicable, and the following.
  1. The designation of the required buffer type and width shall be based on the following:
    - (a) The proposed use of the development site and the use of the adjacent property, or, if the adjacent land is vacant, the zoning district classification of the adjacent land; and
    - (b) Whether the proposed development site is abutting the property or separated from the property by a street.
  2. For each cell in Table 4.4.8-2, there are two required buffer types and widths listed, separated by a vertical bar (|). The first value indicates the required buffer type and buffer width for abutting property not separated by a street. The second indicates the required buffer type and buffer width for abutting property that is separated by a street buffer.
  3. The required buffer width may be reduced in accordance with 4.4.8E: *Permitted Reductions of Perimeter Buffer Width*.

<sup>261</sup> This requires a buffer within the development boundary setback established in the conditional zoning districts. See Section 2.3: *Conditional Districts*.

4. For purposes of Table 4.4.8-4, principal uses and use categories have been consolidated into the following Use Groups:<sup>262</sup>
  - (a) **Use Group 1:** All Agriculture & Horticulture Uses; single-family detached dwellings; townhouses; two-family dwellings (duplex); and minor utilities.
  - (b) **Use Group 2:** All remaining Residential uses; solar energy systems (level 2 or 3, any size).
  - (c) **Use Group 3:** All Accommodations & Lodging uses; all Arts, Entertainment & Recreation uses; all Business, Professional, Scientific, & Technical uses; all Government uses; all Healthcare uses; all Institutional & Civic uses; all Mixed uses; all Retail, Service, and Food & Beverage uses; all Vehicle-Related uses; and self-service storage facilities;
  - (d) **Use Group 4:** All Heavy Commercial, Manufacturing, & Industrial uses; all Natural Resources Extraction uses; all remaining Transportation, Warehousing & Storage Uses; all remaining Utility Uses; and all Waste Management uses.
5. For example, a proposed use in Use Group 3 that is next to a property with a use in Use Group 4 or that is in the IL or IH districts is required to provide a Type B buffer at least 20 feet in width along the properties' shared lot line. If the abutting property is across the street, the proposed use is required to provide a Type C buffer at least 20 feet in width. If the adjacent land is vacant, the proposed use may provide a Type D buffer.

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<sup>262</sup> This carries forward the intent of the buffer matrix in Section 7.4, Minimum Buffer Sizes and Types of Screens Required for Proposed Land Use Classes, in the Revised Design Guidelines, with updates to reflect the new set of uses and zoning districts. The current matrix bases buffer requirements on land use classes. However, those land uses classes are not clearly or exhaustively defined in the current Zoning Ordinance, and this categorization system has not carried forward in the new UDO. In this UDO, land uses have been classified into four different groups of uses that have might have similar impacts on adjoining property, and that might be in need of buffers to mitigate impacts from uses in use groups. The four use groups primarily consist of all uses within certain principal use categories (see Section 3.2.4: *Description of Principal Use Categories* for descriptions of each). However, in several cases individual uses have been taken from their categories and placed into other use groups. For example, the self-service storage facilities use has been placed in Use Group 3, while the remaining Transportation, Warehousing & Storage Principal Uses (which include uses such as flammable liquids – bulk plants and storage) have been placed in Use Group 4.

**Table 4.4.8-4: Required Perimeter Buffer Type and Width<sup>263</sup>**

Proposed Use <sup>1</sup>	Existing use, or zoning of vacant land (adjacent land   land across street)			
	Uses in Use Group 1 or vacant land in PP, AG, RA, R5, R2, NR, R1	Uses in Use Group 2 or vacant land in RV, NB, CD-CR	Uses in Use Group 3 or vacant land in OI, CB, RB, RHC, CD-CMU, CD-CN, CD-NC, CD-AC, B1	Uses in Use Group 4 or vacant land in IL, IH
Uses in Use Group 1	None   None	None   None	None   None	None   None
Uses in Use Group 2	A-20 ft   C-20 ft	A-20 ft <del>None</del> <sup>2</sup>   C-20 ft <sup>2</sup>	A-20 ft <del>None</del>   C-20 ft <sup>2</sup>	B-20 ft <sup>2</sup>   C-20 ft <sup>2</sup>
Uses in Use Group 3	A-20 ft   B-20 ft	B-20 ft <sup>2</sup>   C-20 ft <sup>2</sup>	None   C-20 ft <sup>2</sup>	B-20 ft <sup>2</sup>   C-20 ft <sup>2</sup>
Uses in Use Group 4	A-80 ft   A-60 ft	A-80 ft   A-60 ft	B-40 ft <sup>2</sup>   A-20 ft <sup>2</sup>	None   C-20 ft <sup>2</sup>

<sup>1</sup> Development proposed adjacent to vacant land in legacy conditional districts established in Section 2.4: Legacy Districts shall provide the buffer required for the most intense use allowed in the conditional district.

<sup>2</sup> A Type D buffer may be used in lieu of the specified buffer if the adjacent land is vacant.

- I. **Required Street Buffer Type.** The edges of property adjacent to the following segments of streets shall contain a Type A buffer at least 20 feet in width or a Type D buffer in accordance with Table 4.4.8-2: *Buffer Width and Plantings*. If a property is required to have a street buffer in accordance with this paragraph as well as a perimeter buffer in accordance with Paragraph 4.4.8H above, only the wider required buffer is required.<sup>264</sup>
1. US 15-501. US 15-501 between Smith Level Road and the Town of Pittsboro.
  2. US 64. The entirety of US 64 within the County.
  3. US 421. US 421 between Siler City and Lee County.
  1. NC 87. The entirety of NC 87 within the County.

<sup>263</sup> If adjacent land is vacant, the required buffer is determined by reference to the zoning district that applies to the land. Therefore, a use in Use Group 4 that is adjacent to vacant land in the R2 district would be required to provide a Type A buffer at least 80 feet in width.

<sup>264</sup> This is a new type of buffer that is required along the perimeter of property adjacent to certain major roadways in the County. This was requested by the public and staff to provide enhanced screening and preserve the County’s rural character along these major transportation corridors.

- J. **Development Within Required Buffer.** Development in a required buffer is limited in accordance with the following:<sup>265</sup>
1. *Utility Easements.* A required buffer may not contain a utility easement, including overhead power lines, unless the easement is located generally perpendicular to the buffer and is aligned with an allowed pedestrian or vehicular accessway through the buffer.
  2. *Impervious Surface.* Buildings, structures, mechanical equipment, and impervious surfaces are prohibited within a required buffer.
  3. *Sidewalks.*
    - (a) Sidewalks and greenway trails are permitted to cross through a required perimeter buffer if they cross at an angle as close to perpendicular as reasonably possible.
    - (b) Sidewalks and greenway trails are permitted within a required buffer along a street provided a vegetative buffer 15 feet in width is maintained between the street and the use, the amount of vegetation required within a Type A buffer is included within the 15-foot buffer, and the width of the buffer is increased by the width of the clearing required for the sidewalk and greenway trails.
    - (c) Sidewalks and greenway trails are permitted within a development boundary setback in accordance with the regulations of the applicable zoning district.
  4. *Access and Egress.* When a required buffer abuts a street, breaks are permitted for pedestrian and vehicular access, as appropriate. When a development includes a stub street for future connection to an adjacent lot, there may be a break in the required buffer for the width of the stub street.
  5. *Retaining Walls.* Retaining walls are permitted in a buffer. Retaining walls may be taller than three-and-a-half feet in height if the wall is designed to blend into the buffer through the use of vegetation that screens the retaining wall from view, or the retaining wall is a vegetated living wall system.

#### 4.4.9 SCREENING OF SITE FEATURES<sup>266</sup>

- A. **Purpose.** The purpose of the screening standards is to conceal specific site features that might have negative visual or auditory impact from both on-site and off-site views.<sup>267</sup>

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<sup>265</sup> Builds on the requirements in Section 7.2, Buffer Requirements, of the Revised Design Guidelines. The limitations on buildings and impervious surface are new.

<sup>266</sup> Builds on the standards for screening of site features in Section 7.7, Additional Screening Requirements, of the Revised Design Guidelines. Changes are noted in footnotes below.

<sup>267</sup> Purpose statement is new.



- B. **General Standards.** The site features to be screened shall be screened at all times, unless otherwise stated in this Subsection, regardless of adjacent development, or the types and amount of landscaping material required to be placed on the development site from other requirements. Breaks in the screen are permitted for pedestrian and vehicular access, as needed.
- C. **Screened Features.** The following site features shall be screened. These are minimum standards and, where possible, the site features shall be screened from public view by designing sites to block these areas with buildings or other site features.
1. *Outdoor Storage Areas.* Except where specifically provided in this Ordinance, all outdoor areas in non-residential and mixed-use development that are being used for storage shall be enclosed on all sides and at a height sufficient to screen the objects being screened, by a wall or opaque fence with access by an operable gate. A gate shall not swing onto any public right-of-way.
  2. *Ground-Mounted Electric Transformers.* Ground-mounted electrical transformers shall be screened with plantings. The plantings shall be installed on the two sides most visible from other properties, shall consist of evergreen shrubs, and shall be expected, within two years of planting, to reach a height equal to the electrical transformers and associated equipment and provide an approximately 80% visual screen.
  3. *Garbage and Recycling Containers, and Stored Construction Materials.* Garbage and recycling containers, stored construction materials, and similar items shall be screened with one or more of the following:
    - (a) An opaque wall constructed of materials compatible with those used on the principal buildings on the site and that is of a height equal to or greater than the objects to be screened;<sup>268</sup>
    - (b) Vegetative material, consisting primarily of evergreen shrubs or small trees, that is a minimum of four feet in height when installed, and shall be expected, within two years to reach a height equal to or greater than the objects being screened and provide an approximately 95% visual screen;
    - (c) A fence or wall constructed of solid wood that provides an approximately 95% visual screen. The fence shall be at least one foot higher than the objects to be screened and extend down to within one foot of the ground. The fence or wall shall be landscaped with evergreen shrubs expected, within three years of erection of the structure, to screen from view at least 30% of the surface area of the fence or wall on the two sides most visible from other properties.

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<sup>268</sup> Height requirement is new, and “same architectural style” has been replaced with materials-based standards, as is used elsewhere in this draft and the Revised Design Guidelines.

4. *Repair Work, Dismantling, or Servicing of Vehicles.* An area used for the repair, dismantling, or servicing of vehicles shall be screened by an opaque wall or fence that is at least eight feet in height. The fence or wall shall be landscaped with evergreen shrubs designed so that at least 35% of the surface area of the fence or wall is screened from view.
- ~~5. *Ground Mounted Satellite Dish Antenna, at Least 25 Inches in Diameter.* A ground mounted satellite dish antenna that is at least 25 inches in diameter shall be screened from view of public right of way, a residential use, or vacant land in a residential zoning district with a fence, wall, or vegetative screen that is at least the height of the satellite dish antenna and that provides an approximately 70% visual screen.~~
- 6.5. *Loading Areas.* A loading area accessed through overhead delivery doors that include exterior loading docks and steps shall be screened with one of the following, except that if the loading areas contains garbage and recycling containers or stored construction materials, it shall be screened in accordance with 4.4.9C.3: Garbage and Recycling Containers, and Stored Construction Materials:
- (a) An opaque wall or fence at least six feet in height. constructed of materials compatible with those used on the principal buildings on the site. The fence or wall shall be landscaped with low shrubs placed around the corners and 25 feet on center along the walls; or
  - (b) Vegetative material, consisting primarily of evergreen shrubs or small trees, that is a minimum of four feet in height when installed, and expected to reach a height of six feet within two years, and provide an approximately 95% visual screen.

#### 4.4.10 LANDSCAPING MAINTENANCE<sup>269</sup>

- A. **Applicability.** The owner of land subject to the requirements of this Section is responsible for the maintenance of required landscaping in a healthy and good condition.<sup>270</sup>
- B. **General Standards.** All landscaped areas shall be maintained in accordance with the approved landscape plan and shall present a healthy and orderly appearance, free from refuse and debris. Any plant life shown on an approved landscape plan shall be replaced if it dies, is in poor health, is seriously damaged, or is removed. All landscaping areas shall be maintained so as to prevent debris from washing onto streets and sidewalks. Removal of invasive species is permitted.

<sup>269</sup> This includes general landscape maintenance requirements; portions have been carried forward from the Revised Design Guidelines as discussed below.

<sup>270</sup> This new section makes clear that the owner of property, not the original developer, is responsible for continued maintenance of site landscaping.

- C. **Maintenance of Perimeter Buffers.** Perimeter buffers shall be maintained at the level of effectiveness required by this Ordinance in perpetuity.<sup>271</sup>
- D. **Tree Trimming and Pruning.** All required plantings shall be allowed to reach their mature size. Trimming and pruning shall be performed in accordance with the standards in ANSI A300. Topping is not an acceptable pruning practice. The County may require the removal and replacement of any trees that have been topped or excessively trimmed.<sup>272</sup>
- E. **Removal of Invasive Species.** All invasive species may be controlled or eradicated. The use of environmentally friendly methods is recommended.<sup>273</sup>

## 4.5 LIGHTING<sup>274</sup>

### 4.5.1 PURPOSE<sup>275</sup>

This Chapter regulates lighting to:

- A. Ensure adequate safety, night vision, and comfort;
- B. Reduce light pollution;
- C. Ensure lighting does not create or cause excessive glare on adjacent properties and street rights-of-way;
- D. Provide a safe and secure nighttime environment;
- E. Provide safe access into buildings; and
- F. Enhance historic or notable features, buildings, or architectural elements.

<sup>271</sup> From Section 7.2, Buffer Requirements, of the Revised Design Guidelines.

<sup>272</sup> From standards in Section 8.10, Plant Material and Installation Standards, of the Revised Design Guidelines.

<sup>273</sup> New.

<sup>274</sup> This Section carries forward and modernizes the exterior lighting standards in ZO Section 13: Lighting. Proposed is to eliminate the use of the Illuminating Engineering Society of North America (IESNA) Cutoff Classifications (ZO Section 13.2). Current best practices use the terms fully shielded, partially shielded, and unshielded. The [Pattern Outdoor Lighting Code](#) (July 2010), [Joint IDA-IES Model Lighting Ordinance](#) (2011), and [International Dark-Sky Association Outdoor Lighting Code Handbook](#) (2002) all use the shielded rather than cutoff terminology. Replaces the term *wattage* with *lumens*. Watts are a measure of power consumption, while lumens are a unit of measure used to quantify the amount of light produced by a lamp. Proposes to eliminate all uniformity requirements and all limitations on footcandles at the lot line in favor of the lighting levels specified in 4.5.8 and the BUG ratings in 4.5.9. Proposes to delete 4.5.9. ZO Section 13.4 *Light Measurement Technique* for consistency since it describes how to measure light levels. Proposes to relocate the nonconforming lighting provisions to Chapter 14: Nonconformities & Vested Rights. See discussion of proposed changes in the [Audit Report](#) (p. 79).

<sup>275</sup> Carries forward ZO Section 13.1 Intent and Purpose (Lighting). Adds new purposes in 4.5.1.D, E, and F.

### 4.5.2 APPLICABILITY<sup>276</sup>

- A. This Section applies to lighting for:
1. Commercial, office, institutional, and industrial developments;
  2. Multi-family dwellings containing five or more dwelling units;<sup>277</sup>
  3. Apartment complexes;
  - 3.4. Amenity areas (e.g., sports courts, swimming pools, playgrounds) located in residential subdivisions;
  - 4.5. Vehicular canopies; and
  - 5.6. Outdoor display areas.
- B. This Section applies to street lighting in major subdivisions, if provided. Other types of lighting in major subdivisions are not subject to this Section.
- C. This Section applies to new development and to new or replacement light fixtures installed on an existing developed property.
- D. This Section does not regulate lighting on the interior of a building except to prohibit it from being a nuisance, as defined in 4.5.4C: Nuisance Lighting.

### 4.5.3 EXEMPTIONS<sup>278</sup>

This Section does not apply to the following types of exterior lighting:

- A. Lighting used only under emergency conditions;
- B. Traffic control signals and devices;
- C. Lighting for single-family detached dwellings, townhouses, and two-family dwellings;
- D. Lighting for multi-family buildings with four or fewer dwelling units;<sup>279</sup>

<sup>276</sup> This Subsection proposes to limit the current applicability of the exterior lighting standards as set forth in ZO Section 13.16 Permitting and Approval Process. Currently, the standards apply to all development, including detached single-family dwellings. Clarifies the standards apply for both new and existing development.

<sup>277</sup> [H488](#) added three- and four-family dwellings to the Residential Building Code. [160D-702\(b\)](#) prohibits the application of “building design elements” to dwellings subject to the Residential Code. However, it appears that exterior lighting is not considered a “building design element.” Nonetheless, proposed here is to only apply the exterior lighting regulations to multi-family buildings with five or more dwelling units. The exterior lighting regulations apply to all apartment complexes, even if some of the individual buildings contain fewer than five dwelling units.

<sup>278</sup> New subsection that clarifies the types of lighting exempt from this Section. Proposed is to eliminate the exemption provided in current ZO Section 13.5.6 for “fixtures installed, owned, or leased by governmental or public agencies, or their agents, for the purpose of illuminating public streets.” Instead, 4.5.13: *Street Lighting* proposes new standards.

<sup>279</sup> Exterior lighting for apartment complexes is not exempt.

- E. Lighting for family care homes;
- F. String lights used in outdoor areas of eating and drinking establishments, if the lights are turned off after the establishment's operating hours;
- G. Lighting associated with an approved temporary use;<sup>280</sup>
- H. Temporary lighting associated with a development site;
- I. Lighting for public monuments and statues;
- J. Lighting for outdoor sculptures and other types of public art, if it is not a nuisance as defined in 4.5.4C: Nuisance Lighting;
- K. Lighting of the United States of America and State of North Carolina flags and other flags or insignia of any governmental entity;<sup>281</sup>
- L. Underwater lighting in fountains, swimming pools, and other water features;
- M. Lighting required pursuant to state and federal laws (e.g., FAA); and<sup>282</sup>
- N. Lighting required by the Building Code.

#### 4.5.4 PROHIBITED EXTERIOR LIGHTING<sup>283</sup>

The following types of exterior lighting are prohibited:

- A. **Exterior Lighting Resembling Emergency Signals.** Exterior lighting that contains reflectors or glaring, strobe, or rotating lights, beacons, beams, or flashing illumination resembling an emergency signal.
- B. **Searchlights, Aerial Lasers, and Beacons.** Searchlights, aerial lasers, or any type of beacon used to attract attention to a property. This does not prohibit the use of a searchlight by authorized personnel for emergency purposes.
- C. **Nuisance Lighting.** Lighting that creates excessive glare or light trespass such that it has a significant and ongoing negative impact on nearby lots, buildings, streets, or sidewalks.

#### 4.5.5 EXTERIOR LIGHTING DESIGN PRINCIPLES<sup>284</sup>

- A. **Generally.**

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<sup>280</sup> ZO Section 13.6.4.c currently exempts "[t]emporary lighting for special events of short duration. Typically, these are low wattage or low voltage applications for public festivals, celebrations, and the observance of holidays, carnivals, and celebrations. Portable (non-permanent) internally illuminated signs come under this classification and, as such, can be used for up to thirty (30) days only."

<sup>281</sup> Carries forward exemption provided in ZO Section 13.5.6.4.e.

<sup>282</sup> ZO Section 13.6.4.c currently exempts "[a]irport lighting controlled by the Federal Aviation Administration (FAA)."

<sup>283</sup> This Section is new.

<sup>284</sup> Paragraphs B, C, D, and E are from the Appearance Commission's draft revised Chatham County Design Guidelines.

1. This Subsection establishes design principles that reflect the County's goals in regulating exterior lighting.
  2. While these are not regulatory standards, the exterior lighting plan required by 4.5.14: Exterior Lighting Plan Required must demonstrate the general alignment of the lighting plan with the principles in this Subsection. To demonstrate this, the plan must include a narrative describing how it implements these design principles.
- B. **Protection of Natural Areas.** Natural areas and natural features are protected from light spillage from off-site sources.
  - C. **Compatibility With Surrounding Uses.** Light sources are compatible with the light produced by surrounding uses and produce an unobtrusive degree of brightness in both illumination levels and color temperature.
  - D. **Enhancement of Public Spaces.** Foreground spaces, such as building entrances and plaza seating areas, use lighting that defines, highlights, or enhances the space without glare.
  - E. **Unobtrusive Lighting of Background Spaces.** Background spaces, such as parking lots and driveways, are illuminated as unobtrusively as possible to meet the functional needs of safe circulation and to protect people and property.
  - F. **Energy Efficiency.** The exterior lighting plan demonstrates consideration for reduced energy consumption through the selection of energy efficient fixtures.<sup>285</sup>

#### 4.5.6 GENERAL STANDARDS FOR ALL EXTERIOR LIGHTING<sup>286</sup>

- A. **Fully Shielded Fixtures.** Other than floodlights and flood lamps, all outdoor site area and parking lot lighting fixtures of more than 2,000 lumens must be fully shielded fixtures. All dusk-to-dawn open bottom security lights, regardless of lamp lumens, must be fully shielded.<sup>287</sup>
- B. **Maximum Height.**
  1. The mounting height of all exterior lighting, except building lighting, outdoor sports field lighting, and outdoor performance area lighting (see 4.5.10F: Outdoor Sports Field/Outdoor Performance Area Lighting.), shall not exceed 37 feet above finished grade.

<sup>285</sup> Carries forward ZO Section 13.5.1.

<sup>286</sup> Carries forward ZO Section 13.5 General Standards for Outdoor Lighting and ZO Sections 13.6.1, 13.6.2, 13.6.4.a, and 13.6.4.b [Lighting in Outdoor Areas (Residential and Non-Residential)]. Proposes to remove the provisions for lighting reduction since the NC Energy Conservation Code Section [C405.2.5: Exterior lighting controls](#) already requires dusk-to-dawn lighting or the use of a photosensor and time switch.

<sup>287</sup> The exception in ZO Section 13.6.4.a is proposed to be removed. Other exceptions in ZO Section 13.6.4.c, d, and e are proposed to be relocated to 4.5.3: Exemptions.

2. Building lighting is limited to the height of the building on which it is located.<sup>288</sup>

C. **Type and Style of Light Fixtures.**<sup>289</sup>

1. The type and style of light fixtures shall be consistent with the style and character of architecture on the site.
2. Light poles, brackets, and fixtures shall be of a matte or low-gloss grey, black, dark earthen, or bronze finish.

D. **Lighting Color.**<sup>290</sup>

1. Blue light emissions can be harmful to flora and fauna, and can result in decreased nighttime visibility and increased skyglow.<sup>291</sup> In order to minimize blue light emission, warm spectrum amber lighting must be used rather than cool spectrum blue or white lighting, as specified in 4.5.6.D.2, below.
2. Except as provided in 4.5.6.D.3, below, the correlated color temperature of all exterior lighting must be 4,000 Kelvin (4000K) or lower, with tolerance within the ANSI standard C78.377 for LED sources.
3. Low-light output (800 lumens or lower) landscaping or other decorative lighting, sign lighting, and customer entrance or service area lights aiming down and installed under a canopy or similar roof structure are exempt from the lighting color requirement specified in 4.5.6.D.2, above.

E. **Floodlights.**

1. All floodlights shall be installed such that the fixture is aimed down at least 45 degrees from vertical, as illustrated in Figure 4.5.6-1: Floodlight Orientation.
2. Floodlights shall be positioned such that any such fixture located within 50 feet of a vehicular travel way is mounted and aimed perpendicular to the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed 15 degrees from perpendicular to the travel way, as illustrated in Figure 4.5.6-1: Floodlight Orientation.
3. The Zoning Administrator may require shields to be installed on floodlights before, during, or after the installation when needed to further reduce lighting trespass, glare, and light pollution.
4. Floodlights shall not be aimed at residential property.

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<sup>288</sup> This sentence is new and clarifies that building lighting is not subject to the height limits for other exterior lighting.

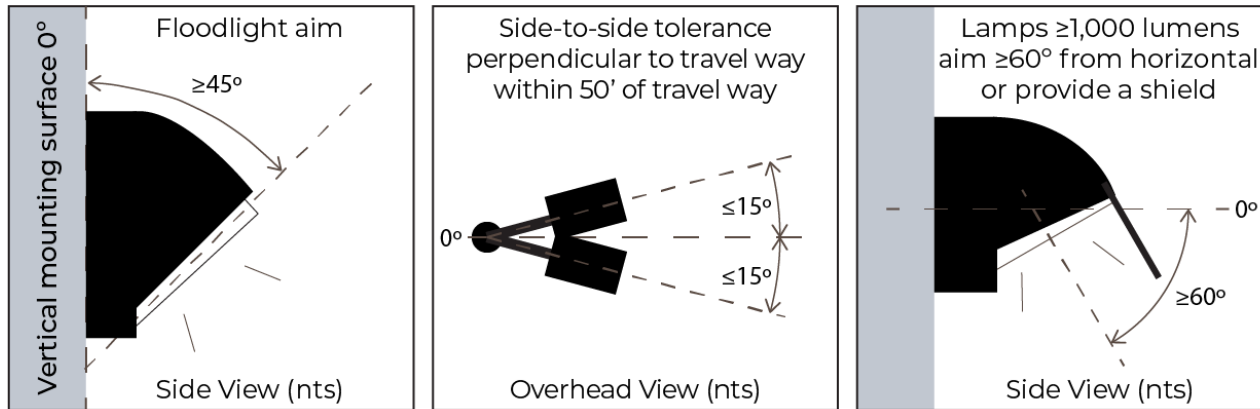
<sup>289</sup> Proposed new text from the Appearance Commission's draft revised Chatham County Design Guidelines.

<sup>290</sup> These provisions are new. The Appearance Commission's draft revised Chatham County Design Guidelines propose requiring all exterior lighting to be white or amber except the low-light output lighting described in Paragraph D.3.

<sup>291</sup> International Dark-Sky Association, [Why Is Blue Light at Night Bad?](#), December 22, 2016.

5. All flood lamps emitting 1,000 or more lumens shall be aimed at least 60 degrees down from horizontal or shielded such that the main beam from the light source is not visible from adjacent properties or the vehicular travel way.

**Figure 4.5.6-1: Floodlight Orientation**<sup>292</sup>



- F. **Wall Pack Fixtures.** All wall pack fixtures shall be fully shielded.<sup>293</sup>
- G. **Additional Lighting Standards.** This Section specifies additional lighting standards (see 4.5.10) for the following land uses:
  1. Recreation camps and grounds;
  2. Surface parking lots;
  3. Vehicular canopies;
  4. Outdoor display areas;
  5. Buildings; and
  6. Outdoor sports fields and outdoor performance areas, including those located on public and private school grounds or on university campuses.

#### 4.5.7 LIGHTING ZONES

- A. **Generally.**
  1. Subsections 4.5.8: Lighting Levels and 4.5.9: Limits to Off-Site Impacts regulate the amount of exterior lighting and off-site impacts by lighting zone.
  2. Many zoning districts have common characteristics for the purposes of exterior lighting regulations, and this Subsection combines zoning districts into common lighting zones. Table 4.5.6-1: *Lighting Zones* designates the zoning districts included in each lighting zone.

<sup>292</sup> These graphics will be updated.

<sup>293</sup> ZO Section 13.5.5 currently requires wall pack fixtures to be full cutoff fixtures.



**Table 4.5.6-1: Lighting Zones**

Zoning District	Lighting Zone (LZ)
PP, AG, RA, R5, R2, RV	LZ-1
NR, R1, OI, NB, CB, RB, RHC, IL, CD-CR, CD-MU, CD-CN	LZ-2
IH	LZ-3

**B. Description of Lighting Zones.**

1. Lighting Zone 1 (LZ-1). LZ-1 includes areas with low ambient lighting levels. These typically include developed areas in parks and conservation/recreation areas, agricultural areas, rural residential areas, and rural village centers.
2. Lighting Zone 2 (LZ-2). LZ-2 includes areas with moderate ambient lighting levels. These typically include suburban residential areas, office parks, neighborhood business districts, mixed use areas, and light industrial uses with limited nighttime operations.
3. Lighting Zone 3 (LZ-3). LZ-3 includes areas with moderately high lighting levels. These typically include heavy industrial uses with nighttime operations.

**4.5.8 LIGHTING LEVELS<sup>294</sup>**

- A. Individual lighting power allowances for building exteriors are specified in the [North Carolina State Building Code: Energy Conservation Code \(ECC\)](#). The ECC includes allowances for building entrances and exits as well as uncovered parking areas, walkways, sales canopies, and outdoor sales areas.
- B. The ECC regulates exterior lighting by lighting zone, and generally describes the types of uses in each lighting zone. Subsection 4.5.6: General Standards for All Exterior Lighting establishes lighting zones specific to Chatham County, which are consistent with the lighting zones established in the ECC.
- C. Although F, S, and U occupancy classifications (as defined in the Building Code) are not subject to the ECC pursuant to N.C.G.S. [§ 143-138\(b18\)](#), they must comply with this Subsection.

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<sup>294</sup> A best practice is to regulate the amount of lighting using a lumens per acre or lumens per square foot limit. Proposed here is to use the individual lighting power allowances for building exteriors specified in the North Carolina State Building Code: Energy Conservation Code ([Section C405.5](#)). These are de facto lumen per square foot or lumen per acre limits that serve as a basis to limit overlighting, especially in concert with the LZ-based scaled allowances. The watt per square foot limits in the Energy Conservation Code are periodically adjusted as lumen per watt efficacies increase due to technological advances.

**4.5.9 LIMITS TO OFF-SITE IMPACTS<sup>295</sup>**

- A. All luminaires shall be rated and installed according to Table 4.5.9-1: Maximum Allowable Backlight, Uplight, and Glare (BUG) Ratings. Components of BUG ratings are illustrated in Figure 4.5.9-1.
- B. A luminaire may be used if it is rated for the lighting zone of the site or is lower in number for all ratings (B, U, and G). Luminaires equipped with adjustable mounting devices permitting alteration of the luminaire aiming in the field are prohibited. All parking lot luminaires must be aimed towards the interior of the parking lot.
- C. If a luminaire does not have a BUG rating, it must be fully-shielded (see Figure 4.5.9-2: Examples of Fully-Shielded Luminaires).

**Table 4.5.9-1: Maximum Allowable Backlight, Uplight, and Glare (BUG) Ratings**

	Lighting Zone (LZ)		
	LZ-1	LZ-2	LZ-3
<b>Backlight Rating (max)</b>			
Luminaire located 2 or more mounting heights from lot line	B3	B4	B5
Luminaire located 1 to less than 2 mounting heights from lot line and ideally oriented <sup>1</sup>	B2	B3	B4
Luminaire located 0.5 to less than 1 mounting height from lot line and ideally oriented <sup>1</sup>	B1	B2	B3
Luminaire located less than 0.5 mounting height to lot line and ideally oriented <sup>1</sup>	B0	B0	B1
<b>Uplight Rating (max)</b>			
All luminaires	U0	U0	U0
<b>Glare Rating (max)</b>			
Luminaire located 2 or more mounting heights from lot line	G1	G2	G3
Any luminaire not ideally oriented and located within 1 to less than 2 mounting heights to any lot line	G0	G1	G1

<sup>295</sup> Proposed here is to limit off-site impacts of exterior lighting using Backlight, Uplight, and Glare (“BUG”) ratings, which is a best practice. BUG ratings are provided on the manufacturer’s spec sheet for the luminaire. As such, they are easily verifiable during site plan review. Using BUG ratings eliminates the need to regulate footcandles at the lot line. (Zoning Ordinance Section 13.5.2 states “Unless otherwise specified in the following subsections, the maximum light level is 0.5 maintained footcandles at any property line adjacent to a residential district, or on a lot occupied by a dwelling, congregate care structure, or congregate living structure, unless otherwise approved by the County.” This provision is proposed for removal in favor of the use of BUG ratings.)

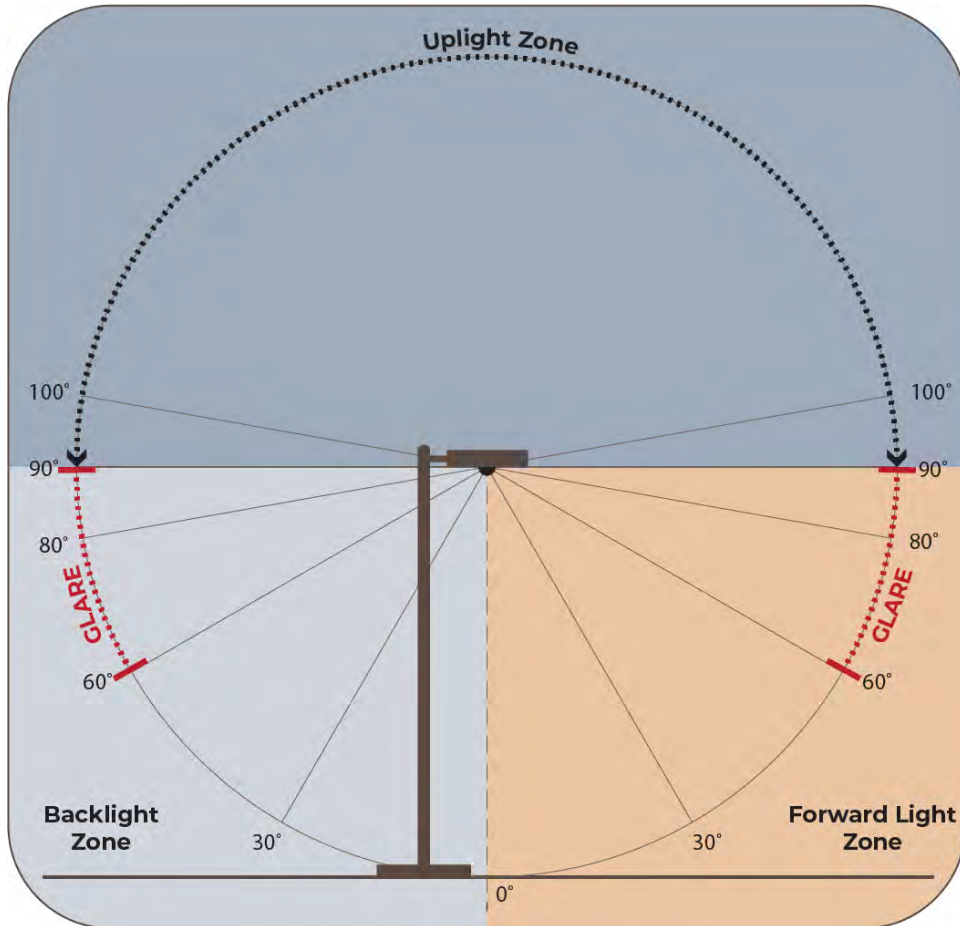
**Table 4.5.9-1: Maximum Allowable Backlight, Uplight, and Glare (BUG) Ratings**

	Lighting Zone (LZ)		
	LZ-1	LZ-2	LZ-3
Any luminaire not ideally oriented and located within 0.5 to less than 1 mounting height to any lot line	G0	G0	G1
Any luminaire not ideally oriented and located within less than 0.5 mounting heights to any lot line	G0	G0	G0

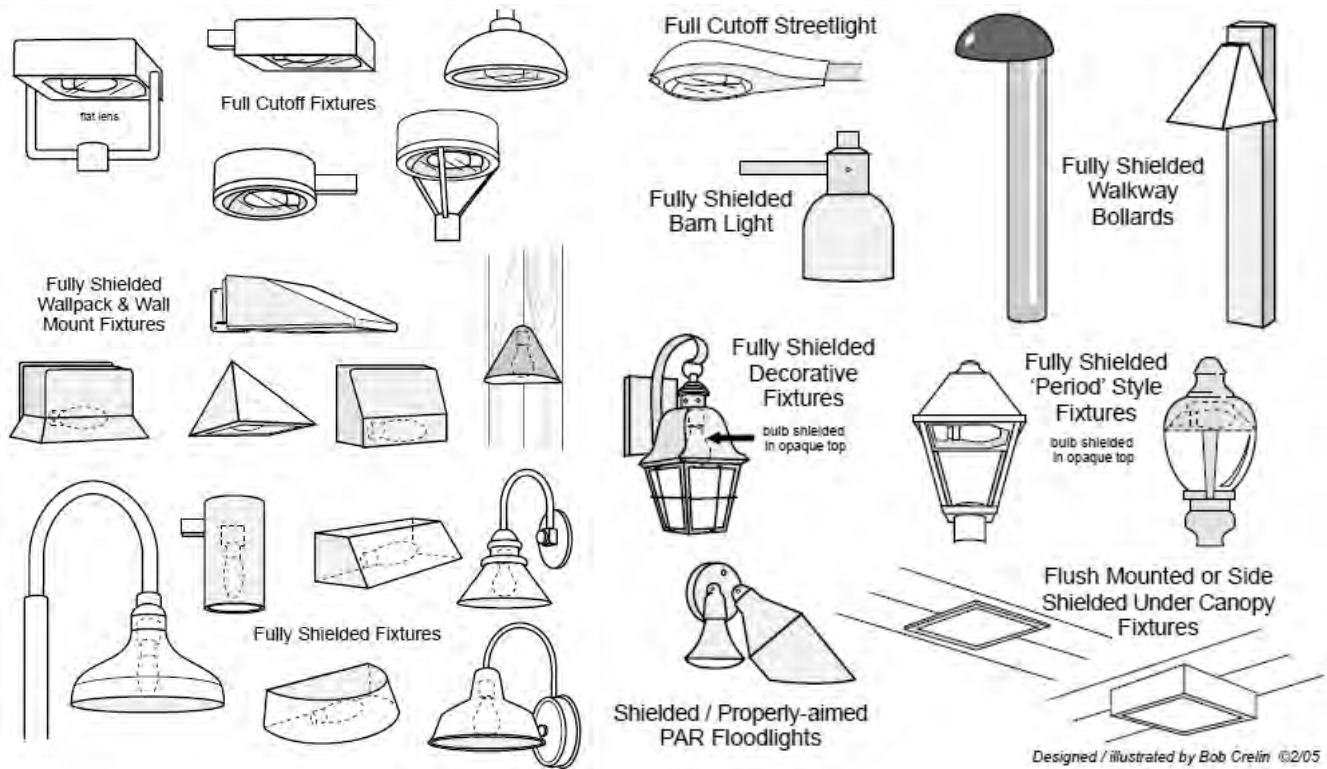
**Key:** max = maximum allowed | B = backlight | U = uplight | G = glare

<sup>1</sup> To be considered “ideally oriented,” the luminaire must be mounted with the backlight portion of the light output oriented perpendicular and towards the lot line.

**Figure 4.5.9-1: Components of BUG Ratings**



**Figure 4.5.9-2: Examples of Fully-Shielded Luminaires**



**4.5.10 ADDITIONAL LIGHTING STANDARDS FOR BUILDINGS & CERTAIN LAND USES**

**A. Building Lighting.<sup>296</sup>**

1. Lighting fixtures shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the building façade, plantings, and other intended site features, and away from adjoining properties and vehicular travel ways.
2. To the extent practical and where possible, lighting fixtures shall be directed downward rather than upward.
  - (a) When upward aiming is used, placement of low wattage fixtures with shields (as needed) close to the building to graze the façade is required to minimize reflected light from windows and other surfaces.

<sup>296</sup> Carries forward ZO Section 13.11 Lighting of Buildings.

- (b) The Zoning Administrator<sup>297</sup> may waive this requirement in rare and unusual cases if it is demonstrated that the physical location of light fixtures close to the building to accomplish this design is not possible.

**B. Recreation Camps and Grounds.**<sup>298</sup>

1. Recreation camps and grounds are typically located in areas that are intrinsically dark landscapes at night, Such as state and national parks, conservation areas, natural recreation areas, and rural areas. Recreation camps and grounds are used for camping, stargazing, and other activities where a naturally dark environment is desired.
2. All recreation camps and grounds are subject to the following:
  - (a) Light reduction procedures shall begin at approximately 10:00 p.m. Only the limited use of essential safety and security lighting is allowed after this time.
  - (b) All fixtures shall be fully shielded.

**C. Lighting for Surface Parking Lots.**<sup>299</sup> All lighting for surface parking lots must be turned off if not needed for business operations or security purposes.

**D. Vehicular Canopy Lighting.**<sup>300</sup> Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include one or both of the following:

1. Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the vehicular canopy that provides a fully shielded light distribution; or
2. Surface-mounted fixture incorporating a flat glass that provides a fully shielded light distribution.

**E. Outdoor Display Area Lighting.**<sup>301</sup>

1. Lighting for Vehicle Dealership Parking Lots. All fixtures shall be fully shielded.

<sup>297</sup> Changed from “Planning Department.” The proposed definition of Zoning Administrator is “the person or persons designated by the Chatham County Manager to administer and enforce this Ordinance, or the Zoning Administrator’s designee.”

<sup>298</sup> Carries forward ZO Section 13.9 Natural Recreation Areas. The applicability of the current regulation is unclear, so proposed is to apply this to recreation camps and grounds (a defined land use listed in the use table in Chapter 3). Revises to require lighting reduction procedures to begin at 10 p.m. rather than midnight.

<sup>299</sup> Eliminates requirement for parking lot security lighting (ZO Section 13.6.3 Security Lighting for Open Parking Facilities) and instead requires lights to be turned off when not needed.

<sup>300</sup> Carries forward ZO Section 13.7 Lighting for Vehicular Canopies.

<sup>301</sup> Carries forward ZO Section 13.10 Lighting of Outdoor Display Areas. Eliminates footcandle limitations in favor of the lighting levels specified in 4.5.8 and the BUG standards in 4.5.9. Removes 37 ft height limit since it is redundant to 4.5.10.B.

2. Lighting for All Other Outdoor Display Areas. All fixtures shall be fully shielded. Alternatively, directional fixtures (such as floodlights) may be used if they are aimed in accordance with 4.5.6.D: Floodlights.

F. **Outdoor Sports Field/Outdoor Performance Area Lighting.**<sup>302</sup>

1. The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed 80 feet from finished grade.
2. The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event.
3. This Paragraph applies to all outdoor sports field and outdoor performance areas, including those located on public and private school grounds or on university campuses.

#### 4.5.11 LANDSCAPE LIGHTING<sup>303</sup>

Landscape lighting is allowed if:

- A. All landscape and residential façade lighting systems employ fully shielded luminaires not to exceed 450 lumens; and
- B. The luminaires are aimed such that the light source cannot be seen from any reasonable viewing point on an adjacent property.

#### 4.5.12 HOLIDAY/FESTIVE LIGHTING<sup>304</sup>

- A. Holiday/festive lighting is allowed if it complies with the definition in Chapter 17: *Definitions & Acronyms*.
- B. Lamps below 100 lumens are exempt and have no restrictions on use.

#### 4.5.13 STREET LIGHTING<sup>305</sup>

This Subsection does not require street lighting in new developments. However, where provided, all fixtures installed for the purpose of illuminating public and private streets must:

- A. Be fully shielded,<sup>306</sup>

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<sup>302</sup> Carries forward ZO Section 13.8 Outdoor Sports Field/Outdoor Performance Area Lighting. Eliminates requirement for glare control package and limitation on foot candles “at any property line in a residential district or a lot occupied by a dwelling congregate care or congregate living structure” in favor of the BUG ratings in 4.5.9. Relocates nonconformity provisions to Chapter 14: *Nonconformities & Vested Rights*.

<sup>303</sup> Carries forward ZO Section 13.15 Landscape Lighting. Revises “40 lamp watts” to “450 lumens.”

<sup>304</sup> Carries forward ZO Section 13.13 Holiday/Festive Lighting.

<sup>305</sup> Proposed is to eliminate the exemption provided in current ZO Section 13.5.6 for “fixtures installed, owned, or leased by governmental or public agencies, or their agents, for the purpose of illuminating public streets.” Instead, this Subsection proposes new standards.

<sup>306</sup> Fully shielded fixtures are available through Duke Energy’s [outdoor lighting program](#).

- B. Comply with 4.5.6D: Lighting Color;<sup>307</sup>
- C. Not be located within 50 feet of the exterior boundary of the development site, except that streetlights are allowed at vehicular access points if the luminaires do not exceed 5,500 lumens; and<sup>308</sup>
- D. Comply with all NCDOT requirements for location and placement in the right-of-way.

#### 4.5.14 EXTERIOR LIGHTING PLAN REQUIRED<sup>309</sup>

- A. **Applicability.**
  - 1. A lighting plan is required for any work involving exterior lighting for all land uses subject to this Section.
  - 2. The applicant shall submit the lighting plan with the Zoning Compliance Permit application or First Plat application, as applicable. The exterior lighting plan must be approved prior to the issuance of a building permit.
- B. **Exterior Lighting Plan Contents.** The exterior lighting plan shall:
  - 1. Be integrated with the landscape plan, if a landscape plan is required for the proposed development;
  - 2. As specified in 4.5.5: *Exterior Lighting Design Principles*, demonstrate a consideration for reduced energy consumption through the selection of energy efficient fixtures;
  - 3. Depict the arrangement of all exterior lighting, including the location and mounting height of each luminaire;
  - 4. Include a fixture schedule detailing the fixture type, lamp type and lumens, correlated color temperature, and BUG rating for each luminaire;
  - 5. Describe or depict the types of supports, poles, and raised foundations, if used; and
  - 6. Include the manufacturer's or electric utility catalog specification sheets and/or drawings and photometric data for each type of luminaire.

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<sup>307</sup> Most luminaires available through Duke Energy's [outdoor lighting program have a color temperature of 3000K or 4000K](#).

<sup>308</sup> Several of Duke Energy's [Dark-Sky Compliant LED Fixture Products](#) are less than 5,500 lumens.

<sup>309</sup> Carries forward portions of ZO Section 13.16 Permitting and Approval Process. Requires lighting plan for all uses subject to this Section. The current Zoning Ordinance does not require a lighting plan for commercial, office, institutional, and industrial projects with a gross floor area of 5,000 sf or less or multi-family dwellings with six or fewer units, unless requested by staff to verify compliance. Proposes to delete the first two paragraphs in Section 13.16 and reformats the remaining text.

- C. The Zoning Administrator<sup>310</sup> may modify and/or waive any part(s) of the above referenced lighting plan contents if the applicant can otherwise demonstrate compliance with this Section. Note: An example of this provision might be where a contractor or utility repeatedly installs the same lighting equipment on different projects in the county. One submittal containing the specification sheets of a particular group of fixtures may be sufficient for the Planning Department to modify the project requirement and require that only the other provisions of this Section be met since the fixture specification provisions have already been met. This modification would conserve County personnel and lighting supplier/installer resources.

## 4.6 PARKING & LOADING<sup>311</sup>

### 4.6.1 PURPOSE<sup>312</sup>

The purpose of these off-street vehicular parking and loading standards is to ensure that development provides adequate facilities for off-street parking and loading. In particular, the intent of these standards is to:

- A. Ensure that off-street vehicular parking and loading facilities are well designed and meet the needs of their users and the county residents and businesses;
- B. Provide adequate access for fire, police, and emergency services;
- C. Provide adequate facilities for off-street loading in proportion to the varying demand of the zone districts and uses allowed by this Ordinance;
- D. Provide flexibility in how developments meet minimum off-street vehicular parking requirements;
- E. Minimize the amount of impervious surface devoted to off-street vehicular parking and loading;

<sup>310</sup> Changed from “Planning Department personnel.” The proposed definition of Zoning Administrator is “the person or persons designated by the Chatham County Manager to administer and enforce this Ordinance, or the Zoning Administrator’s designee.”

<sup>311</sup> See discussion of proposed changes in the [Audit Report](#) (pp. 80-81). The following regulations in Section 14, Off Street Parking and Loading, of the Chatham County Zoning Ordinance have not been carried forward: 1) Subsection E. Day Time/Night Time Assignments. This provision allows for parking spaces to be counted towards the minimum requirements for multiple uses that do not take place at the same time (e.g., offices during the day, movie theater in the evening). However, given the substantial elimination of a minimum number of off-street parking requirements, this provision is not necessary, although landowners can continue to provide parking that serves multiple uses. 2) Subsection E. Lighting. These standards will be updated in **Error! Reference source not found.: Error! Reference source not found.**

<sup>312</sup> The purpose statement is new.



- F. Accommodate future demand for electric vehicle parking; and
- G. Ensure that off-street vehicular parking and loading areas do not encroach on or interfere with the public use of streets and alleys by pedestrians, and that such parking and loading areas provide for safe crossings by pedestrians.

#### 4.6.2 APPLICABILITY<sup>313</sup>

- A. **New Development.** All new development shall provide off-street vehicular parking and loading areas and bicycle parking in accordance with the standards of this Section.
- B. **Addition or Expansion.** Except as provided in 4.6.6: Electric Vehicle Charging Stations, additions to or expansion of existing development shall provide additional off-street vehicular parking and loading areas and bicycle parking for the additions or expansion in accordance with the standards of this Section, subject to the following:
  1. If an existing structure or use is expanded or enlarged in terms of the number of dwelling units, floor area, number of employees, or seating capacity, whichever the minimum parking standard for the structure is based on, any additional off-street parking and loading spaces that may be required shall be provided for the expanded or enlarged part of the structure or use.
  2. If the expansion of a parking lot results in more than 200 parking spaces, the applicant shall comply with standards in 4.6.5J: Large Parking Lots to the maximum extent practicable.
- C. **Change of Use.** Except as provided in 4.6.6: Electric Vehicle Charging Stations, change of use of an existing structure or land shall be accompanied by provision of any additional off-street vehicular parking and loading spaces and bicycle parking required for the new use by this Section.
- D. **Electric Vehicle Charging Stations.** All redevelopment, including expansion or enlargement of an existing structure or use, or a change of use, shall comply with the standards of 4.6.6: Electric Vehicle Charging Stations, with respect to the entire existing parking lot and any new parking area, to the maximum extent practicable.
- E. **Timing of Review.** Compliance with the standards of this Section shall be evaluated during review of an application for Zoning Compliance Permit.

#### 4.6.3 PARKING PLAN REQUIRED<sup>314</sup>

Applications for development subject to this Section that propose to provide 10 or more parking spaces shall include a parking plan. The plan shall accurately designate the

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<sup>313</sup> This builds upon the general requirement in Section 14.1 of the Chatham County Zoning Ordinance and provides clarity about the extent to which compliance is required for additions or expansions to existing development.

<sup>314</sup> This builds upon the certification requirement in Section 14.1.A of the Chatham County Zoning Ordinance.

number and location of required parking spaces, access aisles, and driveways, and the relation of the off-street vehicular parking facilities to the development they are designed to serve, including how the parking facilities coordinate with the vehicular, pedestrian, and bicycle circulation systems for the development, as appropriate.

#### 4.6.4 PARKING RATIOS<sup>315</sup>

- A. **Applicability.** Development subject to the requirements of this Section shall provide off-street vehicular parking in accordance with this Subsection.
- B. **Minimum Number of Off-Street Parking Spaces Required.** Development shall provide the minimum number of off-street vehicular parking spaces based on the principal use(s) involved in accordance with Table 4.6.4-1: Minimum Off-Street Parking Requirements, subject to reductions allowed in accordance with 4.6.7: Alternative Parking Plans. Uses not listed in Table 4.6.4-1 are not required to provide a minimum number of parking spaces.
- C. **Minimum Off-Street Parking Tables.**<sup>316</sup>

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<sup>315</sup> This section establishes the minimum off-street vehicular parking. This draft eliminates minimum off-street parking requirements for most non-residential uses. Many communities across the state and the nation have completely or substantially eliminated minimum parking requirements, instead relying on the marketplace to provide adequate parking to support the uses and tenants on the site. One of the key concerns about eliminating minimum parking requirements is that parking will “spill over” into neighborhoods, but there should not be a significant impact in the County given that commercial land uses are not connected to existing residential uses with sidewalks or other pedestrian amenities. However, we did receive comments about parking concerns regarding two types of uses. The first is residential uses, particularly, concerns about the lack of visitor parking due, in many cases, to narrow streets which cannot accommodate vehicular parking and access by emergency vehicles. The second are day care uses, and this draft does include minimum parking requirements for day cares, as well as accommodations uses.

<sup>316</sup> The tables list the minimum off-street parking required for the uses in the UDO which are proposed to require a minimum amount of parking, similar to the list of minimum off-street parking requirements in Section 14.1C of the Chatham County Zoning Ordinance. The Table follows the same hierarchy and organization as the Principal Use Tables in Sections 3.2.5 through 3.2.20 of the UDO. As suggested In the Code Audit, specific principal uses listed in the Principal Use Tables have a corresponding entry in the minimum off-street parking tables, which makes it easier for code users to understand the amount of parking required to be provided in the UDO, and will make it easier for staff to update the minimum parking standards as circumstances change.

To facilitate review of these requirements, the current minimum parking requirements are included in the middle column of each table. For uses that are new in the UDO (not included in the current ordinance), the current minimum off-street parking requirement is listed as new. For uses that are included in the current ordinance but for which there is no clear minimum parking requirement, the current requirement is listed as “n/a.” Where the former and new uses do not line up exactly, we have included the name of the relevant parking standard in brackets. For example, the current standard for apartment complexes is listed as “1.5 per du [Multi-family residences].” The “Current Standards” column is included in drafts to assist the reader and will not be part of the adopted version of the UDO.

**Table 4.6.4-1: Minimum Off-Street Parking Requirements**

Land Use	Current Standards	Proposed Standards
<b>Accommodations &amp; Lodging Principal Uses</b>		
Bed & breakfast homes	n/a	1 per room
Bed & breakfast inns	n/a	1 plus 1 per room
Hotels, motels, and inns	1 per unit, plus 2 per 3 employees on normal shift	1 per room
<b>Institutional &amp; Civic Principal Uses</b>		
Day care centers or preschools for 15 or fewer people	6 children or fewer – 1 per teacher/staff, plus 1 car for drop-off-pickup	1 per 400 sf GFA plus 4 for drop-off/pickup
Day care centers or preschools for more than 15 people	More than 6 children – add stacking for greater of 4 cars for drop-off/pickup or 1 per 10 children	1 per 400 sf plus 4 for drop-off/pick-up plus 1 per every 10 children over 40.
<b>Mixed Principal Uses</b>		
Live-work unit	New use	1 per du
Mixed use building	n/a	1 per du
<b>Residential Principal Uses</b>		
Apartment Complex	1.5 per du [Multi-family residences]	2 per du, plus 1 visitor space per 6 du
Cottage courts	New use	See 3.3.9: Cottage Courts
Two-family dwellings (duplex)	2 per du	2 per du
Family Care Homes	1 per 2 du [congregate care]	1 per 2 du
Multi-family dwellings	1.5 per du	2 per du, plus 1 visitor space per 6 du
Single-family attached dwellings (townhouses)	2 per du	1 per du, plus 1 visitor space per 4 du
Single-family detached dwellings (including site built, modular, and manufactured)	2 per du	2 per du
<b>Utility Principal Uses</b>		
Solar energy systems, level 2 (less than ½ acre)	New use	1
Solar energy systems, level 2 or level 3 (10 acres or less)	New use	1
Solar energy systems, level 2 or level 3 (more than 10 acres)	New use	1

**Table 4.6.4-1: Minimum Off-Street Parking Requirements**

Land Use	Current Standards	Proposed Standards
Concealed Wireless Facilities (> 60 feet and ≤ 150 feet or less in height)	n/a	1
Wireless Support Structures (> 60 feet and ≤ 199 feet in height)	n/a	1
Wireless Support Structures (> 199 feet and ≤ 400 feet in height)	n/a	1
Vehicle-Related Principal Uses		
Automobile, automobile accessory, boat, trailer, and other utility vehicle sales and service	4 per service bay, plus 1 per wrecker or service vehicle   1 space per 400 sf of building area devoted to sales	4 per service bay, plus 1 per wrecker or service vehicle

D. **Unlisted Uses.** An applicant proposing to develop a principal use or use(s) that is not listed in Table 4.6.4-1 shall specify in the application materials the proposed amount of required off-street vehicular parking, using one of the three methods below. After receiving the application, the Director shall determine the amount of required off-street vehicular parking, if any, using the applicant’s methodology or one of the other methods listed below, and may require that the applicant prepare a parking demand study as described below:

1. Apply the minimum off-street parking space standard for the listed use that the Director deems most similar to the proposed use;
2. Establish the minimum off-street parking space standard by reference to standard parking resources published by the Institute for Transportation Engineers (ITE), Urban Land Institute (ULI), National Parking Association, or the American Planning Association (APA); or
3. Conduct a parking demand study to demonstrate the appropriate minimum off-street parking space standard. The study shall estimate parking demand based on the recommendations of the ITE, ULI, or another acceptable source of parking demand data. This demand study shall include relevant data collected from uses or a combination of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

#### 4.6.5 PARKING LOT IMPROVEMENT, DESIGN, AND LOCATIONAL REQUIREMENTS<sup>317</sup>

- A. **Use of Parking or Loading Area.** Parking lots required by this Section shall be used solely for the parking of registered motorized vehicles in good operating condition. At all times, adequate parking shall be made available to accommodate the uses on the site. Required parking spaces and loading berths shall not be utilized for any activities other than parking or loading, including any accessory or temporary use identified in this Ordinance, unless otherwise authorized by this Ordinance.
- B. **Design.** Parking lots, drive aisles, pedestrian walks, landscaping, and open space shall be designed as integral parts of an overall development plan and shall be properly related to existing and proposed buildings. All off-street parking and loading spaces shall provide curbs, wheel stops, or similar devices that prevent vehicles from overhanging on or into public right-of-way, walkways, adjacent land, or required landscaping areas.<sup>318</sup>
- C. **Landscaping.** Landscaping on the perimeter and interior of a parking lot shall be provided in accordance with Section 4.4.7: Parking Lot Landscaping.
- D. **Lighting.** Accessways, walkways, and parking areas, if lighted, shall be lighted in accordance with Section 4.5: Lighting.
- E. **Location and Arrangement.**
1. Required off-street parking shall be provided on the same parcel as the principal structure or use, unless an alternative arrangement is approved in accordance with 4.6.7: Alternative Parking Plans.
  2. A parking lot designed or provided for more than six cars shall not be located in the required front yard of land in the R5, R2, NR, R1, OI, and IL districts.<sup>319</sup>
  3. Except for off-street parking lots accommodating four or fewer vehicles, or for single-family detached dwellings, townhouses, or duplex dwellings, parking lots shall be arranged so an automobile may be parked or un-parked without moving another and so that no vehicle is required or encouraged to back out from the lot directly onto the street.<sup>320</sup>
  4. Each off-street parking space shall open directly onto an aisle or paved driveway and not onto a public street. Each parking space shall have vehicular access to a public street through a parking lot meeting the requirements of this Subsection or through one or more driveways, provided any necessary access easements are obtained. Parking spaces and driveways shall be

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<sup>317</sup> As discussed in further detail in the footnotes below, this section builds on the design and locational requirements of Section 14.2 of the Chatham County Zoning Ordinance. Landscaping standards are included in 4.4.7: **Error! Reference source not found.**

<sup>318</sup> These standards are new.

<sup>319</sup> Carries forward from Section 14.2 of the Chatham County Zoning Ordinance which applied to development in the R5, R2, R1, O&I, and IL districts.

<sup>320</sup> Builds on the requirement for access by "forward motion" in Section 14.2 of the Chatham County Zoning Ordinance, with an exception for smaller residential development.

arranged so that ingress and egress to a public street is by forward motion of the vehicle only.

5. Parking lots shall be designed to provide emergency vehicle access in accordance with applicable County and state regulations.
- F. **Accessible Parking.** Parking spaces shall be located and designated as accessible to persons with disabilities in accordance with the standards in the Building Code.<sup>321</sup>
- G. **Surfacing.**<sup>322</sup>
1. **General Requirements.** Except as provided in Paragraph 3 below or otherwise provided by state law, parking lots and loading areas serving sites that accommodate more than six vehicles shall be surfaced as follows:
    - (a) The surfacing shall be asphalt, concrete, brick, stone, pavers, or an equivalent hard, dustless, and bonded surface material. The use of cool pavements that are lighter in color or contain lighter-colored surface treatments, as well as surfacing that includes recycled materials (e.g., glass, rubber, used asphalt, brick, block, and concrete), is encouraged. These surfaces shall be maintained in a smooth, well-graded, clean, orderly, and dust-free condition.
    - (b) The use of pervious or semi-pervious parking lot surfacing materials, including but not limited to pervious asphalt and concrete, open joint pavers, and reinforced grass/gravel/shell grids, is encouraged and may be approved for parking lots and loading areas, if such surfacing is subject to an on-going maintenance program (e.g., sweeping, annual vacuuming). Any pervious or semi-pervious surfacing used for aisles within or driveways to parking and loading areas shall be certified as capable of accommodating anticipated traffic loading stresses and maintenance impacts.
  2. **Overflow Parking Surfacing.** The Director may approve the use of nonreinforced grass, gravel, or other natural, permeable materials for parking lots designated as overflow parking in accordance with the following:

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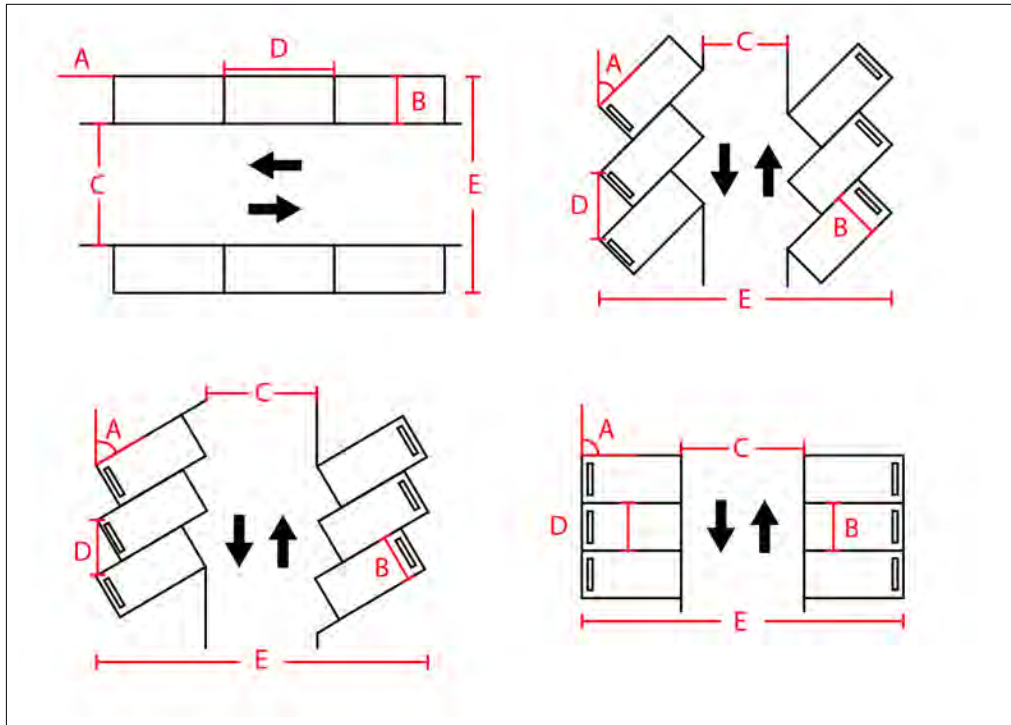
<sup>321</sup> New standard.

<sup>322</sup> This is a new general standard for parking lot surfacing. It incorporates suggestions from the Code Audit (page 78) to encourage pavement surfacing and covers that may reduce the heat Island effect and does explicitly allow the use of pervious pavement. Maintenance requirements are included because pervious pavement loses its ability to handle stormwater runoff without regular care. The requirements are calibrated to apply only to uses that require six or more parking spaces to minimize requirements for excess paving for very small uses. To reduce the amount of impervious surface, so-called "overflow" parking is allowed to be made of grass or gravel provided the applicant demonstrates the parking will not be used on a daily basis, and it is kept well maintained. It also incorporates a reference to N.C. Session Law 2023-108, which preempts certain local regulations governing pavement design for new driveways and parking lots, subject to disclosure requirements to purchasers if the pavement does not comply with the local minimum standards. See [N.C.G.S. § 160D-804\(j\)](#).

- (a) The overflow parking is not expected to be used every day, based on the parking demand for the principal use or uses on the site. The applicant may establish the minimum off-street parking demand by reference to parking resources published by the Institute for Transportation Engineers (ITE), Urban Land Institute (ULI), National Parking Association (NPA), or the American Planning Association (APA); or through a parking demand study.
  - (b) The proposed surface can accommodate the stresses of the anticipated parking demand and remain in good condition and not develop features such as ditches and muddy areas;
  - (c) The applicant will maintain the overflow parking in a good condition and, if not, will cease use of the overflow parking spaces.
- H. **Markings.** Each required off-street vehicular parking lot and space, and each off-street loading area and berth, shall be identified by surface markings that are arranged to provide for orderly and safe loading, unloading, parking, and storage of vehicles. Such markings—including striping, directional arrows, lettering on signs and in handicapped-designated areas, and labeling of the pavement—shall be maintained so as to be readily visible at all times.
- I. **Dimensional Standards.** Standard vehicle parking spaces and aisles shall comply with the minimum dimensional standards established in Table 4.6.5-1: Minimum Dimensional Standards for Parking. The dimensional standards are illustrated in Figure 4.6.5-1: Measurement of Parking Space and Aisle Dimensions.<sup>323</sup>

Table 4.6.5-1: Minimum Dimensional Standards for Parking				
Parking Angle (Degree) A	Stall Width (ft) B	Aisle Width (ft) Two Way / One Way C	Stall Length along Curb (ft) D	Double Row + Aisle, Curb to Curb (ft) Two Way / One Way E
0	8	22 / 11	22	38 / 27
45	9	24 / 12 [1]	13	56 / 44
60	9	24 / 15 [1]	10	60 / 51
90	9	24 / 22 [1]	9	64 / 62

<sup>323</sup> These are new dimensional standards. If the County has technical standards that work well, these standards can be removed.

**Figure 4.6.5-1: Measurement of Parking Space and Aisle Dimensions**

- J. **Large Parking Lots.** Parking lots containing 200 or more spaces, whether developed at one time or in phases, shall provide improved pedestrian access in accordance with the following standards:<sup>324</sup>
1. One minimum five-foot-wide pathway providing access from the parking lot to an entrance to the use served by the parking is required at least every six parallel parking rows (every three double-row parking bays) or every 200 feet, whichever is the lesser dimension;
  2. A landscaping strip shall be provided along at least one side of each pathway and shall be planted with shade trees at least 1.5 inches in caliper and six feet in height at time of planting, spaced at a maximum average distance of 40 feet on center, measured linearly along the pathway from perpendicular lines extending to the center of the tree;
  3. For parking areas serving uses in the Retail, Service, and Food & Beverage Uses category (see Section 3.2: *Principal Use Tables*), pathways shall be at the same grade as the abutting parking surface, or shall provide access points for persons pushing shopping carts spaced a minimum of one every 75 feet along each side of the pathway;

<sup>324</sup> These are new standards to require that larger parking lots, such as for “big box” retail stores, include enhanced pedestrian facilities and landscaping.



4. Pathways shall be aligned with and perpendicular to the primary entrance into the building served by the parking lot, to the maximum extent practicable; and
5. Pathways shall be paved with asphalt, cement, brick, or other comparable material, and shall be distinguished by contrasting color or materials when crossing drive aisles.

#### 4.6.6 ELECTRIC VEHICLE CHARGING STATIONS

Parking lots shall include a minimum number of electric vehicle (EV) parking spaces in accordance with the following.<sup>325</sup>

- A. **Applicability.** These EV parking standards apply to all non-residential and multifamily uses that are required to provide or that propose to provide at least 50 off-street parking spaces in accordance with this Section and apply to both new development and to expanded parts of existing parking lots.
- B. **Minimum Number of Electric Vehicle Parking Spaces.** Parking lots subject to this Section shall meet both electric vehicle charging requirements established in Table 4.6.6-1: Electric Vehicle Charging Requirements, rounded up to the nearest whole number, based on the principal use of the site, in accordance with the following.
  1. **Electric Vehicle (EV) Charging Points.** The percentage of parking spaces identified in the second column of Table 4.6.6-1 shall be served by a Level 2 or 3 EV Charging Point, and each such parking space shall have access to a dedicated charging cable. Any parking spaces served by a Level 2 or 3 EV Charging Point in excess of the requirement shall be credited towards the use's required number of EV Ready parking spaces.
  2. **Electric Vehicle (EV) Ready Parking Spaces.** The percentage of parking spaces identified in the third column of Table 4.6.6-1 shall be served by conduit that is adequate to accommodate the electrical and other needs of EV Charging Points that can be installed to serve those parking spaces in the future, or by a Level 2 or 3 Electric Vehicle Charging Point.

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<sup>325</sup> These are new standards requiring the Installation of electric vehicle parking facilities. There are two types of EV facilities required in parking lots required to provide at least 50 parking spaces. First, a certain percentage of parking spaces (six percent in multifamily residential uses, three percent all other uses) are required to be served by an Electric Vehicle Charging Point with a dedicated access cord. These are parking spaces where vehicles can drive up and plug in. Second, additional parking spaces (25 percent in multifamily residential uses, 15 percent all other uses) are required to be served by underground conduit that is adequate to support the installation of Electric Vehicle Charging Points In the future.

Table 4.6.6-1: Electric Vehicle Charging Requirements		
Use	Percentage of Spaces with EV Charging Points	Percentage of Spaces EV Ready
Apartment Complex or Multi-family dwelling	5	25
All other uses	3	15

C. **Additional Standards.**

1. Spaces served by EV Charging Points shall be reserved for parking and charging of electric vehicles only. Each space served by an EV Charging Point shall be posted with signage indicating the space is for parking only by electric vehicles only while the vehicles are being charged.
2. At least one parking space served by an EV Charging Point shall be adjacent to a parking space designated as accessible. The EV Charging Point shall be operable by disabled persons from the adjacent accessible parking space.
3. Time limits may be placed on the number of hours that an electric vehicle is allowed to charge or park.
4. Parking spaces served by EV Charging Points may be restricted for use by residents, employees, or visitors of a site, either through signage or by placing the charging points behind a gate or other means of access control.
5. Signage shall be provided to indicate that parking spaces served by EV Charging Points are reserved for the use of electric vehicles.

**4.6.7 ALTERNATIVE PARKING PLANS<sup>326</sup>**

- A. **General.** The Director may authorize modifications to the minimum off-street vehicular parking standards established in this Ordinance in accordance with this Subsection.
- B. **Parking Study.** An applicant may request up to a 60% reduction in the minimum off-street vehicular parking required in Table 4.6.4-1: Minimum Off-Street Parking Requirements through submission of a parking demand study that.<sup>327</sup>

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<sup>326</sup> This consolidates and updates the remote parking requirements in Section 4.6.8G, Remote Parking, and also allows an applicant to apply for a modification of minimum off-street parking requirements where they can demonstrate the proposed use will not provide the parking demand anticipated by the minimum requirements in this Ordinance.

<sup>327</sup> This is new and allows an applicant to apply reduce the amount of off-street parking a development is required to provide through submission of a parking demand study which shows the Ordinance’s requirements are too high.

1. Uses professionally accepted methods of transportation engineering and off-street vehicular parking demand which are prepared and sealed by a registered professional engineer or landscape architect; and
  2. Demonstrates that the required parking ratios do not accurately apply to the specific development proposal or that other options to satisfy the parking demand are available.
- C. **Off-Site Parking.** An applicant may request to provide up to 40% of off-street vehicular parking in accordance with the following standards:<sup>328</sup>
1. **Location.** All off-site vehicular parking spaces shall be located within a maximum walking distance of the primary pedestrian entrances, measured by the actual distance to walk from the shared parking area to the primary pedestrian entrance(s) using a route that complies with Paragraph 2 below. The maximum walking distance from off-site parking shall be 800 feet to a residential use, and 1,200 feet to all other uses.
  2. **Access and Signage.** Adequate and safe pedestrian access shall be provided by a paved pedestrian path protected by a landscape buffer or a curb separation and elevation from the street grade. The pedestrian access shall not cross an arterial street unless pedestrian access across it is provided by appropriate traffic controls (such as a signalized crosswalk) or a grade-separated and lighted pedestrian route (such as a bridge or tunnel). Signs complying with the standards in Section 4.7: Signs shall be provided to direct the public to the shared parking spaces.
  3. **Adequate Number of Spaces.** If the off-site parking is shared with other uses, the alternative parking plan shall include justification of the adequacy of shared parking among the proposed uses based on factors such as different demand during different times of day (e.g., business hours vs. evening) or days of the week (e.g., weekday vs. weekend).
  4. **Accessible Parking.** Accessible parking must be provided in accordance with 4.6.5F: Accessible Parking. Accessible parking spaces shall not be provided off-site.
  5. **Agreement Required.** To ensure that any off-site parking permitted to satisfy minimum parking requirements remains available to the applicant's development, a written off-site parking agreement is required if land containing the off-site parking area is not on the same parcel as the land containing the principal use served or if multiple uses are sharing parking.

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<sup>328</sup> This builds on the remote parking requirements in Section 14.2G of the Chatham County Zoning Ordinance, adding a requirement for a good pedestrian connection between the use and the parking, additional details about the type of agreement between the use generating parking demand and the site providing off-street parking, and requires that accessible parking be provided on the site. It does not carry forward the current standard that allows certain uses to park off-site in particular zoning districts.

- (a) Written agreements for off-site parking shall:
    - (1) Be signed and binding on the owners of land containing the off-site parking area, as well as all owners or long-term lessees of lands containing the uses proposed to share off-street parking spaces;
    - (2) If the agreement is for exclusive use of off-site parking by a single use, provide the owner of the served use the right to use the off-site parking area and shall specify that the parking spaces are for the exclusive use of the served use, including any customers and employees;
    - (3) If the agreement is for use of shared parking by multiple users, provide all parties the right to joint use of the shared parking area and shall ensure that as long as the off-site parking is needed to comply with this Section, land containing either the off-site parking area or the served use will not be transferred except in conjunction with the transfer of land containing the other;
    - (4) Have a minimum duration of 15 years; and
    - (5) Be approved by the County attorney.
  - (b) An attested copy of an approved and executed agreement shall be recorded with the County Register of Deeds before a building permit or a zoning compliance permit, if a building permit is not required, for any use to be served by the off-site parking area may be issued.
  - (c) The agreement shall be considered a restriction running with the land and shall bind the heirs, successors, and assigns of the landowner.
  - (d) A violation of the agreement shall constitute a violation of this Ordinance and shall be subject to enforcement accordingly.
  - (e) No use served by the off-site parking may be continued if the off-site parking becomes unavailable to the use permanently or for longer than 30 days, unless substitute off-street parking spaces are provided in accordance with this Ordinance.
6. Unavailability of Shared Parking. If shared parking is no longer available due to the expiration or termination of a shared parking agreement, the Director may require the owner of the use requiring parking to comply with the terms of this Section, including requiring that the applicant enter into a new shared parking agreement or otherwise provide additional off-street vehicular parking for the development.

- D. **On-Street Parking.** An applicant may propose to substitute all or some of the visitor parking spaces required for residential development with on-street vehicular parking in accordance with the following:<sup>329</sup>
1. The Director determines that the street has adequate width to accommodate on-street parking;
  2. The street where on-street parking is proposed is adjacent to the use;
  3. Pedestrian access is provided by an accessible pedestrian way from the parking space to the primary entrance(s) of the development;
  4. The on-street vehicular parking space is not reserved for people with disabilities;
  5. The on-street vehicular parking space remains open for use by the general public, and no sign or markings are used to claim the use of the space is exclusive to the applicant's tenants, customers, or clients; and
  6. The distance between the on-street vehicular parking space and one of the primary entrances to the development does not exceed 400 feet, measured along the shortest pedestrian route.

#### 4.6.8 VEHICLE QUEUING<sup>330</sup>

- A. **Drive-throughs and Similar Facilities.** Uses with drive-through facilities and other auto-oriented uses where vehicles queue up to access a service facility shall provide at least the minimum number of spaces established in Table 4.6.8-1: Minimum Queuing Spaces for Drive-Through and Similar Facilities. See Figure 4.6.8-1: Drive-Through Stacking Spaces Configuration.
- B. **Queuing Space Standards.** All required queuing spaces shall:
1. Be a minimum of 10 feet wide and 20 feet long;
  2. Be contiguous, end-to-end;
  3. Not impede onsite or offsite vehicular traffic movements or movements into or out of off-street parking spaces;
  4. Not impede onsite or offsite bicycle or pedestrian traffic movements; and
  5. Be separated from access aisles and other vehicular surface areas by raised medians, if necessary for traffic movement and safety.

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<sup>329</sup> This is a new standard. It is included to provide an opportunity for development that is required to provide off-street parking (such as the residential development required to provide guest parking) to provide on-street parking if certain standards are met, and the road has adequate width to support on-street parking.

<sup>330</sup> These are new standards to ensure sites have adequate space to accommodate the vehicle queuing caused by drive-throughs and vehicles accessing sites to park. Similar standards are included for certain uses in the minimum off-street parking table in Section 14.3 of the Chatham County Zoning Ordinance.

**Table 4.6.8-1: Minimum Queuing Spaces for Drive-Through and Similar Facilities**

<b>Use or Activity</b>	<b>Minimum Number of Queuing Spaces<sup>1</sup></b>	<b>Measured from</b>
Gas station	1	Each end of outermost gas pump island
Day care centers	6	Primary location for child pick-up and drop-off
Banks and financial institutions, or Automated Teller Machine (ATM) as an accessory use	3 per lane	Teller window or ATM machine
Food and Beverage Services use, with drive-through	6 per lane <sup>2</sup>	Pickup window
Other Commercial uses with a drive-through	3 per lane	Pickup windows
Hospital	3	Building entrance
Inpatient care facilities, nursing homes and convalescent homes	3	Building entrance
Car Wash, automatic	4 per bay	Bay entrance
Car Wash, self-service	2 per bay	Bay entrance
Vehicle-related use with oil change/lubrication service	1 per bay or 3 per bay <sup>3</sup>	Bay entrance
School, public and private, Kindergarten – 12th grade	Determined by Director <sup>4</sup>	
Other	Determined by Director <sup>5</sup>	

<sup>1</sup> If a single queue splits into multiple pickup areas (for example, a drive-through restaurant queue that splits into two order boards and pick-up windows), the total number of queuing spaces required shall equal the minimum required for each lane multiplied by the number of “measured from” destinations (in this example, the drive-through restaurant would require a total of 12 stacking spaces).

<sup>2</sup> The Director may require additional queuing spaces upon determining that there is a reasonable possibility that the listed minimum number will result in queuing that will interfere with pedestrian or vehicular traffic on adjacent streets or with internal circulation on the development site. The determination may be based on drive-through queuing at similar establishments in other locations in the County or in other jurisdictions.

<sup>3</sup> At least three queuing spaces shall be provided per bay, except that only one stacking space per bay is required if the use provides nearby areas for vehicles to wait that do not interfere with vehicular or pedestrian circulation on the site.

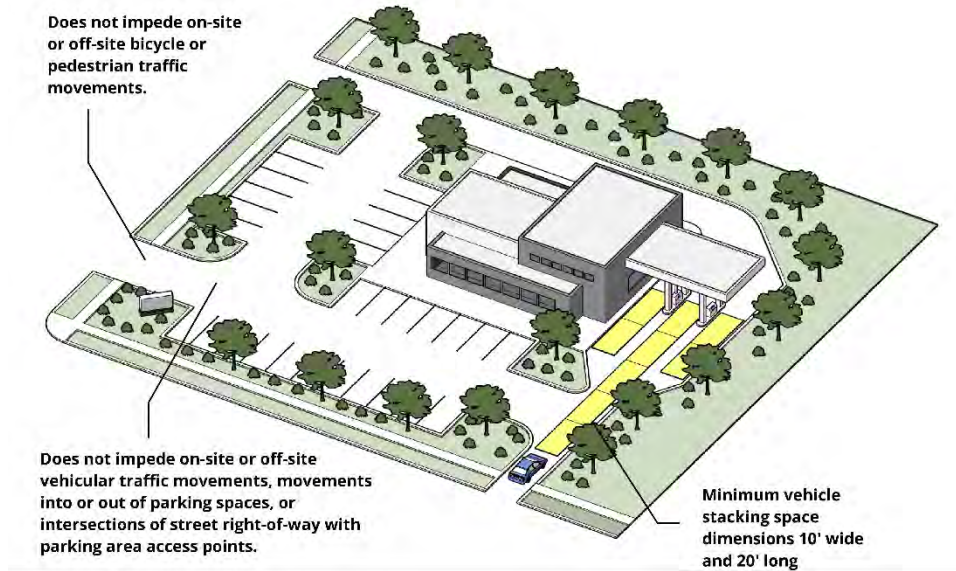
<sup>4</sup> Number of queuing spaces determined by Director based on a parking demand study prepared by the applicant which evaluates, among other factors, the percentage of student population expected to be of driving age, the percentage of students expected to be driven and dropped off at school, and whether school bus service will be provided.

**Table 4.6.8-1: Minimum Queuing Spaces for Drive-Through and Similar Facilities**

Use or Activity	Minimum Number of Queuing Spaces <sup>1</sup>	Measured from
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<sup>5</sup> Determined by Director based on standards for comparable uses or based on a parking demand study.

**Figure 4.6.8-1: Drive-Through Stacking Spaces Configuration**

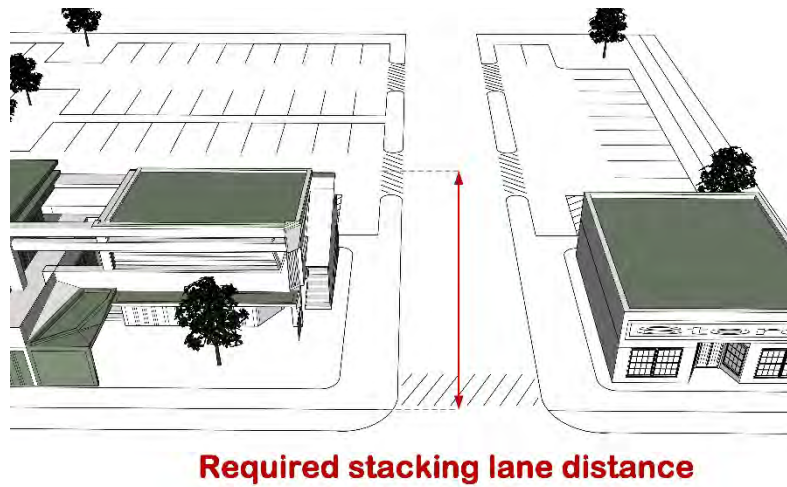


C. **Parking Lot Entrances.** Parking lots for all uses other than attached residential dwellings or dwellings with fewer than five units in a single building shall be designed to provide queuing lanes measured between the edge of the street right-of-way and the first entrance into the parking area, in accordance with Table 4.6.8-1: Minimum Queuing Distance for Parking Lot Entrance, measured from the intersection of the driveway with the street right-of-way, along the center line of the queuing lane, to its intersection with the centerline of the first entrance into a parking lot or other intersecting driveway. See Figure 4.6.8-2: Queuing Distance for Parking Lot Entrance.

**Table 4.6.8-1: Minimum Queuing Distance for Parking Lot Entrance**

Number of Parking Spaces in Lot	Minimum Distance of Queueing Lane
Up to 49	40 ft
50 - 250	60 ft
250 - 500	100 ft
500 or more	100 ft + 15 ft for every additional 50 spaces above 500

**Figure 4.6.8-2: Queuing Distance for Parking Lot Entrance**



**4.6.9 BICYCLE PARKING<sup>331</sup>**

A. **Minimum Required Bicycle Parking.** Development shall provide the minimum number of bicycle parking spaces based on the principal use(s) involved and the applicable zoning district in accordance with Table 4.6.9-1: Minimum Bicycle Parking Requirements, rounded up to the nearest whole number, subject to reductions allowed in accordance with Paragraph B below. Uses not listed in Table 4.6.9-1 are not required to provide a minimum number of parking spaces.<sup>332</sup>

Table 4.6.9-1: Minimum Bicycle Parking Requirements		
Land Use	R1, OI, NB, CB, RB, CD-NC, and CD-AC Zoning Districts	All Other Zoning Districts
<b>Accommodations &amp; Lodging Principal Uses</b>		
Hotels, motels, and inns	1 per 25 rooms	n/a
<b>Arts, Entertainment, &amp; Recreation Principal Uses</b>		

<sup>331</sup> These are new standards for bicycle parking. Bicycle parking standards vary significantly by community.

<sup>332</sup> These establish minimum bicycle parking requirements for different uses where the provision of bicycle parking would be useful, such as offices, community centers, and multifamily dwellings. While some of the areas in the County are rural and may not currently support bicycling, by including these standards, uses will be required to provide bicycle parking which is relatively inexpensive, especially compared to vehicular parking, and which, over time, may aid in the development of more multimodal connections throughout the county and to areas within the county’s municipalities.



**Table 4.6.9-1: Minimum Bicycle Parking Requirements**

<b>Land Use</b>	<b>R1, OI, NB, CB, RB, CD-NC, and CD-AC Zoning Districts</b>	<b>All Other Zoning Districts</b>
Assembly halls, coliseums, gymnasiums, and similar structures	1 per 2,000 sf GFA	1 per 6,000 sf GFA
Parks and recreation areas	1 per 4,000 sf activity area	n/a
<b>Business, Professional, Scientific, &amp; Technical Principal Uses</b>		
Banks and financial institutions	1 per 2,000 sf GFA	1 per 6,000 sf GFA
Business & facilities support services	1 per 2,000 sf GFA	1 per 6,000 sf GFA
Communications & information	1 per 2,000 sf GFA	1 per 6,000 sf GFA
Professional offices, unless otherwise listed	1 per 2,000 sf GFA	1 per 6,000 sf GFA
Research and development facilities	1 per 2,000 sf GFA	1 per 6,000 sf GFA
<b>Government Principal Uses</b>		
Government offices and facilities	1 per 2,000 sf GFA	1 per 6,000 sf GFA
Libraries	1 per 2,000 sf GFA	1 per 6,000 sf GFA
Post offices	1 per 2,000 sf GFA	1 per 6,000 sf GFA
<b>Healthcare Principal Uses</b>		
Medical offices and clinics (more than 10,000 sf)	1 per 2,000 sf GFA	1 per 6,000 sf GFA
Medical offices and clinics (10,000 sf or less)	1 per 2,000 sf GFA	1 per 6,000 sf GFA
<b>Institutional &amp; Civic Principal Uses</b>		
Schools, public and private	1 per 15 students design capacity	1 per 35 students design capacity
<b>Mixed Principal Uses</b>		
Mixed use building	1 per 10 du, plus 1 per 2,000 sf GFA of non-residential uses	1 per 25 du, plus 1 per 4,000 sf GFA of non-residential uses
<b>Residential Principal Uses</b>		
Apartment Complex	1 per 10 du	1 per 25 du
Multi-family dwellings	1 per 10 du	1 per 25 du
<b>Retail, Service, and Food &amp; Beverage Principal Uses</b>		
Corner stores	1	n/a

**Table 4.6.9-1: Minimum Bicycle Parking Requirements**

Land Use	R1, OI, NB, CB, RB, CD-NC, and CD-AC Zoning Districts	All Other Zoning Districts
Eating and drinking establishments	1 per 2,000 sf GFA	1 per 6,000 sf GFA
Retail, Service, and Food & Beverage Principal Uses with More than 40,000 Square Feet of Gross Floor Area in a Single Development	1 per 4,000 sf GFA	1 per 8,000 sf GFA
<b>Transportation, Warehousing, &amp; Storage Principal Uses</b>		
Bus and rail passenger stations	2 per bus loading berth, 10 per rail passenger loading area	2 per bus loading berth, 10 per rail passenger loading area

- B. **Alternative Bicycle Parking Plans.**<sup>333</sup> The Director may authorize a reduction in the number of bicycle parking spaces required by Table 4.6.9-1: Minimum Bicycle Parking Requirements by up to 75% if the applicant submits an alternative bicycle parking plan that demonstrates the demand and need for bicycle parking on the site is less than required by this Section because of the site’s location, design, lack of current or planned safe bicycling facilities, or other factors.
- C. **Bicycle Parking Standards.**<sup>334</sup> All bicycle parking spaces installed in the County shall comply with the following standards:
  1. Bicycle racks shall be high-quality, inverted “U”-type construction. Alternative high-quality bicycle parking racks that support the bicycle at two points of contact to the bicycle wheels and frame may be approved by the Director. Adequate on-site lighting shall be provided near the bicycle parking spaces to illuminate them if they are accessible to bicyclists after sunset.
  2. A bicycle rack shall be located on a paved or similar hard, all-weather surface with a slope no greater than three percent.
  3. A bicycle rack shall be located at least three feet from a vertical surface, such as another bicycle rack, the side of a building, a tree, fence, or wall, and shall be configured with adequate clear space to permit a bicycle to be rolled up to the rack and secured without requiring the bicycle to avoid obstructions or enter into a driveway or other vehicular access area.
  4. If internal to a building, the rooms in which bicycles are stored shall be lockable and contain systems for locking to allow for at least two points of contact to the bicycle wheels and frame.

<sup>333</sup> This allows the Director to reduce the amount of bicycle parking required to be provided (but not eliminate it)

<sup>334</sup> These are basic standards.

5. If serving a building with one use, all bicycle parking spaces shall be located within 75 feet of a public entrance to the building for which the space is required, measured along the most direct pedestrian access route.
6. If located in an area serving multiple uses, all bicycle parking spaces shall be located within 150 feet of a public entrance to the building or buildings for which the space is required, measured along the most direct pedestrian access route.

**4.6.10 OFF-STREET LOADING<sup>335</sup>**

- A. **General.** All new development involving the routine vehicular delivery or shipping of goods, supplies, or equipment to or from the development shall provide a sufficient number of off-street loading berths to accommodate the delivery and shipping operations of the development’s uses in a safe and convenient manner.
- B. **Minimum Number of Off-Street Loading Berths.** Development shall provide a minimum number of loading berths based on the principal use(s) on the site in accordance with Table 4.6.10-1: Minimum Number of Off-Street Loading Berths. For proposed uses not listed in Table 4.6.10-1, the Director shall establish a minimum number of loading berths based on the use most similar to the proposed use.

**Table 4.6.10-1: Minimum Number of Off-Street Loading Berths**

Principal Use	Size	Minimum Number of Loading Berths
Residential uses	Between 100 and 300 dwelling units	1
	Each additional 200 dwelling units	add 1
Hospital; Medical office and clinic; Congregate care facilities; Inpatient care facilities, nursing homes and convalescent homes; Hotel, motel & inn; Retail, Service, and Food and Beverage uses	At least 10,000 and up to 100,000 sf	1
	Each additional 100,000 sf	add 1
Hotel, motel & inn; Retail, Service, and Food and Beverage uses	At least 5,000 but less than 20,000 sf	1
	At least 20,000 but less than 120,000 sf	2
	Each additional 80,000 sf	add 1
	Less than 15,000 sf	1

<sup>335</sup> This substantially revises the existing off-street loading standards with more precise loading berth requirements and additional design requirements.

**Table 4.6.10-1: Minimum Number of Off-Street Loading Berths**

Principal Use	Size	Minimum Number of Loading Berths
Wholesaling, warehousing, flex space, and distribution, and Meat processing and packing	At least 15,000 but less than 50,000 sf	2
	At least 50,000 sf	3
	Each additional 50,000 sf	add 1
Heavy Commercial, Manufacturing, & Industrial uses, and Waste Management uses	Less than 50,000 sf	2
	At least 50,000 but less than 150,000 sf	4
	At least 150,000 but less than 250,000 sf	5
	At least 250,000 but less than 500,000 sf	6
	Each additional 100,000 sf	add 1

C. **Dimensional Standards for Off-Street Loading Berths.** Each loading berth shall be of sufficient size to accommodate the types of vehicles likely to use the loading area (see Figure 4.6.10-1: Loading Berth Location and Arrangement).

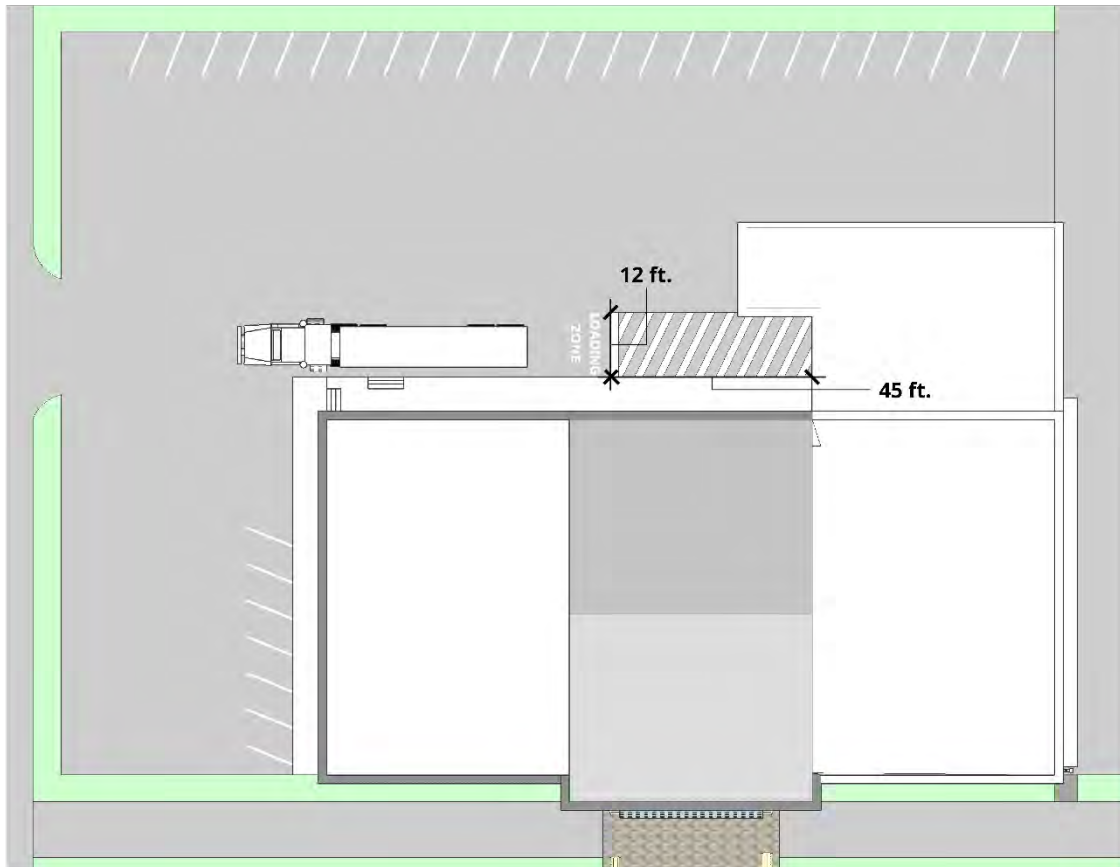
1. The minimum loading berth size that presumptively satisfies loading berth needs is least 12 feet wide and 45 feet long in Heavy Commercial, Manufacturing, & Industrial uses; Waste Management uses; Wholesaling, warehousing, flex space, and distribution; and Meat processing and packing.
2. For all other uses, a berth as short as 33 feet may be allowed.
3. The Director may require a larger loading berth or allow a smaller loading berth on determining that the characteristics of the particular development warrant such increase or reduction, and the general standard is met.

D. **Location and Arrangement of Loading Areas.**

1. Loading areas should be located to the rear of the building housing the use they serve, to the maximum extent practicable. It is preferred that loading areas be recessed into the mass of the building to reduce their visual impact, or that their visual impact on the landscape be mitigated through the use of features such as building offsets, screen walls, berms, and other design techniques.
2. Each loading berth shall be located adjacent to the building’s loading doors, in an area that promotes its practical use, and be accessible from the interior of the building it serves.
3. Each loading berth shall be directly accessible from a street or alley without crossing or entering any other required off-street loading space.
4. Each loading berth shall be arranged so that all vehicle maneuvers for loading and unloading occur entirely within the property lines of the site and do not obstruct or interfere with use of any parking space, parking lot aisle, or public right-of-way (see Figure 4.6.10-1: Loading Berth Location and Arrangement).

- 5. Each loading berth shall be screened from view from the right of way in accordance with 4.4.9: Screening of Site Features.

**Figure 4.6.10-1: Loading Berth Location and Arrangement**



## 4.7 SIGNS<sup>336</sup>

### 4.7.1 PURPOSE<sup>337</sup>

The purpose of this Section is to:

- A. Provide standards and conditions for signs and to regulate the erection and placement of signs in Chatham County;
- B. Preserve and enhance the natural scenic beauty or aesthetic features of natural areas visible from highways, streets, and adjacent areas;
- C. Preserve the scenic and aesthetic character of Chatham County in order to protect and promote the tourist industry and the quality of life of the County's residents and visitors;
- D. Discourage signs that contribute to the visual clutter of the streetscape;
- E. Ensure the safety of motorists, pedestrians, and cyclists in the community by:
  - 1. Preventing or limiting unreasonable distraction of motor vehicle operators;
  - 2. Preventing the obstruction of the vision of motor vehicle operators;
  - 3. Discouraging signs that cause traffic hazards or interfere with ingress/egress; and
  - 4. Preventing confusion with regard to traffic lights, signs, or signals;
- F. Protect citizens' state and federal constitutional rights to free speech by:
  - 1. Providing ample opportunities for expression through signs;
  - 2. Avoiding the regulation of a sign's content or communication; and
  - 3. Providing clear standards for approval of signs; and
- G. Implement the goals and policies of the Comprehensive Plan.

### 4.7.2 APPLICABILITY<sup>338</sup>

- A. **Generally.** This Section applies to all signs erected, affixed, placed, painted, or otherwise established within the jurisdiction of Chatham County, North Carolina. A

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<sup>336</sup> This Section comprehensively revises the sign regulations to ensure they align with best practices, changes in land development policy, and current case law. It combines the Chatham County Off-Premise Signs Ordinance (OPSO), ZO § 13.12: Permanent Sign and Billboard Lighting, and ZO § 15: Regulations Governing Signs. It updates the entire code using content-neutral principles. Generally, the draft seeks to maintain current standards while ensuring content neutrality. The most important change proposed in the draft is to declare that billboards are nonconforming but allow their continued use, maintenance, and relocation for highway construction.

<sup>337</sup> This Subsection significantly expands on the purposes of sign regulations included in the OPSO Article II: *Purpose & Scope*.

<sup>338</sup> The new applicability Subsection combines and expands on OSPO Article II: *Purpose & Scope*; OPSO Article IV: *Legal Status Provisions*; OPSO § 101.01.A.; and ZO § 15.12: *Permit Required*.

person may not erect, move, alter, display, or maintain any sign that this Section prohibits. Any sign or type of sign not expressly allowed by this Section is prohibited.

- B. **Permit Required.** Except as otherwise provided in this Section, it is unlawful to erect, move, alter, display, or maintain any sign regulated in this Section without first obtaining a sign permit. Failure to secure a sign permit when one is required is a violation of this Code.
- C. **Compliance with Codes.** All signs shall comply with applicable provisions of the State Building Code. A sign that operates through the use of electrical service shall be subject to all necessary approvals and permits.
- D. **Exemption for Maintenance.** A sign permit is not required for the ordinary maintenance of signs, so long as the maintenance does not change the dimensions, method of lighting, or other features of the sign, such as the addition of an electronic message center.
- E. **Sign Variance.**
  - 1. Standards for sign height and location may be modified by approval of a variance in accordance with Section 12.19: *Variances*.
  - 2. A sign variance is based on unique site conditions, such as the difference in the elevation of the site and the adjacent street.
  - 3. Other standards may not be modified through a variance.
- F. **Conflict with Other Laws.**
  - 1. Whenever the provisions of this Section conflict with another provision in this Code, the more restrictive provision applies.
  - 2. This Section does not prohibit signs required by local, state, or federal law and does not authorize signs prohibited by state or federal law. Whenever the provisions of this Section conflict with any generally applicable federal or state regulation, the federal or state regulation applies.

#### 4.7.3 CONTENT NEUTRALITY<sup>339</sup>

The content of a sign's message is not intended to be regulated under this Section. However, location-based standards such as off-premises regulations do apply.

#### 4.7.4 EXEMPT SIGNS<sup>340</sup>

The following signs are exempt from the permitting requirements of these regulations but are subject to the maintenance requirements of these regulations:

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<sup>339</sup> This new Subsection provides a rule of interpretation to be content neutral.

<sup>340</sup> This Subsection combines OPSO § 102:00 *Signs Exempt from Regulations* and ZO § 15.5: *Signs Permitted in Any Zoning District* and eliminates content-based distinctions in the current exemptions.

- A. Governmental signs;
- B. Traffic control devices;
- C. Signs on a vehicle or trailer that is not parked for a long period of time and is not driven in a manner that indicates that a principal use of the vehicle or trailer is for displaying the sign;
- D. Signs required by law, statute, or ordinance;
- E. Flags, not exceeding three per parcel on poles no taller than 30 feet;
- F. Integral decorative or architectural features of buildings that do not include copy, characters, text, icons, pictograms, and logos;
- G. Painted wall graphics and tile mosaics that display images or patterns but not printed building wraps or any wall graphic or tile mosaic that includes copy, characters, text, icons, pictograms, and logos; and
- H. Signs that are not visible from any parcel other than the parcel on which the sign is located.

#### 4.7.5 PROHIBITED SIGNS<sup>341</sup>

The following signs or sign features are not allowed:

- A. Any non-governmental sign that resembles a traffic control device;
- B. Signs, whether temporary or permanent, within any street or highway right-of-way, except for signs placed or allowed by the government agency that controls the right-of-way;
- C. Any sign that obstructs ingress or egress, creates an unsafe distraction for motorists, or obstructs the view of motorists entering a public road or highway;
- D. Abandoned signs;
- E. Signs on roadside appurtenances, including benches, bus stop shelters, planters, utility poles, trees, parking meter poles, and refuse containers;
- F. Any sign that obscures a traffic control device;
- G. Any sign that obstructs any door, fire escape, stairway, ladder or opening that provides ingress or egress for any building as required by the applicable building code;
- H. Any sign or signs that cumulatively cover more than 50% of any window or glass door;
- I. Any portable sign that does not meet the standards of Subsection 4.7.10: Temporary Signs;

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<sup>341</sup> This Subsection combines ZO § 15.4: Prohibited Signs and OPSO § 103.00: Signs Prohibited. It removes the prohibition of a sign as a principal use to allow billboards to be controlled by the same section as other signs.



- J. Any sign on a vehicle or trailer that is parked in a location visible from a public street for more than three consecutive days and is driven in a manner that indicates that a principal use of the vehicle or trailer is for displaying the sign;
- K. Any sign that violates any provision of any State law;
- L. Animated and flashing signs, except for traffic control devices. Provided, however, electronic message centers (EMCs) that comply with the standards of 4.7.6E are not considered to be flashing or animated signs;
- M. Signs painted, pasted, stapled, taped, or otherwise affixed to trees, utility poles, State-owned signposts, or public road right-of-way control fencing;
- N. Signs erected in or over the public right-of-way, except as permitted by the County or North Carolina Department of Transportation;
- O. Signs set in motion by wind, water, motor drive, or otherwise; however, devices driven by the wind that do not include a sign are allowed;
- P. Signs, banners, streamers, or pennants tied or consecutively strung together; and
- Q. Any sign with a sign area over 200 square feet.

#### 4.7.6 GENERAL SIGN STANDARDS<sup>342</sup>

- A. **Sign Area.** The area of a sign is the area of the smallest rectangle that encompasses all lettering, wording, or symbols, together with any background on which the sign copy is located and any internally illuminated panels.
- B. **Sign Locations.** Signs are allowed in the buffer areas required by 4.4.8: Transitional Buffers.
- C. **Lighting.**<sup>343</sup>
  - 1. External Illumination.
    - (a) External luminaires illuminating signs and billboards must be aimed and shielded so that the light source is focused exclusively on the sign.
    - (b) The maximum allowed brightness for a sign is determined by multiplying the sign face area by 30 lumens per square foot, except that signs less than seven feet in height above grade may be illuminated by a light source not exceeding 1,600 lumens per sign face.

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<sup>342</sup> This new Subsection includes current generally applicable standards relating to design guidelines, sign area, lighting, and substitution from ZO § 13.12: *Permanent Sign and Billboard Lighting* and OPSO §105.00: *Noncommercial Messages*. New standards are included for readerboards and digital signs. The Subsection also revises the requirement for billboard maintenance to all signs.

<sup>343</sup> Carries forward ZO Section 13.12 Permanent Sign and Billboard Lighting. Revises “100 lamp watts per sign face” to “1,600 lumens per sign face” and “2 watts per square foot of sign face” to “30 lumens per square foot of sign face.”

2. Internal Illumination. Internally illuminated signs are allowed, if the message or letters on the sign face consist of non-reflective material.
3. BUG Ratings. The BUG ratings specified in 4.5.9: Limits to Off-Site Impacts do not apply to luminaires used to illuminate signs.

**D. Readerboards.**

1. Definition. A readerboard is a sign or part of a sign on which the copy or symbols change manually through placement of letters or symbols on a panel mounted in or on a track system.
2. Allowance. The tables for each sign type in this Section state whether readerboards are allowed in the district and the maximum percentage of the sign area used for readerboard.

**E. Electronic Message Centers (EMCs).**

1. Definition. An EMC is a sign or part of a sign capable of displaying words, symbols, figures, or images, changeable electronically or mechanically by remote or automatic means. Examples of an EMC include digital displays using light emitting diodes (LED) and tri-vision mechanically changeable signs.
2. Allowance. The tables for each sign type in this Section state whether EMCs are allowed in the district and the maximum percentage of the sign area used for EMCs.
3. Standards.
  - (a) The message on EMCs must remain fixed for a minimum of four seconds.
  - (b) EMCs may not use features that simulate motion, such as dissolve, flash, fade, travel, scroll, animation, and video displays.
  - (c) EMCs may not exceed 750 candelas per square meter ( $\text{cd}/\text{m}^2$ ) between sunset and sunrise.
  - (d) EMCs may not create a glare or other condition that impairs the vision of drivers or obstructs or interferes with a driver's view of surrounding traffic situations and must automatically adjust or dim due to changes in ambient light, such as inclement weather and time of day.
  - (e) EMCs must contain a malfunction display lock that will freeze the sign in one position or shut the sign down if a malfunction occurs.

**F. Substitution Allowed.** Any sign allowed under this Section may contain, in lieu of any commercial message, any non-commercial message. Any sign allowed with a non-commercial message may contain any other non-commercial message.

**G. Maintenance.** All signs shall be maintained in good working condition as follows:

1. A sign shall not have more than 20% of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than 30 successive days;

2. A sign shall not have bent or broken sign facing, broken supports, loose appendages or struts, or be allowed to stand more than 15 degrees away from the perpendicular for a period of more than thirty 30 successive days;
3. A sign shall not have weeds, vines, landscaping, or other vegetation growing upon and obscuring the view from the street or highway from which it is to be viewed for a period of more than 30 successive days; and
4. An illuminated sign requires the changing of burned-out bulbs and shall not have partial illumination for a period of more than 30 successive days.

**4.7.7 SIGNS DISTRICTS AND INTERPRETATION OF TABLES<sup>344</sup>**

**A. Sign Districts.**

1. Generally. This Section regulates sign characteristics by district. Since many County zoning districts have common characteristics for the purposes of sign regulations, this Section combines the County’s zoning districts into common sign districts. Table 4.7.6-1: *Sign Districts* designates the zoning districts included in each sign district.
2. Legacy Districts. Signs on parcels located in legacy districts as provided in Section 2.4: Legacy Districts may display signs under the ordinance in effect at the time of the initial approval of the sign.

**Table 4.7.6-1: Sign Districts**

<b>Abbreviation</b>	<b>Sign District</b>	<b>Zoning Districts</b>
AOS	Agriculture and Open Space	PP, Parks & Protected Lands District AG, Agricultural District RA, Agricultural Residential District
RES	Residential	R5, Conservation Residential District R2, Rural Residential District NR, Neighborhood Residential District R1, Suburban Residential District CD-CR, Compact Residential Conditional District
LC	Low Intensity Commercial	RV, Rural Village District OI, Office and Institutional Districts CD-NC, Neighborhood Center Conditional District
GC	General Commercial	NB, Neighborhood Business District CB, Community Business District RB, Regional Business District RHC, Rural Highway Commercial District

<sup>344</sup> This new Subsection explains the proposed sign districts and the organization of the tables.

Table 4.7.6-1: Sign Districts		
Abbreviation	Sign District	Zoning Districts
		CD-CN, Compact Non-Residential Conditional District CD-CMU, Compact Mixed Use Conditional District CD-AC, Activity Center Conditional District
IND	Industrial	IL, Light Industrial District IH, Heavy Industrial District

B. **Interpretation of Tables.** This Section presents the allowed specifications for signs in a series of tables. The tables include the allowance standards described in Table 4.7.6-2: Interpretation of Tables.

Table 4.7.6-2: Interpretation of Tables	
Standard in Tables	Description of Standard
Allowed	States whether the sign type is allowed in the sign district.
Permit Required	States whether this Section requires a permit for the sign type and sign district.
Number	The maximum number signs allowed sign on a platted parcel for the sign district.
Sign Area Allowance	The maximum area allowed for a sign in the sign district, in square feet.
Height	The maximum height allowed for sign for the sign district, in linear feet.
Illumination	States whether and what type of illumination is allowed for the sign type and district.
Readerboard	States whether a readerboard is allowed for the sign type and district and the percentage of sign area allowed for this feature.
EMC	States whether electronic message centers are allowed for the sign type and district, and the percentage of sign area allowed for this feature.

**4.7.8 PERMANENT SIGNS<sup>345</sup>**

**Table 4.7.8-1: Permanent Sign Allowances**

Standard	Sign District				
	AOS	RES	LC	GC	IND
Allowed	Yes	Yes	Yes	Yes	Yes
Permit Required	Yes	Yes	Yes	Yes	Yes
Number (max)	N/A	N/A	N/A	N/A	N/A
Sign Area Allowance (max)	1 sf per 1 ft of frontage	1 sf per 1 ft of frontage	1.5 sf per 1 ft of frontage	2 sf per 1 ft of frontage	2 sf per 1 ft of frontage
<b>Freestanding</b>					
Sign Area (max)	½ of allowance not to exceed 50 sf	½ of allowance not to exceed 32 sf for Non-residential use 4 sf for residential use	½ of allowance not to exceed 50 sf	2/3 of allowance not to exceed 150 sf	200 sf
Sign Height (max)	8 ft	8 ft	10 ft	30 ft	30 ft
Illumination	Yes	Yes	Yes	Yes	Yes
Readerboard	No	25% Non-residential use only	25%	50%	50%
EMC	No	No	No	25%	No
Residential Development Sign	No	Yes	No	No	No
<b>Attached</b>					
Sign Area (max)	32 sf	32 sf for Non-residential use 4 sf for residential use	50 sf	150 sf	200 sf
Sign Height (max)	N/A	N/A	N/A	N/A	30 ft above grade
Illumination	Yes	Yes	Yes	Yes	Yes

<sup>345</sup> This Subsection carries forward the sign standards for the districts controlled by §§ 15.6 thru 15.9 and adds new standards for Agriculture and Open Space and Residential Districts. It also adds design standards from Section 9.1 of the Chatham County Design Guidelines. It adds a new framework for freestanding and attached signs in multi-tenant developments that allows a larger freestanding sign and limits attached signs to tenants with a separate public entrance.

**Table 4.7.8-1: Permanent Sign Allowances**

Standard	Sign District				
	AOS	RES	LC	GC	IND
Readerboard	No	25% Non-residential use only	25%	50%	50%
EMC	No	No	No	No	No

**Key:** max = maximum allowed | sf = square feet | ft = feet

- A. **Definition.** A permanent sign is a sign that is permanently mounted to the ground, on a building, or structure that cannot be readily relocated or removed from a site. Examples of permanent signs include freestanding signs, attached signs, residential development signs, and incidental signs.
- B. **Allowance.** There is no limit on the number of permanent on-premises signs allowed on a parcel, but the signs on the parcel shall not exceed the cumulative area limit.
- C. **Sign Area.**
  - 1. *Cumulative Area.* Table 4.7.8-1: Permanent Sign Allowances provides the maximum cumulative area for all freestanding and attached signs for each parcel, expressed generally as a ratio of sign area in square feet for each linear foot of frontage on a private- or public-maintained street.
  - 2. *Parcels with Multiple Frontages.* Double frontage or corner parcels are allowed additional sign area computed at half the rate in Table 4.7.8-1: Permanent Sign Allowances for the additional street frontage.
- D. **Freestanding Signs.**
  - 1. *Definition.* A freestanding sign is a permanent on-premises sign supported by its own structure apart from a building or structure and secured in the ground.
  - 2. *Area.* Table 4.7.8-1: Permanent Sign Allowances provides the maximum area for freestanding signs as a ratio of the cumulative sign area and as an absolute maximum regardless of the size of the parcel.
  - 3. *Height.* The maximum height of a freestanding sign is measured in linear feet above the ground at its base.
  - 4. *Setback.* Freestanding signs must be set back at least four feet from all sight distance triangles established by NCDOT.
  - 5. *Multi-Tenant Developments.*
    - (a) Multi-tenant developments qualify for a 25% increase in the district allowance for sign area and height based on the larger number of users for a shared freestanding sign.
    - (b) Each tenant may not display a separate freestanding sign.
- E. **Attached Signs.**

1. *Definition.* An attached sign is an on-premises sign that is permanently affixed to a building or structure. Types of attached signs include wall signs, projecting signs, awning and canopy signs, window signs, and freestanding canopy signs.
2. *Height.* If Table 4.7.8-1: Permanent Sign Allowances provides a height limit for attached signs, the limit is the height above the average finished grade of the parcel on which the structure to which the sign is attached is located.
3. *Roof Signs.* Attached signs may be located on a roof but shall not extend above the top of the roof line or parapet wall that forms the background of the sign.
4. *Design Standards.*
  - (a) Attached signs must be confined to signage areas and must not interfere with door and window openings, conceal architectural details, or obscure the composition of the facade.
  - (b) The Primary attached signs in developments with more than one user must be located at the same height to create a uniform sign band.
5. *Multi-Tenant Developments.*
  - (a) Tenants in multi-tenant developments with a separate public entrance may each display the allowed wall signs on any wall where a public entrance is located.
  - (b) Multi-tenant developments with common entrances may display the number and size of attached signs as provided this Subsection for the entire development. Individual tenants in multi-tenant buildings with common entrances may not display a separate attached sign.

**F. Residential Development Signs.**<sup>346</sup>

**Table 4.7.8-2: Allowances for Residential Development Signs**

Standard	Sign District
	RES
Allowed	Yes
Permit Required	Yes
Number (max)	1 double-sided sign or 2 single-sided signs per entry drive
Sign Area (max)	32 sf
Height (max)	8 ft
Illumination	Indirect

<sup>346</sup> The Paragraph provides a content-neutral update for the subdivision identification signs in Paragraph 15.5.8 with the same area allowance.

**Table 4.7.8-2: Allowances for Residential Development Signs**

Standard	Sign District
	RES
Readerboard	No
EMC	No

**Key:** max = maximum allowed | sf = square feet | ft = feet

1. *Definition.* A residential development sign is a freestanding sign located near the entrance drive or road to a residential development. An example of a typical residential development sign is one that identifies the name of the development or phase of development, sometimes incorporating architectural or landscape features. The example is provided to clarify the regulations and does not limit the content of residential development signs. The County will not review the content of residential development signs.
2. *Sign Allowances.* All uses must comply with the residential development sign allowances listed in Table 4.7.8-2.
3. *Number.* Residential developments with more than 8 parcels or group developments with more than 8 dwelling units may have a maximum of two one-sided or one two-sided freestanding signs per entry drive with vehicle access to the subdivision or development.
4. *Design Standards.*
  - (a) Where entry drives include or incorporate decorative or landscape features, such as walls, gates, or fences, signs attached to a wall or other feature are allowed.
  - (b) The sign faces and support structures and of residential development signs may only use natural materials, such as painted, stained, or carved wood, rock, stone, brick, or metals such as wrought iron, brass, or copper.
  - (c) Signs and other residential development entry features, such as fences, walls, columns, and other structures, may not incorporate open or closed gas flames, including torches, cauldrons, and gas lamps and lanterns.
5. *Location.*
  - (a) Residential development signs must be set back at least four feet from all sight distance triangles established by NCDOT.
  - (b) A residential development sign may not be located on a parcel with a residential use.



**4.7.9 INCIDENTAL SIGNS<sup>347</sup>**

**Table 4.7.9-1: Incidental Sign Allowances**

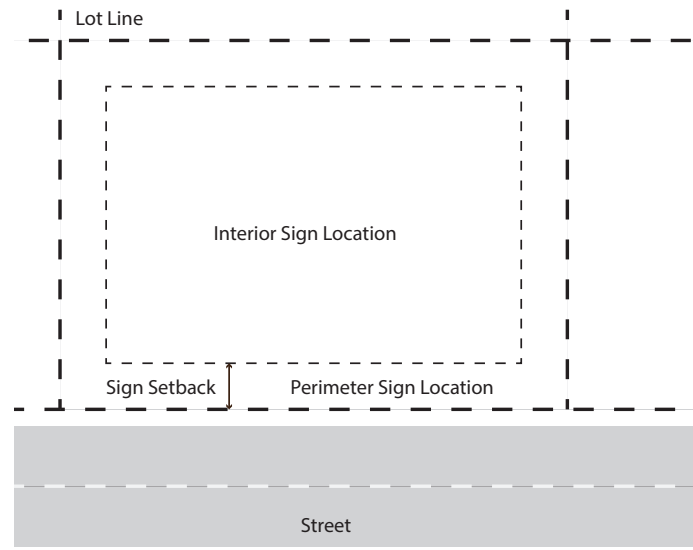
Standard	Sign District				
	AOS	RES	LC	GC	IND
<b>Perimeter Signs</b>					
Allowed	Yes	Yes	Yes	Yes	Yes
Permit required	No	No	No	No	No
Setback (min)	N/A	N/A	N/A	N/A	N/A
Number (max per entrance/exit)	2	1	2	2	2
Sign Area (max)	4 sf	2 sf	4 sf	4 sf	4 sf
Sign Height (max)	4 ft	3 ft	4 ft	4 ft	4 ft
Letter Height (max)	3 in	3 in	3 in	4 in	4 in
Illumination	No	No	Yes	Yes	Yes
Readerboard	No	No	No	No	No
EMC	No	No	No	No	No
<b>Small Interior Signs</b>					
Allowed	Yes	Yes	Yes	Yes	Yes
Permit required	No	No	No	No	No
Setback (min)	10 ft	10 ft	10 ft	10 ft	10 ft
Number (max)	Up to 20 per acre	4 per parcel	Up to 20 per acre	Up to 30 per acre	Up to 30 per acre
Sign Area (max)	4 sf	4 sf	4 sf	6 sf	6 sf
Letter Height (max)	3 in	3 in	3 in	4 in	4 in
Sign Height (max)	3 ft	3 ft	3 ft	4 ft	4 ft
Illumination	Yes	Yes	Yes	Yes	Yes
Readerboard	No	No	No	No	No
EMC	No	No	No	No	No
<b>Large Interior Signs</b>					
Allowed	No	No	Yes	Yes	Yes
Permit required	N/A	N/A	No	No	No

<sup>347</sup> This new Subsection includes standards for incidental on-premises signs and provides standards by district for number, area, and location for these signs. A general allowance is given for these signs without regard to their content. This Section replaces current standards for signs like directional signs, directory signs, and drive-thru menu boards.

Table 4.7.9-1: Incidental Sign Allowances					
Standard	Sign District				
	AOS	RES	LC	GC	IND
Setback (min)	N/A	N/A	30 ft	30 ft	30 ft
Number	N/A	N/A	1	2	1
Area	N/A	N/A	32 sf	64 sf	32 sf
Sign Height (max)	N/A	N/A	7 ft	8 ft	8 ft
Letter Height (max)	N/A	N/A	3 in	4 in	4 in
Illumination	N/A	N/A	Yes	Yes	Yes
Readerboard	N/A	N/A	No	No	No
EMC	N/A	N/A	No	Yes	No

**Key:** N/A = not applicable | min = minimum required | max = maximum allowed | sf = square feet | ft = feet | in = inches

- A. **Definition.** An incidental sign is a small, permanent, on-premises sign that is freestanding or attached to a building that is in addition to the primary sign types for the property, such as attached signs and freestanding signs, and that has a height and scale that is subordinate to the primary sign types allowed for the property. Examples of typical incidental signs include house numbers, occupant directories, directional signs, flags, and parking signs. The list of examples is provided to clarify the regulations and does not limit the content of incidental signs. The County will not review the content of incidental signs.
- B. **Sign Allowances.** All uses must comply with the incidental sign allowances listed in Table 4.7.9-1.
- C. **Sign Setback.**
  - 1. *Generally.* This Subsection regulates the location and size of incidental signs based on a sign setback that varies by district and incidental sign type. Figure 4.7.9-1: Illustration of Incidental Sign Setback depicts the setback and placement of incidental signs.
  - 2. *Measurement.* The sign setback is the setback from any property line and regulates the location and size of incidental signs. Table 4.7.9-1. defines the applicable setback for each sign type and district.

**Figure 4.7.9-1: Illustration of Incidental Sign Setback**

- D. **Perimeter Incidental Signs.** Perimeter incidental signs are smaller signs allowed between the property line and the applicable sign setback. Examples of typical perimeter incidental signs include directional and entry/exit signs. The list of examples is provided to clarify the regulations and does not limit the content of incidental signs. The County will not review the content of incidental signs.
1. Table 4.7.9-1. defines the maximum number of perimeter incidental signs per entrance to a public or private street.
  2. Perimeter signs are only allowed within 15 feet of a driveway entrance to a public or private street.
- E. **Interior Incidental Signs.**
1. *Generally.* Interior incidental signs are only allowed within a platted parcel and are not allowed within the applicable sign setback. There are two types of interior signs: small and large interior incidental signs.
  2. *Small Interior Incidental Signs.*
    - (a) Table 4.7.9-1. defines the maximum allowances for small interior incidental signs based on the number of signs per acre.
    - (b) Examples of typical small interior incidental signs include house numbers, directional signs, and parking signs. The list of examples is provided to clarify the regulations and does not limit the content of small interior incidental signs. The County will not review the content of small interior incidental signs.
  3. *Large Interior Incidental Signs.*
    - (a) Table 4.7.9-1. defines the allowances for large interior incidental signs based on the number of signs per development.

- (b) Large interior incidental signs with readerboards or electronic message center features are only allowed if oriented so they are not viewable from any public right-of-way.
- (c) Examples of typical large interior incidental signs include occupant directories, drive-thru menus, and information kiosks. The list of examples is provided to clarify the regulations and does not limit the content of large interior incidental signs. The County will not review the content of large interior incidental signs.

F. **Character Height.** Where applicable, Table 4.7.9-1 provides a maximum character height for copy. All copy, characters, text, icons, pictograms, logos, and images must comply with the character height limit.

**4.7.10 TEMPORARY SIGNS<sup>348</sup>**

Table 4.7.10-1: Temporary Sign Allowances					
Standard	Sign District				
	AOS	RES	LC	GC	IND
Allowed	Yes	Yes	Yes	Yes	Yes
Permit required	No	No	No	No	No
Number (max)	6	6	6	6	6
Sign Area (max)	32 sf	8 sf	32 sf	32 sf	32 sf
Sign Height (max)	8 ft	6 ft	8 ft	8 ft	8 ft
Illumination	No	No	Yes	Yes	Yes
Readerboard	No	No	No	No	No
EMC	No	No	No	No	No

Key: max = maximum allowed | sf = square feet | ft = feet

A. **Definition.** A temporary sign is a sign constructed of cloth, canvas, light fabric, cardboard, wood, wallboard, metal, or other light materials, with or without frames, that is not permanently mounted to the ground, on a building, or structure, and displayed for a limited time only. Temporary signs include banners, feather signs, stake signs, and post signs. Examples of common temporary signs include political

<sup>348</sup> This Subsection significantly updates the standards of §§ ZO 15.5: *Signs Permitted in Any Zoning District*, 15.10: *Temporary Signs*; 15.11: *Off-Premise Directional Signs*; OPSO 102.00.G: *Temporary Signs* & -H: *Off-Premise Directional Signs*.; and ZO 13.64.c. (illuminated portable signs for special events). The Subsection replaces many content-based signs (off-premises directional signs, real estate signs, political signs, notice signs, special event signs, banner signs, construction signs, and farm stand signs) with content-neutral standards that vary by zoning district for the number of signs, area, and duration of display. Each parcel is allowed one temporary sign indefinitely (to allow for signs like real estate and construction signs) and a 90-day time limit applies to all other temporary signs. Generally, the Current standard of 32 sq. ft. is carried forward for temporary signs.

signs, public demonstration signs, yard sale signs, grand opening signs, contractor signs, real estate signs, and signs that announce a special event. The list of examples does not limit the content of temporary signs. The County will not review the content of temporary signs.

- B. **Prohibited Temporary Sign Types.** Subsection 4.7.5: Prohibited Signs prohibits the use of several common temporary sign types, including pennants and wind signs.
- C. **Sign Allowances.** All uses must comply with the temporary sign allowances listed in Table 4.7.10-1.
1. *Number.* Table 4.7.10-1: Temporary Sign Allowances defines the maximum limit for temporary signs per parcel.
  2. *Duration for Display.*
    - (a) One temporary sign on each parcel may be displayed without any time limitation. This sign shall not be constructed of cloth, canvas, or fabric.<sup>349</sup>
    - (b) The duration of display for all other temporary signs is 90 days or less per calendar year, measured cumulatively per sign.
  3. *Owner Consent Required.* The person erecting or placing a temporary sign on a parcel must obtain the consent of the property owner before placing a sign on that person's parcel.
  4. *Public Land and Right-of-Way.* A temporary sign installed or placed on public land or right-of-way, except those installed or placed in compliance with this Section and state law, or under an encroachment agreement with the North Carolina Department of Transportation (NCDOT) or the County, shall be deemed to be abandoned to the public and shall be subject to removal and disposal by the NCDOT.

#### 4.7.11 BILLBOARDS<sup>350</sup>

- A. **Definition.** A billboard is a permanent, freestanding, off-premises sign or sign structure upon which copy is placed on a poster or panel and mounted on a pole or metal structure, including the following typical configurations:
1. Wood posts or pole supports with dimensional lumber as the secondary support (A-frame) with a wood or metal catwalk and a single display panel;
  2. A steel A-frame constructed with angle iron or steel supports with metal framing, catwalk, and a single display panel;

<sup>349</sup> This limitation on material was recommended by the Planning Board.

<sup>350</sup> This Subsection significantly modifies the current Off-Premise Sign Ordinance. Based on staff input, the draft declares billboards to be nonconforming. New billboards cannot be constructed, but existing billboards can be maintained, repaired, and relocated for road widening and other public necessities. A relocated billboard must follow the location standards of current OPSO § 104.00: *Regulation of Off-Premise Advertising Signs*. Existing billboards must be maintained as provided in current OPSO § 106.00: *Maintenance*.

3. A multi-mast structure constructed with steel poles, I-beam or equivalent as primary support, with a catwalk, and a single display panel; or
4. A monopole structure constructed with tubular steel support, tubular steel framing, metal catwalk, and a single display panel with a concrete foundation.

**B. Billboards Declared Nonconforming.**

1. All legally established billboards existing within the jurisdiction of Chatham County on the effective date of this UDO are declared to be nonconforming billboards and are subject to the requirements of this Subsection 4.7.11.
2. Nonconforming billboards are not required to be removed, except under the provisions for termination of nonconforming billboards in Paragraph G, below.
3. New billboards may not be erected in the County, except as provided for relocated billboards allowed in this Subsection.

**C. EMC Use Prohibited.** Billboards may not use electronic message center features or any other animation or motion.

**D. Continuation of Use.** Continued use and maintenance of a nonconforming billboard is allowed at its current location if:

1. It is not enlarged;
2. It is not relocated without proper permits; and
3. It is maintained in a good working condition as provided in 4.7.6: General Sign Standards.

**E. Repair and Reconstruction of Nonconforming Billboards.**

1. Nonconforming billboards may be repaired and reconstructed by the owner so long as the square footage of its sign area does not increase. Reconstruction includes changing an existing billboard to a new monopole structure.
1. Methods of lighting and electronic message centers not included in the existing billboard being repaired or reconstructed may not be added in the repair or reconstruction of a nonconforming billboard.

**F. Relocation of Nonconforming Billboards.**

1. *Generally.* When a nonconforming billboard requires removal for opening, widening, extending, or improving streets or sidewalks, or for establishing, extending, enlarging, or improving any of the public enterprises listed in [N.C.G.S. § 160A-311](#), relocation to a comparable location is allowed as provided in this Paragraph.
2. *Location.* Relocated billboards are allowed on parcels adjacent to U.S. Highway 64 west of Pittsboro and U.S. Highway 421.
3. *Size.*
  - (a) Each sign face of a relocated billboard shall not exceed 200 square feet.

- (b) A maximum of two faces per relocated billboard is allowed, positioned either back to back or V-shaped, such that only one face is allowed per side. Both sides of a double-faced or V-shaped billboard must be the same size.
- 4. *Height.*
  - (a) A relocated billboard shall not exceed 25 feet in height.
  - (b) The height is measured from the elevation at the edge of the nearest roadway on a sight line perpendicular to the roadway from the relocated billboard location. If the relocated billboard is at an intersection of roadways, the roadway with the highest traffic count will be the measuring point.
- 5. *Lighting.* A billboard may only be illuminated by fully shielded downlighting. Uplighting and internal illumination of billboards are prohibited.
- 6. *Spacing.*
  - (a) The relocated billboard must be located at least one mile away from any existing billboard on either side of the same street, road, or highway.
  - (b) A relocated billboard shall not be located within 1,000 feet of a school, residential structure, a church or place of worship, public park, or cemetery.
  - (c) A relocated billboard shall not be located within 250 feet of any bridge or the intersection of two or more streets, roads, or highways.
- 7. *Setbacks.* The following minimum setback distances apply to relocated billboards:
  - (a) Ten feet from any road right-of-way;
  - (b) Twenty feet from the edge of the travel way of a road if no right-of-way exists;
  - (c) Twenty-five feet from other property lines; and
  - (d) Outside all sight visibility triangles.
- G. **Termination of Nonconforming Billboards.** Nonconforming billboards shall be removed without the payment of monetary compensation to the owners of the nonconforming billboard when:
  - 1. The County and the owner of the nonconforming billboard enter into a relocation agreement pursuant to NCGS 160D-912(g);
  - 2. The County and the owner of the nonconforming billboard enter into an agreement pursuant to NCGS 160D-912(k);
  - 3. The billboard is determined to be a public nuisance or detrimental to the health or safety of the populace;

4. The removal is required for opening, widening, extending, or improving any of the public enterprises listed in G.S. 160A-311, and the County allows the nonconforming billboard to be relocated to a comparable location; or
5. The billboard is subject to removal pursuant to statutes, ordinances, or regulations generally applicable to the demolition or removal of damaged structures.



# CHAPTER 5 GENERAL SUBDIVISION STANDARDS<sup>351</sup>

## 5.1 GENERAL PROVISIONS

### 5.1.1 AUTHORITY<sup>352</sup>

By the authority of [Chapter 160D](#), Article 8 (Subdivision Regulations) of the North Carolina General Statutes, the Chatham County Board of Commissioners exercises the powers and authority to regulate the subdivision of land within its planning and development regulation jurisdiction.

### 5.1.2 PURPOSE<sup>353</sup>

- A. The subdivision and development standards of this UDO are adopted to:
1. Protect and provide for the public health, safety, and general welfare of Chatham County;
  2. Provide for the orderly growth and efficient development of the County;
  3. Preserve the County's tree canopy and provide access to open space for residents;
  4. Preserve the County's rural character and agricultural heritage;
  5. Provide for the coordination of subdivision streets with existing or planned streets;

<sup>351</sup> The proposed draft of this Chapter authorizes and provides design standards for the following subdivision designs:

- Conventional
- Conservation
- Compact Subdivision to conform with the new [conditional](#) zoning districts: Compact Residential, Compact Mixed-Use, ~~and~~ Compact Non-Residential, [Neighborhood Center, and Activity Center](#) (significantly revising the Compact Communities Ordinance).
- ~~Agricultural (New)~~
- Townhome Subdivision (New)
- Non-Residential Subdivision (New)
- Eliminates Planned Unit Development/Planned Residential Development

<sup>352</sup> This Section carries forward current SR § 1.2: *Authority*.

<sup>353</sup> This Section carries forward current SR § 1.3 *Purpose* and adds preservation of tree canopy, open space, and rural character as purposes.

6. Ensure an adequately planned street system and avoid sharp curves, steep grades, and hazardous intersections;
  7. Provide for safe and adequate public or private water and sewer systems, schools, parks, and playgrounds;
  8. Provide for the dedication of rights-of-way for streets and utilities;
  9. Minimize risk of flood damage through appropriate site design;
  10. Facilitate an orderly system for the design and layout of land;
  11. Provide options for compact and conservation subdivisions that limit the extent of infrastructure, such as roads, required to serve the development, thereby reducing development costs and contributing to the affordability of housing;
  12. Ensure the proper legal description and documentation of ownership and transfers of land;
  13. Provide for the re-subdivision of land;
  14. Avoid overcrowding of the land and extreme concentration of the population;
  15. Provide for the orderly, safe flow of traffic and to avoid congestion and traffic hazards;
  16. Provide for the protection of lakes, streams, rivers, and wetlands within the jurisdiction; and
  17. Help implement the Chatham County Comprehensive Plan.
- B. The minimum standards specified in this UDO are adopted and shall be considered as achieving the purposes listed above.

### 5.1.3 APPLICABILITY<sup>354</sup>

#### A. **Generally.**

1. This Chapter applies to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets.
2. The general applicability standard shall be interpreted to mean that any time a single-family detached dwelling is to be situated on a parcel of land, a

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<sup>354</sup> This Section combines the applicability standards in NCGS § 160D-802 with the current standards of SR § 4.C.: *Exempt Subdivisions*. It also carries forward the current requirements of SR § 1.4: *Jurisdiction* and the consistency between zoning and subdivision standards in SR § 7.6: *Zoning or Other Regulations*.

separate lot shall be created and said lot shall, prior to any construction thereon, be reviewed according to the procedure set forth herein, unless said lot is exempted from the definition of subdivision.

- B. **Jurisdiction.** This Chapter applies to subdivision of land within the unincorporated area of Chatham County and outside the extraterritorial jurisdiction of any incorporated municipality as provided in ~~Section N.C.G.S. § 160D-202 of the General Statutes of North Carolina.~~
- C. **Conformity with Zoning Regulations.**
1. Subdivision plats must conform to the applicable zoning regulations for the district where the parcel is located.
  2. Wherever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the zoning regulations or other agencies' regulations, the more stringent standards shall apply.
- D. **Exempt Subdivisions.**
1. This Chapter does not apply to subdivisions of land that meet any of the following criteria:
    - (a) The combination or recombination of portions of previously platted lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as provided in this Chapter;
    - (b) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved;
    - (c) The public acquisition by purchase of strips of land for widening or opening streets, other public transportation corridors, or greenways;
    - (d) The division of a tract in single ownership, the entire area of which is not greater than two acres, into not more than three lots if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the County as provided in this UDO;
    - (e) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes; ~~and~~
    - ~~(f)~~ The division of a tract of land for the dedication of public right of way for widening an existing public street and not involving the creation of new lots, or the extension or creation of a new public street; ~~or~~
    - ~~(f)~~(g) The division of land for the purpose of creating lots for stormwater control measures.
  2. Exempt subdivisions must confirm qualification for the exemption through the exempt subdivision review provided in 5.2.6: *Exempt Subdivisions*.
  3. Exempt subdivisions are subject to the approval requirements of 5.1.4: *Approval Required*.

- E. **Easement Plats.** The Subdivision Administrator may review easement plats in accordance with 5.2.6: *Exempt Subdivisions*.
- F. **Boundary Surveys.** Boundary surveys of existing lots of record do not require review by the Subdivision Administrator if they do not alter any existing lot lines.

#### 5.1.4 APPROVAL REQUIRED<sup>355</sup>

- A. **Generally.** The subdivision of land to which this Chapter applies may only be accomplished by a plat approved as provided in this UDO. A deed is not sufficient to create a subdivision of land. A subdivision of land via deed without an approved plat is a violation of this UDO.
- B. **Recording of Unapproved Plats Prohibited.** The Register of Deeds will not file or record any subdivision plat required by this Chapter unless the plat is approved in accordance with the regulations set forth in this UDO. When a subdivision of land takes place to which this Chapter applies, a plat shall be prepared and recorded pursuant to the provisions of this UDO.
  1. The owner of land shown on a subdivision plat submitted for recording or the owner's authorized agent shall sign a statement on the plat stating whether or not any land shown thereon is within the jurisdiction of the subdivision regulations of Chatham County.
  2. Whenever land shown on a plat for recordation is within the planning and development jurisdiction of the subdivision regulations of Chatham County but is exempt from the regulations, the owner of the land shown, or the owner's authorized agent, shall sign a statement certifying the basis for the exemption.
- C. **Filing of Plat Required for Sale or Lease.** Lots resulting from the subdivision of land to which this Chapter applies may not be sold, leased, or transferred until:
  1. The owner or the owner's authorized agent has obtained approval of the preliminary plat and a final plat as provided in this UDO; and
  2. The approved plats are filed with the Register of Deeds.

#### 5.1.5 SUMMARY OF AVAILABLE SUBDIVISION DESIGNS<sup>356</sup>

- A. **Generally.** Table 5.1.5-1: *Subdivision Designs Available in Each District* lists the subdivision design options ~~that are~~ allowed in each zoning district.
- B. **Availability of ~~Public Water and Sewer~~.** The allowance for each subdivision design varies based on the availability of ~~public water and~~ sewer service.

<sup>355</sup> This new Section clarifies the requirement for platting and approval of subdivisions based on staff input and adds the requirement for review by the Watershed Administrator.

<sup>356</sup> This new Subsection provides a matrix for the availability of subdivision designs by district, with a distinction made for the availability of sewer.

Table 5.1.5-1: Subdivision Designs Available in Each District							
District <sup>1</sup>	Public or Private Sewer?	Subdivision Design					
		Conventional	Conservation	Compact	Agricultural	Townhouse	Non-Residential
PP	Yes		✓				✓
	No		✓				✓
AG	Yes	✓ <sup>2</sup>			✓ <sup>3</sup>		
	No	✓ <sup>2</sup>			✓ <sup>3</sup>		
RA	Yes	✓ <sup>2</sup>			✓ <sup>3</sup>		
	No	✓ <sup>2</sup>			✓ <sup>3</sup>		
R5	Yes	✓ <sup>42</sup>	✓ <sup>42</sup>				
	No	✓ <sup>42</sup>	✓ <sup>42</sup>				
R2	Yes	✓	✓				
	No	✓	✓				
NR	Yes	✓	✓				
	No	✓	✓				
R1	Yes	✓	✓				
	No	✓	✓				
RV	Yes		✓				✓
	No		✓				✓
OI	Yes	✓					✓
	No	✓					✓
NB	Yes	✓					✓
	No	✓					✓
CB	Yes	✓					✓
	No	✓					✓
RB	Yes	✓					✓
	No	✓					✓

Table 5.1.5-1: Subdivision Designs Available in Each District							
District <sup>1</sup>	Public or Private Sewer?	Subdivision Design					
		Conventional	Conservation	Compact	Agricultural	Townhouse	Non-Residential
RHC	Yes	✓					✓
	No	✓					✓
IL	Yes	✓					✓
	No	✓					✓
IH	Yes	✓					✓
	No	✓					✓
CD-CR	Yes			✓	✗	✓	✓
	No			✓			✓
CD-CMU	Yes			✓	✗	✓	✓
	No			✓			✓
CD-CN	Yes			✓			✓
	No			✓			✓
CD-NC	Yes	✗		✓		✓	✓
	No	✓		✓			✓
CD-AC	Yes	✗		✓		✓	✓
	No	✗		✓			✗

Key: ✓ = the subdivision type is allowed | [blank cell] = the subdivision type is prohibited

<sup>1</sup> See 2.1.2: *Zoning Districts Established*.

<sup>2</sup> Conventional subdivisions in the RA and AG districts are only available for subdivisions of a parcel into five or fewer lots. See 5.4.4: *Agricultural Subdivisions*.

<sup>3</sup> Agricultural subdivisions are required in the RA and AG districts for all subdivisions of a parcel into six or more lots. See 5.4.4: *Agricultural Subdivisions*.

<sup>24</sup> In the R5 District, the subdivision of a parcel into 10 or fewer lots may be a conventional or conservation subdivision. The subdivision of a parcel in the R5 District into more than 10 lots must be a conservation subdivision.

## 5.2 SUBDIVISION TYPES<sup>357</sup>

### 5.2.1 APPLICABILITY<sup>358</sup>

Subdivisions are classified into the following types. The specific review procedure for the subdivision plat depends upon its classification.

- A. Major Subdivisions (includes Tier 1 and Tier 2 Major Subdivisions);
- B. Minor Subdivisions;
- C. Family Subdivisions;
- D. Expedited Review;
- E. Exempt Subdivisions; and
- F. Recording of Non-Building Lot.

### 5.2.2 MAJOR SUBDIVISION<sup>359</sup>

- A. **Criteria.** The following situations require major subdivision approval:
  - 1. Subdivisions proposing the creation of more than five lots; or
  - 2. Any subdivision that proposes to include or requires:
    - (a) Any new street;
    - (b) The creation of any public improvements; or
    - (c) A request for a variance.
- B. **Tier 1 Major Subdivision.** Tier 1 Major Subdivisions are subdivisions of a parcel into more than five but less than 16 lots.
- C. **Tier 2 Major Subdivision.** Tier 2 Major Subdivisions are subdivisions of a parcel into 16 or more lots.
- D. **Review Procedures.**
  - 1. *Tier 1 Major Subdivision.* Tier 1 Major Subdivisions are approved by County Staff as provided in [Chapter 12: Procedures Section 12.8: Tier 1 Major Subdivision Sketch Plan](#).

<sup>357</sup> This Section clarifies and expands SR § 4: *Types of Subdivisions* with clarification of the criteria for each subdivision type.

<sup>358</sup> This Subsection carries forward the introductory paragraph of SR § 4: *Types of Subdivisions* and adds a list of all proposed subdivision types.

<sup>359</sup> This Subsection changes SR § 4.A.: *Major Subdivisions* by introducing a Tier 1 Major Subdivision for staff review (for 6-15 lots) and a Tier 2 Major subdivision for larger subdivisions (more than to 15 lots) and adds a requirement for an HOA for all major subdivisions.

2. *Tier 2 Major Subdivision.* Tier 2 Major Subdivisions are approved by the Board of Commissioners as provided in ~~Chapter 12: Procedures Section 12.11:~~ Tier 2 Major Subdivision Sketch Plan.

E. **Owners Association Required.**

1. All major subdivisions require the creation of a homeowners' association or property owners' association that is duly formed and authorized pursuant to North Carolina law.
2. The homeowners' or property owners' association will be responsible for the ownership and ongoing maintenance of common areas, common property, infrastructure, roads, and utilities that are not accepted by a public agency or retained by the developer.

### 5.2.3 MINOR SUBDIVISIONS

- A. **Criteria.** A subdivision qualifies for minor subdivision review when it involves the creation of five or fewer lots that have access to an existing public street and that does not involve or require a request for a variance.
- B. **Exceptions.** Subdivisions that qualify for expedited review or recording of non-buildable lots pursuant to this Section may be reviewed under the procedures for the applicable procedure for those subdivision types.
- C. **Review Required.** The Planning Department reviews all minor subdivisions through the minor subdivision review process. See Section 12.6: *Minor Subdivisions*.
- D. **Availability of Review.**
  1. The parent parcel and any parcels resulting from a minor subdivision qualify for minor subdivision review only once every five years.
  2. Parcels that have been subdivided using minor subdivision review in the last five years require the major subdivision process.
  3. The five-year limitation is measured based on the history of the parcel, regardless of the identity of the current owner.

### 5.2.4 FAMILY SUBDIVISIONS<sup>360</sup>

- A. **Criteria.** A subdivision qualifies for family subdivision review when it proposes the creation of up to five lots and the applicant proposes:
  1. To convey the resulting parcels, except parcels retained by the grantor, to a relative or relatives of direct lineage, or to the surviving spouse, if any, of any deceased lineal descendant, as a gift or for nominal consideration. ~~This provision only applies where the grantor or decedent already owned the land proposed for subdivision before January 1, 1994;~~ or

<sup>360</sup> This Subsection relocates the requirements for family subdivisions from § 2.3: *Meaning of Specific Words and Terms* to clarify that this is a subdivision type.



2. To divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.
- B. **Review Required.** The Planning Department reviews all family subdivisions through the minor subdivision review process. See Section 12.6: *Minor Subdivisions*.

### 5.2.5 EXPEDITED REVIEW<sup>361</sup>

- A. **Criteria.** A subdivision qualifies for expedited review when it proposes the division of a tract or parcel of land in single ownership if all of the following criteria are met:
1. No part of the tract or parcel to be divided has been divided under this Subsection in the 10 years prior to division;
  2. The entire area of the tract or parcel to be divided is greater than five acres;
  3. After division, no more than three lots result from the division; and
  4. After division, all resulting lots comply with all of the following:
    - (a) The lot dimensions comply with the applicable size requirements of this UDO;
    - (b) The use of the lots conforms with the applicable zoning requirements; and
    - (c) A permanent means of access for ingress and egress is recorded for each lot.
- B. **Review Required.** The Planning Department reviews all expedited review subdivisions through the minor subdivision review process. See Section 12.6: *Minor Subdivisions*.
- C. **Availability of Review.**
1. A parcel qualifies for expedited subdivision only once every 10 years.
  2. Parcels that have been subdivided using expedited review in the last 10 years require the Tier 1 Major Subdivision process and payment of the Recreational Fee for the district the parcel is in.
  3. The ten-year limitation is measured based on the history of the parcel, regardless of the identity of the current owner.

### 5.2.6 EXEMPT SUBDIVISIONS<sup>362</sup>

- A. The Planning Department must determine if a plat is exempt from the subdivision regulations under Paragraph 5.1.3D.

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<sup>361</sup> This Subsection carries forward SR § 4.D.: *Expedited Review*.

<sup>362</sup> This Subsection carries forward the requirement for ministerial review of exempt plats in SR § 4.C.: *Exempt Subdivisions*.

- B. The Planning Department reviews all exempt plats through the exempt subdivision review process. See Section 12.5: *Exempt Subdivisions*.
- C. An exempt review application and associated fees shall apply and be submitted to the County prior to approval of the plat.
- D. If the Planning Department determines the subdivision qualifies for an exemption, the plat will be exempt from any subdivision regulations.

### 5.2.7 RECORDING OF NON-BUILDING LOTS<sup>363</sup>

- A. Subdivision of lots that are not to be approved for building development may be approved for recording through the exempt subdivision procedure described in Paragraph 5.2.6A.
- B. A non-building lot shall not contain an existing structure, nor shall new structures be located on a non-building lot.
- C. The owner must acknowledge in writing that the lot is not approved for building development.
- D. Plats for non-building lots shall display a notation stating that the lots are not approved for building development and do not meet the requirements of the subdivision regulations but are approved for recording purposes only.
- E. The Planning Department reviews the recording of non-building lots through the exempt subdivision review process. See Section 12.5: *Exempt Subdivisions*.
- F. The owner may change a lot's non-buildable status through the minor subdivision procedure in Section 12.6: *Minor Subdivisions*.

## 5.3 GENERAL DESIGN REQUIREMENTS FOR ALL SUBDIVISIONS

### 5.3.1 APPLICABILITY<sup>364</sup>

- A. **Generally.** The standards of this Section apply to all subdivision types and designs unless a different standard is provided for a particular subdivision design in Section 5.4: Subdivision Designs.
- B. **Exempt Plats.** The standards of this Section do not apply to exempt plats.

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<sup>363</sup> This Subsection carries forward SO § 4.E.: *Recording of Non-Building Lots*.

<sup>364</sup> This Subsection specifies that the general design requirements apply to all subdivisions unless a subdivision design type specifies a different standard.

### 5.3.2 LOT CONFIGURATION & FRONTAGES<sup>365</sup>

- A. **Adequate Building Sites.** Each lot shall contain a building site suitable to meet the district standards for lot size and setbacks provided in Chapter 2: *Zoning Districts*.
- A. **Arrangement.** To the greatest extent practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines.
- B. **Frontage Requirements.**
1. *Public Streets.* Every lot shall have frontage on a public street except as provided below.
  2. *Private ~~Roads~~Streets.* Minor subdivision and Tier 1 major subdivision lots may front on a private ~~road~~ street that meets or exceeds the specifications in Chapter 7: *Infrastructure & Public Improvements*.
  3. *Private Driveways.* Lots in a minor subdivision or a Tier 1 major subdivision may front on a private driveway if the driveway:
    - (a) Meets or exceeds the private driveway standards specified in Chapter 7: *Infrastructure & Public Improvements*; and
    - (b) Intersects with a public street at an access point authorized by the NCDOT.
- C. **Flag Lots.**
1. The “flagpole” portion of a flag lot must be at least 30 feet in width but does not have to meet the minimum lot width required by Chapter 2: *Zoning Districts* for the district in which the lot is located. The main body of a flag lot must have the minimum width required by the zoning district. The “flagpole” is the narrow portion of the lot that provides access from the road to the main body of the lot.
  2. When two or more flag lots are adjacent to one another, an easement must be provided to allow a single common access. The maximum allowed length of a flagpole or access strip is 2,500 feet unless it provides access to previously landlocked property.
- D. **Cul-de-Sac Lots.** Lots located on a cul-de-sac must be at least 30 in width at the front lot line. The zoning district minimum lot width must be met at the front setback required for the district.
- E. **Corner Lots.** Corner lots may be required to have greater area to allow for sight easements required by the NCDOT.

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<sup>365</sup> This Subsection significantly revises current § 7.4 *Lots*. The road and driveway design standards are relocated to Chapter 7: *Infrastructure & Public Improvements*. The revision also eliminates minor subdivision applicability based on road standards to allow the uniform applicability in this Chapter to apply.

### 5.3.3 MINIMUM LOT DIMENSIONS & AREAS<sup>366</sup>

- A. **Generally.** The size of lots shall comply with the standards for lot size and setbacks provided in Chapter 2: *Zoning Districts* for the type of water supply and sewage disposal services.
- B. **Single-Family Residential Lots.** The frontage on street access for major and minor arterials and collectors may be reduced if the average lot frontage equals or exceeds the minimum and the reduction is not less than 1/3 the minimum specified for the district.
- C. **Multi-Family Residential and Other Planned Developments.** In a conditional zoning district, the Board of Commissioners may approve a multi-family, group housing, or other unified and planned development, including unified design and construction of units together with necessary drives and ways of access. The design of the project does not need to include standard streets, lots, and subdivision arrangements, if the departure from these standards can be made consistent with their intent.
- D. **Utilities.** In accordance with 2.1.5: Lots for Minor Utility Uses, lots created for the express purpose of minor utilities are exempt from the required minimum lot area.

### 5.3.4 SEPARATE LOTS REQUIRED FOR BUFFERS

In all major subdivisions, the types of buffers listed below must be located on a lot owned by the homeowners' or property owners' association:

- A. Perimeter buffers (see Sections 5.3.7: Perimeter Buffers [for Subdivisions](#) and 4.4.8: *Transitional Buffers*);
- B. Cemetery buffers (see Section 6.2); and
- C. Riparian buffers (see Chapter 8: *Watershed & Riparian Buffer Protection*).

### 5.3.5 CENTRALIZED MAIL FACILITY

All major subdivisions shall provide a centralized mail facility or facilities as provided in the United States Postal Service's [National Delivery Planning Standards](#).

### 5.3.6 STORAGE FOR TRAILERS, BOATS, AND RECREATIONAL VEHICLES

- A.        The [principal use of a lot for the](#) parking or storage of trailers, boats, recreational vehicles, or other major recreational equipment must either be:
  - ~~A.1.~~        Prohibited through covenants, rules, and restrictions; or
  - 2.        Provided ~~in~~ [as](#) a parking area separate from regular automotive parking for the residents.

<sup>366</sup> This Subsection carries forward § 7.4.C.: Minimum Lot Dimension and Areas. The lot widths and dimensions have been moved to Chapter 2: *Zoning Districts*.

- B. ~~Such~~ Parking areas for the parking or storage of trailers, boats, recreational vehicles, or other major recreational equipment do not count towards required off-street parking spaces for the development.

### 5.3.7 PERIMETER BUFFERS FOR SUBDIVISIONS<sup>367</sup>

- A. **Buffers Required.** All proposed ~~major~~ subdivisions must install or preserve buffers along the perimeter of the subdivision ~~development~~ to reduce the potential for conflict between residents and ~~other~~ adjacent uses.
- B. **Buffer Standards.** Such buffers shall be either:
1. A Type D buffer as provided in 4.4.8: *Transitional Buffers*, except that it must be at least 75 feet in width; or
  2. A planted, 60-foot Type B buffer as provided in 4.4.8: *Transitional Buffers*.

## 5.4 SUBDIVISION DESIGNS<sup>368</sup>

### 5.4.1 CONVENTIONAL SUBDIVISIONS<sup>369</sup>

- A. **Purpose.** Conventional subdivisions are intended to provide contemporary subdivision outcomes that appeal to some residents of Chatham County. Generally, conventional subdivisions include a hierarchical street system and limited connectivity to and within the development, with many streets ending in cul-de-sacs.
- B. **Applicability.** The standards contained in this Subsection apply to all proposed conventional subdivisions.

<sup>367</sup> This new Subsection implements Plan Chatham's Land Use Action Item 03, which recommends that the County modify the subdivision process to provide for "agricultural-friendly developments" in order to preserve rural character and minimize encroachment on existing agricultural operations. This Section requires development to provided buffers as the primary strategy to reduce complaints arising out of incompatibilities between residential and agricultural use.

<sup>368</sup> This Section provides for various new and existing subdivision designs. Generally, existing subdivision layouts requirements will remain the same. The draft adds or significantly updates:

- Compact Subdivision to conform with the new zoning districts: Compact Residential, Compact Mixed-Use, and Compact Non-Residential (Significantly Revising the Compact Communities Ordinance)
- Agricultural Subdivision (New)
- Townhome Subdivision (New)
- Non-Residential Subdivision (New).

<sup>369</sup> This new Subsection clarifies the general applicability of all subdivision and development requirements to conventional subdivisions.

- C. **Subdivision Design.** Conventional subdivisions must comply with generally applicable development and design standards, including Section 5.3: *General Design Requirements for All Subdivisions*.

#### 5.4.2 CONSERVATION SUBDIVISIONS<sup>370</sup>

- A. **Purpose.** As an alternative to conventional subdivision layouts, Chatham County encourages the preservation of large, contiguous blocks of land as open space. The purposes of conservation subdivision design are to preserve existing tree canopy, natural land, and rural community character that might be lost through conventional development approaches. Specific objectives are:
1. To encourage the maintenance and enhancement of habitat for various forms of wildlife and to create new woodlands through natural succession and reforestation where appropriate;
  2. To minimize site disturbance and erosion through retention of existing vegetation and avoiding development on steep slopes;
  3. To preserve land for conservation, including those areas containing unique and sensitive features such as natural areas and wildlife habitats, steep slopes, streams, wetlands, and floodplains;
  4. To preserve scenic views and elements of the county's rural character and to minimize perceived density by minimizing views of new development from existing roads;
  5. To provide for the recreational needs of county residents;
  6. To provide greater efficiency in the siting of services and infrastructure by reducing road length, utility runs, and the amount of paving for development; and
  7. To create compact neighborhoods accessible to open space amenities and with a strong identity.
- B. **Applicability.** The standards contained in this Subsection apply to all proposed conservation subdivisions.
- C. **Open Space.**
1. *Required Open Space.* ~~As specified in Table 6.1.3 1: Minimum Amount of Open Space Required in Conventional Districts, a~~ At least 45% of the project area must be retained as open space.
  2. *Composition of Open Space.*

<sup>370</sup> This Subsection carries forward § SR Section 7.7: *Conservation Subdivision—Alternative Standards for Development*. Conservation subdivisions will be very similar to the current standards for conservation subdivisions. The proposed draft relocates the substantive requirements for open space use and management in Section 7.7D thru -H to Chapter 6: *Conservation & Open Space* and the road standards of 7.7L thru -M to Chapter 7: *Infrastructure & Public Improvements*.

- (a) At least 80% of the required open space must be Tree Save Natural Area, as defined in ~~6.1.4: Types of Open Space~~; 6.1.4: Tree Save Area; and
- ~~(b) A maximum of 20% of the required open space must may be another type of other types of open space allowed by 6.1.4: Types of Open Space.~~
- ~~(c);(b) Subsection 6.1.5: Composition of Open Space specifies areas, such as transitional buffers, that may count towards required open space.~~

3. *Connectivity of Open Space.*

- (a) At least 50% of the proposed open space shall consist of a contiguous area.
- (b) The open space should adjoin any neighboring areas of open space on other parcels whenever practicable.

4. *Development of ~~Natural Open Space~~ Tree Save Area.*

- (a) A person may not perform grading and land clearing operations in the areas reserved for the ~~Natural Area~~ Tree Save Area ~~open space type~~.
- (b) Violation of this provision will result in the denial of approval for a conservation subdivision and will require subdivision using the other subdivision types available in this UDO.

~~5. Use of Open Space. Subsection 6.1.6: Uses Allowed in Open Space specifies the types of uses, such as trails, that may be located in required open space.~~

D. **Density Bonuses.** In zoning districts other than AG and RA, conservation subdivision may increase the number of dwelling units that would be allowed on the overall property by 10%.

1. Calculation of the density bonus is based on the applicable underlying land use regulations dictating allowable development density.
2. The base density for a conservation subdivision is determined by the underlying zoning district density standard as provided in Chapter 2: *Zoning Districts*, establishing otherwise allowable unit density (minus any riparian buffers, regulated floodplain, and steep slopes as defined in Chapter 10: *Soil Erosion & Sedimentation Control*) in which the development parcel is located.
3. Regardless of the allowed density based on the density bonus, permitted housing densities shall not exceed the maximum allowances of any applicable water supply watershed requirements.

E. **Lot Size, Structure Placement, and Transitional Buffer.**

1. **Lot Size.** There is no minimum size for lots in a conservation subdivision; however, the lot size shall be adequate to provide for minimum setbacks and any required infrastructure or services.
2. **Structure Placement.**
  - (a) Structures within a conservation subdivision should be placed as close to internal roads as practical. The minimum front yard setback is five feet.

- (b) Structures within conservation subdivisions may be located in the side yard setback required by the zoning district regulations. Structures may be placed as closely together as permitted by the North Carolina State Building Code.
- 3. Lot Proximity to Open Space.
  - (a) Open space shall be accessible to the largest possible number of lots within the development. To achieve this goal, the majority of lots should abut open space to provide residents with direct views and access.
  - (b) Safe and convenient pedestrian access to the open space from all adjoining lots shall be provided, except in the case of farmland or other resources areas vulnerable to human disturbance.
- 4. Transitional Buffer.
  - (a) A Type D buffer is required along the entire project boundary. [See 4.4.8: *Transitional Buffers*]
  - (b) The buffer area can count towards the density bonus calculation, except in areas where the perimeter buffer overlaps an area that is excluded from the density bonus calculation.
- F. **Identification of Open Space.** Before submittal of a Sketch Plan, the applicant must follow the steps outlined in the County's [Guidelines for Conservation Space Selection](#) to identify and preserve qualifying open space, prepare the On-Site Inventory and Fragmentation Maps, and have those maps approved by the Watershed Protection Director.
- G. **Management of Open Space.** Required open space must be managed in accordance with Section 6.3: *Long-Term Preservation & Maintenance*.

### 5.4.3 COMPACT SUBDIVISIONS<sup>371</sup>

- A. **Applicability.**
  - 1. The compact subdivision design applies to subdivisions in the compact conditional districts (CD-CR, CD-CMU, and CD-CN), [CD-NC, and CD-AC as described in Chapter 2: Zoning Districts](#).
  - 2. This Subsection supplements the standards in Chapter 2: *Zoning Districts*, which provide the primary standards for lot area, width, height, and many other aspects of community design for each ~~compact~~ conditional district that will affect compact subdivision design.

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<sup>371</sup> This Subsection significantly modifies SR § 10: *Compact Communities* and CCCO §§ 6: Location and Size and 12: *Community Design*. The proposed compact subdivision design is intended to conform with the new zoning districts: Compact Residential, Compact Mixed-Use, and Compact Non-Residential. There is one subdivision design for these three types, as much of the dimensional standards are already set out in Chapter 2: *Zoning Districts*.



- B. **Community Design.** Uses in compact subdivisions must adhere to the following performance standards:
1. All residential units shall be within ¼-mile of a neighborhood gathering point, such as a recreational facility, community center, school, or neighborhood park.
  2. Residential units, the neighborhood center, and community gathering points must be interconnected using a network of pedestrian and bicycle pathways.
    - (a) At least 33% of the proposed pathways must be completed before final plat approval of the final 50% of the maximum allowable dwelling units in the compact subdivision are built.
    - (b) All pathways must be completed before Final Plat approval of the final 10% of the maximum approved dwelling units in the compact subdivision.
    - (c) If the compact subdivision does not include residential dwellings units, all pathways must be constructed at the same time as the adjacent development.
  3. Pedestrian walkways are required on both sides of all streets.
  4. Street trees from [Appendix A: Plant List](#) shall be provided on all streets.
  5. Alleys may be used to provide access to the rear of lots if approved on the site plan approved during the Conditional District Rezoning process (see Section 12.15: *Rezoning (Conditional Districts)*). The Conditional District Rezoning application must include specifications for alleys, including width and surfacing materials. Alleys must remain privately owned.
  6. Utilities shall be placed underground in order to improve sight lines, open up sidewalks, and minimize the danger of interruptions in utility service during inclement weather.
- C. **Overflow or Visitor Parking.**
1. *Off-Street Lots.*
    - (a) All compact subdivisions must provide one parking space for every four dwelling units in a separate lot for overflow or visitor parking. The parking lot design must conform with Section 4.6: *Parking & Loading*.
    - (b) These spaces should be located in small parking lots interspersed throughout the compact subdivision. At least one parking lot provided by this Paragraph must be located within 500 feet of all residential lots in the compact subdivision.
  2. *On-Street Parking.*
    - (a) All road segments with 10 or more dwellings must include at least one dedicated on-street parking space for every five dwellings.
    - (b) All on-street parking spaces must conform with the NCDOT's [Roadway Design Manual](#).

### 5.4.4 AGRICULTURAL SUBDIVISIONS

- A. **Purpose.** The purposes of agricultural subdivision design are to preserve agricultural and forestry lands and rural community character in the AG and RA Districts that might be lost through conventional development approaches. Specific objectives are to:
  1. Reduce conflicts between residential development and agricultural operations;
  2. Preserve agricultural and forestry lands and rural community character that might be lost through conventional development approaches; and
  3. Preserve areas of the county with productive soils for continued agricultural and forestry use by preserving blocks of land large enough to allow for efficient operations.
- B. **Applicability.** This Subsection applies to all Tier 1 Major (6-15 lots) and Tier 2 Major (more than 15 lots) Subdivisions in the AG and RA Districts.
- C. **Minimum Lot Area.** Agricultural Subdivisions in the AG and RA Districts must comply with the minimum lot size required for the District in Chapter 2: *Zoning Districts*.
- D. **Sliding Scale Density.** Tables 5.4.45.4.1-1: Sliding Scale Density in RA District and 5.4.45.4.1-2: Sliding Scale Density in AG District establish the maximum density and minimum lot area for agricultural subdivisions located in the AG and RA Districts based on the size of the parcel proposed for subdivision.

**Table 5.4.45.4.1-1: Sliding Scale Density in RA District**

Area of Parcel to be Subdivided	Density (max)
6 ac to 30 ac	1 du per 3 ac
More than 30 ac to 50 ac	1 du per 3 ac for the first 30 ac, then 1 du per 5 ac for the additional acreage
More than 50 ac to 100 ac	1 du per 3 ac for the first 30 ac, then 1 du per 10 ac for the additional acreage
More than 100 ac to 500 ac	1 du per 3 ac for the first 30 ac, then 1 du per 15 ac for the additional acreage
More than 500 ac	1 du per 3 ac for the first 30 ac, then 1 du per 20 ac for the additional acreage

**Key:** max = maximum allowed | ac = acres | du = dwelling unit

**Table 5.4.45.4.1-2: Sliding Scale Density in AG District**

Area of Parcel to be Subdivided	Density (max)
20 ac to 100 ac	1 du per 10 ac
More than 100 ac to 250 ac	1 du per 10 ac for the first 100 ac, then 1 du per 20 ac for the additional acreage

**Table 5.4.45.4.1-2: Sliding Scale Density in AG District**

Area of Parcel to be Subdivided	Density (max)
More than 250 ac to 500 ac	1 du per 10 ac for the first 100 ac, then 1 du per 30 ac for the additional acreage
More than 500 ac	1 du per 10 ac for the first 100 ac, then 1 du per 40 ac for the additional acreage

**Key:** max = maximum allowed | ac = acres | du = dwelling unit

**E. Preservation of Agricultural Area:**

1. *Agricultural Area.* Areas not subdivided as individual lots for development may be reserved as the Agricultural Area open space type as provided in Section 6.1: *Open Space*.
2. *Other Open Space Not Required.* If the Agricultural Subdivision includes preserved Agricultural Area, additional open space is not required.
3. *Ownership:*
  - (a) The Agricultural Area may be conveyed to a property owners association or conservation organization or placed in a permanent conservation or farmland preservation easement.
  - (b) If a conservation or farmland preservation easement is placed on the property, it shall provide that further subdivision of the Agricultural Area is prohibited.
4. *Agricultural Uses.* The Agricultural Area may be used for any agricultural or forestry use.

**5.4.55.4.4 TOWNHOUSE SUBDIVISIONS<sup>372</sup>**

- A. **Purpose.** The purpose of this Subsection is to establish additional standards for the design and development of townhouse subdivisions.
- B. **Applicability.** The standards contained in this Subsection apply to all proposed townhouse subdivisions.
- C. **Design Standards.**
  1. *Sublot Access.* Each sublot within a townhouse subdivision shall be provided with driveway access from either a public or private street or an alley. Where a townhome sublot is less than 24 feet wide, access may only be taken from the rear of the sublot.
  2. *Front-Loaded Driveway Separation.* Where driveway access is provided to the front of a sublot within a townhouse subdivision, each driveway shall be separated from other driveways by a minimum of eight feet and shall be

<sup>372</sup> This new Subsection adds standards for townhouse subdivisions for issues such as access, open space, and parking design.

designed in a manner to provide the maximum practical separation from driveway edge to driveway edge.

3. *Sublot Separation.* The rear property lines of all sublots and exterior side property lines of each individual group of contiguous sublots within a townhouse subdivision shall be separated by a minimum distance of 20 feet.
4. *Sublot Outdoor Living Area.* An outdoor living area shall be provided upon each sublot within a townhouse subdivision in accordance with the following standards:
  - (a) The total outdoor living area must be at least the product of 12 feet multiplied by the width of the lot. For example, a 24-foot-wide lot would require at least a 288 square foot outdoor living area.
  - (b) The minimum depth of any outdoor living area must be six feet.
  - (c) The required total area must be contiguous, except where the total area is divided between the levels of a two-story front porch.
  - (d) Parking areas, sidewalks, walkways, and driveways do not count towards this requirement.
5. *Relationship to Open Space.* In addition to the open space requirements of Section 6.1: *Tree Preservation & Other Open Space*, ~~when open space is required as part of a townhouse subdivision~~, at least 10% of the dwelling units of the overall development must front onto open space that is interior to the development.
  - (a) Streets and buildings should be arranged to frame open space to the maximum extent practicable.
  - (b) Dwelling units that are separated by a street from an open space may be included in the 10% requirement.
  - (c) Required open space areas must have a minimum width and depth of at least 40 feet, excluding right-of-way. Areas that are at least 20 feet wide and that have hard surface trails at least five feet wide connecting at least two points in a sidewalk system may also count towards the required open space area.
6. *Parking and Garages.*
  - (a) *Off-Street Parking Areas.*
    - (1) Each townhouse development shall provide guest parking areas at a rate of one space for every four dwelling units.
    - (2) Off-street parking areas must be no more than 500 feet from the entrance to any dwelling within the townhouse building that the parking serves.
  - (b) Front-loaded garages must be flush with or recessed from the front façade (habitable area).
  - (c) The driveway width shall be no more than 18 feet within the right of way, and 20 feet within the given property.

7. **Solid Waste.** Communal solid waste collection points shall be established for all townhouse subdivisions that provide front-loaded driveway access. Where such facility is required or provided, no subplot shall be located more than 500 feet from the most distant solid waste collection point.

#### 5.4.65.4.5 NON-RESIDENTIAL SUBDIVISIONS<sup>373</sup>

- A. **Purpose.** Non-residential subdivisions are intended to provide subdivision outcomes suitable for commercial, industrial, institutional, and other non-residential developments. Due to the many forms these developments take, this Subsection aims to provide maximum flexibility for the applicant to define the desired outcome.
- B. **Applicability.**
  1. The standards contained in this Subsection apply to all proposed non-residential subdivisions in addition to the applicable standards of this UDO.
  2. This Subsection does not apply to bona fide farm operations.
- C. **Generally.** Properties reserved or platted for commercial, institutional, or industrial purposes shall be adequate in size to provide for the type of use and development contemplated. Platting of individual lots should be avoided in favor of an overall design of the land to be used for such purposes.
- D. **Street Design for Industrial Developments.**
  1. Each industrial subdivision or area shall utilize at least one collector street for all heavy traffic between the development area and the existing system of streets and roads.
  2. Minor industrial streets and individual industrial parcels should be oriented at right angles with the collector and with adjacent railroads.
- E. **Criteria for Non-Residential Subdivisions.** Land shall not be platted for commercial, institutional, or industrial purposes unless the subdivider can demonstrate compliance with this UDO, including the following:
  1. A site arrangement that prevents undue interference with through traffic;
  2. An integrated parking area as required by Chapter 4: *Development & Design Standards*; and
  3. Spatial, structural, or vegetative buffers, or a combination of the two, against any adverse effect on any present or future adjacent residences as required by Chapter 4: *Development & Design Standards*.

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<sup>373</sup> This Subsection reorganizes and supplements current SR § 7.4.C.(3).

## 5.5 PUBLIC USE & SERVICE AREAS<sup>374</sup>

### 5.5.1 RESERVATION OF SCHOOL SITES<sup>375</sup>

- A. **Land Development Plan.** This UDO provides for the reservation of school sites in accordance with the approved [Chatham County Capital Improvement Program](#).
- B. **Notification.** Whenever a subdivision that includes part or all of a school site to be reserved under the plan is submitted for approval, the Board of Commissioners shall immediately notify the Board of Education. The Board of Education shall promptly decide whether it still wishes the site to be reserved and shall notify the Board of Commissioners of its decision.
- C. **Procedure for Reserved School Site.** If the Board of Education does wish the site to be reserved, the subdivision shall not be approved without the reservation. The Board of Education must acquire the site within 18 months after the date of subdivision approval, either by purchase or by exercise of the power of eminent domain. If the Board of Education has not purchased the site or begun proceedings to condemn the site within the 18 months, the land is freed of the reservation.

### 5.5.2 EASEMENTS, DEDICATIONS, & RESERVATIONS

- A. All easements, dedications, and reservations for utilities and other public infrastructure shall be shown on the plat with notes stating their purpose.
- B. The developer is responsible for the maintenance of all infrastructure until such time as it is accepted into a public system.

### 5.5.3 UTILITY EASEMENTS

- A. **Utilities Access to Subdivided Lots.** Easements shall be provided for utilities along lot lines where necessary to provide utilities to every platted lot.
- B. **Easement Width.** The subdivider and the utility companies shall agree on the width of easements needed.
- C. **Subsurface Sewage Disposal.** Easements for subsurface sewage disposal systems shall be staked prior to approval and shall be designated on the Final Plat as a utility easement and described by bearings and distances and by acreage.

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<sup>374</sup> This Section carries forward current SR § 7.5: *Public Use and Service Areas*. Paragraph 7.5.A(2): *Recreation Sites* is relocated to Chapter 6: Conservation & Open Space. Paragraph 7.5.B(3): *Drainage Easements* is removed since Chapter 9: Stormwater Management addresses stormwater easements.

<sup>375</sup> This is current text in the Subdivision Regulations, with minor revisions for consistency with N.C.G.S. [§ 160D-804\(f\)](#).

#### 5.5.4 SIGHT DISTANCE EASEMENTS AT INTERSECTIONS

- A. **Required Sight Distance Easement.** Sight distance easements shall be in accordance with the requirements of the NCDOT.
- B. **Identification on Plat.** Triangular sight distance easements at all public and private street intersections shall be shown in dashed lines and so noted on the Final Plat.
- C. **Maintenance.** These easements must remain free of all structures, trees, shrubbery, driveways, and signs, except utility poles, fire hydrants, and traffic control devices.

#### 5.5.5 DEDICATION OF WATERWAYS

- A. **Generally.** Lakes, ponds, creeks, and similar areas will be accepted by the County for maintenance only if sufficient land is dedicated as a public recreation area or park or if such area constitutes a necessary part of the drainage control system.
- B. **Review Process.** The suitability of such dedicated areas shall be evaluated by the Planning Board prior to being considered for acceptance by the Board of Commissioners.

# CHAPTER 6 CONSERVATION & OPEN SPACE<sup>376</sup>

## ~~1.26.1 TREE PRESERVATION AND OTHER OPEN SPACE TREE PROTECTION~~<sup>377</sup>

### ~~1.2.16.1.1 FINDINGS AND PURPOSE~~<sup>378</sup>

The purposes of this Section ~~is~~ are to establish minimum protection standards to ensure tree canopy is preserved on development sites and remains undamaged during development and to ensure adequate open space is provided in new development. The County establishes these standards to preserve tree canopy and provide open space in order to:

- A. Implement the County's Comprehensive Plan goals to conserve natural resources, preserve the rural character and lifestyle of Chatham County, and provide recreational opportunities and access to open space;
- B. Protect the County's diminishing tree canopy;
- C. Identify and preserve healthy tree canopies;
- D. Expand the tree canopy through the promotion of tree planting within all new developments or individual properties;
- E. Enhance the aesthetic and environmental quality of new development;
- ~~D.F.~~ Mitigate the adverse effects of the loss of trees in the County occurring as a result of residential, commercial, institutional, and industrial land development practices;
- ~~E.G.~~ Reduce the heat island effect of development through the shade provided by tree canopy;

<sup>376</sup> See discussion of proposed changes in the [Audit Report](#) (pp. 25-28).

<sup>377</sup> This new Section provides tree protection standards recommended by *Plan Chatham*, the Appearance Commission, the Tree Protection Working Group, and County staff. [The current draft combines the Open Space and Tree Protection requirements into one Section.](#) Key components include:

- Conservation open space includes tree save areas and other sensitive areas (wetlands, streams, etc.).
- Tree save areas are required for major subdivisions and non-residential developments that require a stormwater plan, with exceptions for agriculture and forestry.
- Sites that do not have sufficient tree canopy to satisfy the tree save area percentage will be required to plant trees to satisfy the requirement. Sites that are not suitable for tree planting may provide alternative compliance.
- Preservation of specimen and heritage trees is not required in the proposed draft.
- [Recreation area of 1,245 sf is required for subdivisions.](#)

<sup>378</sup> This new Subsection clearly identifies the findings and the governmental purposes of tree preservation regulations, including the findings of *Plan Chatham*, [the purposes of the previous Open Space section](#), and ~~the~~ § 6.1 of the Design Guidelines.



- F.H. Improve surface drainage and aquifer recharge;
- G.I. Reduce and control storm water runoff to minimize soil erosion and pollution, while promoting soil stabilization and enrichment;
- J. Reduce net carbon emissions through the carbon sequestration provided by existing and new tree canopy;
- K. Preserve existing vegetation and important wildlife habitat;
- H.L. Minimize fragmentation of wildlife habitat by preserving connecting wildlife corridors and habitats;
- M. Preserve existing trees by requiring reasonable maintenance after planting;
- ±N. Connect neighborhoods, open space, and employment areas; and
- ±O. Protect the rights of all citizens and property owners by ensuring that a reasonable and prudent policy of conservation and replenishment of tree canopy is applied during the process of land development.

### **1.2.26.1.2 APPLICABILITY**<sup>379</sup>

#### A. **Generally.**

A.1. This Section applies to the following land developments in unincorporated areas of Chatham County:

±(a) Subdivisions that require major subdivision approval; and

(b) Any mixed use or non-residential land development activity that requires approval of a stormwater plan.

2. Minor subdivisions are subject only to 6.1.8: *Recreation Area Required for Residential Subdivisions.*

**B. Exceptions.** The following developments, land uses, and land disturbing activities are exempt from the applicability of this Section:

1. Individual dwelling units located on lots within residential subdivisions;

±2. Bona fide agricultural operations;

±3. Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the NCGS; and

±4. Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the NCGS.

<sup>379</sup> This Subsection provides for applicability to major subdivisions and non-residential development requiring a stormwater plan, with exceptions for agriculture and forestry and single-family lots. It carries forward delays of three or five years for forestry operations resulting in the removal of timber from a site in SR § 1.14G.

- C. **Limitations.** Clearing trees through development activity that uses timber harvesting as a means to prepare a site for development to circumvent the requirements of this Section is prohibited. The County will defer any development application:<sup>380</sup>
1. For three years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees protected by the UDO from the specific area proposed for development tract of land for which the permit or approval is sought; or
  2. For five years after the completion of a timber harvest if:
    - (a) The harvest results in the removal of all or substantially all of the trees protected by the UDO from the specific area proposed for development tract of land for which the permit or approval is sought; and
    - (b) The harvest was a willful violation of County regulations.
- D. **Tree Save Areas and Other Tree Requirements.** The areas preserved based on the requirements of this Section may also be used to satisfy other requirements for the provision of trees in this UDO, including:
1. Transitional Buffers. Retention of existing tree canopy in tree save areas (TSAs) may be used to satisfy perimeter transitional buffers required by Section 4.4: Landscaping & Screening;
  2. Riparian Buffers. Retention of existing tree canopy in TSAs within and riparian buffers required by Chapter 8: *Watershed & Riparian Buffer Protection* counts for up to 30% of the TSA requirement; and
  3. Open Space. Retention of existing tree canopy in TSAs may be used to satisfy the open space requirements as provided in Section 6.1: Open Space.
- B.E. Low Impact Development.** Retention of existing tree canopy in TSAs may be used in areas designed for low impact development stormwater mitigation practices allowed pursuant to Chapter 9: *Stormwater Management*. However, the TSAs required by this Section will not be used for detention ponds and other traditional stormwater management practices.

Applicability

- Except as provided in 6.1.2B and 6.1.2C, below, this Section applies to:
- New Tier 1 and Tier 2 major residential subdivisions in conventional districts;
  - New apartment complexes in conventional districts;
  - New mixed use development in conventional districts;
  - Compact conditional districts; and

<sup>380</sup> This Paragraph is revised to align with the language in N.C.G.S. § 160D-921(c).

- Centers conditional districts.
- Minor subdivisions are subject only to 6.1.5D: Recreation Area Required for Residential Subdivisions.
- This Section does not apply to:
- Individual dwelling units located on lots within residential subdivisions; or
- Non-residential development.

3.

**6.1.3 TREE PRESERVATION AND OPEN SPACE REQUIREMENTS**

4. — If existing trees are present on a development site, The percentage of the total development site that must be preserved as TSA is the lesser of:
- (a) — The percentage of the site covered with existing tree canopy; or
- A. — the percentage of the site area stated in Table 6.1.3-1: *-Tree Preservation and Recreation Area Standards by District* states the minimum area of the development site for:
1. — Preservation as tree save area, expressed as a percentage of the total area of the development site; and-
  2. — Dedication for recreation area in square feet per residential lot.
- B. — The required recreation area is in addition to the tree save area.

**Table 6.1.3-1: Tree Preservation and Recreation Area Standards by District**

<b>Zoning District</b>	<b>Tree Save Requirement-Area (min)<sup>1</sup></b>	<b>Recreation Area (min)<sup>2, 3</sup></b>
PP	n/a	<u>1,245 sf per residential lot</u>
R5	45% <sup>381</sup>	<u>1,245 sf per residential lot</u>
AG, RA, R2	35%	<u>1,245 sf per residential lot</u>
NR, R1	25%	<u>1,245 sf per residential lot</u>
RV, OI, RHC	30%	<u>1,245 sf per residential lot</u>
CD-CR, CD-CMU, CD-CN, CD-NC, CD-AC, NB, CB, RB, IL, IH	20%	<u>1,245 sf per residential lot</u>

**Key:** min = minimum required | n/a = not applicable

<sup>1</sup>The minimum tree save area applies to all subdivision types. Note that conservation subdivisions require the preservation of at least 45% of the site regardless of district as provided in 5.4.2: Conservation Subdivisions.

<sup>381</sup>The Board of Commissioners affirmed this percentage of tree save area in the R5 district at its July 15, 2024 meeting.

**Table 6.1.36.3-1: Tree Preservation and Recreation Area Standards by District**

Zoning District	Tree Save Requirement Area (min) <sup>1</sup>	Recreation Area (min) <sup>2, 3</sup>
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<sup>2</sup> The requirement for dedication of recreation area only applies to residential subdivisions. See 6.1.8: Recreation Area Required for Residential Subdivisions.

<sup>3</sup> Note that 6.1.9: Greenways & Trails requires greenways and trails in certain situations.

**1.2.36.1.4 TREE SAVE AREA<sup>382</sup>**

**C.A. Tree Save Areas.** This Section preserves existing tree canopy by requiring the identification and preservation of designated tree save areas (TSAs). A TSA is an area of existing or planned tree canopy that will not be disturbed during land development or construction. Trees survive the stress of construction best when they are left in stands or larger groupings. For that reason, it is recommended that the site be designed and developed so that TSAs, buffers, and other existing vegetated areas that are to remain undisturbed are contained in contiguous TSAs.

**D.B. Required Preservation of Tree Save Area.** All developments to which this Section applies must preserve the required percentage of site area as TSA regardless of whether or not there are existing trees sufficient to satisfy the TSA area requirement.

**E. Tree Save Area Required.**

**1. In General.** If existing trees are present on a development site, The percentage of the total development site that must be preserved as TSA is the lesser of:

- (a) The percentage of the site covered with existing tree canopy; or
- (b) the percentage of the site area stated in Table 6.3.3 1: Tree Preservation Standards by District.

**1. Sites without Trees or with Less than Required Tree Save Area. ~~383~~**

(a) If sufficient tree canopy does not exist on a development site to satisfy the TSA requirement, additional large native trees listed in Appendix A: Plant List that comply with the standards provided in 4.4.4: General Landscaping Standards must be planted to meet the TSA requirement at the rate of 85 trees per acre.

(b)

<sup>382</sup> This new Subsection identifies the percentage of canopy that must be preserved in each zoning district. The percentages are based on the proposed preservation areas in the Tree Protection Working Group’s report. It requires ~~planting of trees or other plants to preservation of natural area to~~ meet the TSA area requirement if trees are not present on the site. It also provides incentives for preferred tree save conditions, including Natural Heritage Natural Areas, areas contiguous to existing woodlands on adjacent parcels, established hardwoods, and riparian areas.

~~<sup>383</sup> This draft includes a requirement to plant the container trees at the rate of 85 trees per acre. Both the tree size and the planting rate are based on the recommendation in the Tree Protection Working Group’s report. The approach to tree planting could be revised to allow the planting of seedlings instead of container plants for a significant reduction in installation cost and the maintenance required.~~

- ~~(1) Site conditions that would support consideration of alternative compliance include:~~
- ~~i. Topography;~~
  - ~~ii. Soil properties, such as depth and pH;~~
  - ~~iii. Mesic or xeric conditions;~~
  - ~~iv. Existing plant communities on the site; and~~
  - ~~Unique microclimate conditions.~~
- ~~(2) The proposal must describe the site conditions and the suitability of the proposed plantings over the listed canopy trees.~~
- ~~(3) The Zoning Administrator will review the application and allow alternative compliance if the site cannot reasonably support canopy trees without significant ongoing intervention and maintenance.~~

**F.C. Method for Identification of Tree Save Areas.** The selection and measurement of existing tree canopy and proposed TSAs may be evaluated with a tree survey as provided in 6.1.11: *Application Requirements* or by using the most recent National Land Cover Database (NLCD); aerial or satellite imagery; or Light Detecting, Imaging, and Ranging (LIDAR).

**B.D. Tree Save Area Dimensions.** Tree save areas must have a minimum width that is:

1. 50 feet along a development site dimension that is 1,000 feet or more; or
2. 5% of the site width in any dimension that is less than 1,000 feet.

**G.E. Riparian Buffers.** Riparian buffers required by Section 8.6: Riparian Buffer Standards may count as up to 30% of the required TSA if the portion of riparian buffer used as TSA is not also used to meet the required minimum lot area of an adjacent lot.

**G.F. Incentives for Preferred Locations.** Sites with preferred preservation conditions qualify for an incentive that reduces the overall percentage of the site that must be preserved as tree save area. The maximum reduction of tree save area using more than one condition is 5% of the site.

1. *Natural Heritage Natural Areas.* If the designated tree save area consists of a Registered Heritage Area identified by the North Carolina Department of Natural and Cultural Resources, the site qualifies for a reduction of the tree save area by 2.5% of the total site area. For the incentive to qualify, the site must remain in natural condition and retain the qualifying ecological features identified in the Natural Heritage Natural Area report, including any rare species or high quality natural communities previously identified and documented.
2. *Existing Hardwood Stands.* If the designated tree save area consists of deciduous forest or mixed forest as shown in the most recent National Land Cover Database (NLCD), the site qualifies for a reduction of the tree save area by 2.5% of the total site area. The current conditions of the site must be verified to match the NLCD for the incentive to apply.

3. *Contiguity with Existing Woodlands.* If the designated tree save area is contiguous to a wooded area of at least 10,000 square feet on an adjacent lot, the site qualifies for a reduction of the tree save area by 2.5% of the total site area.
4. *Riparian Areas.* If the designated tree save area is adjacent to a riparian buffer required by [Section 8.6: Riparian Buffer Standards](#) ~~Chapter 8: Watershed & Riparian Buffer Protection~~, the site qualifies for a reduction of the tree save area by 2.5% of the total site area.

### **6.1.5 SITES WITHOUT SUFFICIENT TREES OR WITH LESS THAN REQUIRED TREE SAVE AREA.**<sup>384</sup>

- A. **Generally.** If sufficient tree canopy does not exist on a development site to satisfy the TSA requirement, the required site area shall be preserved. Areas of TSA without existing or newly planted trees must be allowed to develop naturally through the successional reforestation process. Maintenance as provided in this Chapter is allowed.
- B. **Incentive for Tree Planting.** The developer of a site will qualify for an incentive by planting trees on the site as provided in this Subsection.
  1. *Incentive Calculation.* For each acre of trees planted in a TSA, the total TSA required for the site is reduced by 0.25 acres.
  2. *Planting Rates.* To qualify for the incentive, the planted trees must:
    - (a) additionalBe large native trees listed in Appendix A: *Plant List*; that
    - (b) Be planted ~~comply with the standards provided in 4.4.4: General Landscaping Standards~~ must be planted to meet the TSA requirement at the rate of 85 trees per acre; and
    - (c) Comply with the planting standards for large trees provided in 4.4.4: *General Landscaping Standards*.

If the naturally occurring site conditions are not suitable for the canopy trees listed in [Appendix A: Plant List](#), the applicant may present a landscape plan prepared by a licensed landscape architect to provide alternative compliance with the TSA requirement with plantings suitable for the existing site conditions, such as meadow or aquatic plant communities.

Site conditions that would support consideration of alternative compliance include:  
Topography;

<sup>384</sup> This draft changes the planting requirement to an incentive for planting container trees at the rate of 85 trees per acre. Both the tree size and the planting rate are based on the recommendation in the Tree Protection Working Group's report. The approach to tree planting could be revised to allow the planting of seedlings instead of container plants for a significant reduction in installation cost and the maintenance required.

Soil properties, such as depth and pH;

Mesic or xeric conditions;

Existing plant communities on the site; and

Unique microclimate conditions.

The proposal must describe the site conditions and the suitability of the proposed plantings over the listed canopy trees.

The Zoning Administrator will review the application and allow alternative compliance if the site cannot reasonably support canopy trees without significant ongoing intervention and maintenance.

### **1.2.46.1.6 INCENTIVE FOR PRESERVATION OF SPECIMEN TREES<sup>385</sup>**

- A. **Specimen Trees.** To qualify for the incentive provided by this Section, specimen trees must meet the following criteria:
1. The trunk measures at least 24 inches in diameter at breast height (DBH);
  2. The species is listed as a large tree in [Appendix A: Plant List](#);
  3. The species is listed as a native tree in [Appendix A: Plant List](#);
  4. The tree is in fair or better condition as determined by a certified arborist; and
  5. The tree is located outside of a required tree save area. Single specimen trees, stands of trees, and tree save areas that exceed the minimum requirements of this Section may be used to qualify for the incentive.
- B. **Specimen Tree Protection.** To qualify for the incentive, specimen trees must be protected by:
1. Identification of the tree and critical root zone on the tree survey and tree protection plan required by 6.1.11: *Application Requirements*; and
  2. Compliance with the requirements for protection during construction as provided in 6.1.13: *Tree Protection During Construction*.
- C. **Incentive for Preservation.** Development projects that preserve at least one specimen tree per disturbed acre qualify for a 10% density bonus.

### **1.2.56.1.7 REMOVAL OF TREES<sup>386</sup>**

- A. **Generally.**

<sup>385</sup> This new Subsection provides a 10% density bonus for the preservation of specimen trees.

<sup>386</sup> This new Subsection provides the Zoning Administrator with authority to allow the removal of trees required for a TSA and requires on-site mitigation for removal of required trees.

1. Existing trees necessary to fulfill the requirement for tree save area may not be removed from a parcel without prior approval by the Zoning Administrator pursuant to the provisions of this Section.
2. However, in an emergency situation due to storm damage or other natural disaster; or to alleviate an imminent hazard to the health, safety, and welfare of the citizens; or to repair property damage, prior approval for tree removal in a previously approved TSA is not required.

**B. Mitigation Requirement for Removal of Trees from Tree Save Areas.**

1. Land development activity that results in the removal of existing trees necessary to fulfill the requirement for tree save area requires the planting of additional large native trees listed in [Appendix A: Plant List](#) at the rate of 85 trees per acre.
2. [Trees planted to mitigate removal must comply with the planting standards for large trees provided in 4.4.4: General Landscaping Standards.](#)

**B.C. Penalty.** If existing trees necessary to fulfill the requirement for tree save area are removed without administrative approval and mitigation as set out in this Subsection, any new development will be prohibited as provided in 6.1.2C: *Limitations*. Other penalties may also apply as provided in Chapter 15: *Enforcement*.

**C.D. Administrative Approval.** For land development sites with a smaller area of existing tree canopy than this Section requires for TSAs or sites where the applicant proposes to remove trees required to meet the tree save area requirement, the Zoning Administrator may approve requests to remove trees from required TSAs on development sites under limited circumstances, based on, but not limited to, the following factors:

1. The location of the existing trees to be used in a tree save area on the property prevents the development of the site based on locations for connections to existing roads, trails, or utilities;
2. The location of the existing trees to be used in a tree save area on the property would cause detriment to public well-being regarding sight visibility onto existing streets or hinder widening and enhancement plans for existing streets;
3. The location of the existing trees to be used in a tree save area on the property would cause detriment to public well-being regarding the placement of proposed utilities on the site;
4. The location of the existing trees to be used in a tree save area on the property would cause detriment to public well-being regarding drainage and stormwater measures;
5. The location of the existing trees to be used in a tree save area on the property conflicts with necessary elements of the site design that unreasonably impede or diminish the objectives of the development or prevent the provision of necessary features; or



6. A certified arborist or licensed landscape architect indicates in writing that the tree is diseased, ~~or~~ the soil and climate are not suitable for proper growth and health of the tree, or the tree is prone to cause property damage or personal injury.

#### **6.1.8 RECREATION AREA REQUIRED FOR RESIDENTIAL SUBDIVISIONS<sup>387</sup>**

- A. Generally.** All residential subdivisions, except family subdivisions, must include at least 1,245 square feet of Recreation Area per lot. The subdivider must provide Recreation Area unless the County is unwilling to accept dedication, in which case the subdivider must pay the fee-in-lieu rather than providing the Recreation Area.
- B. Uses and Design.**
1. The Recreation Area should be designed for specific recreational uses such as tennis courts, basketball courts, playfields, playgrounds, sauna and exercise rooms, and clubhouses. However, the Recreational Area may shall not include swimming pools and/or golf courses.
  2. Recreation Area shall have a minimum area of 5,000 sf.
- 2.B. Dedication Required.** The developer must dedicate and convey to the County the type of Recreation Area(s) most likely to be appropriate for the community consistent with the Chatham County Parks + Recreation Comprehensive Master Plan. Each Recreation Area shall satisfy the standards set forth in the Master Plan as to size, shape, location, slope, access, and usefulness to the community.
- 3.C. County Authority.** The County is authorized to sell any land dedicated pursuant to this Paragraph, but the proceeds shall be used only for the acquisition or development of other public recreation facilities.
- D. Fee-in-Lieu Option.**
- 3.1. In lieu of dedicating Recreation Areas, the developer may pay a fee to the County. The fee is equivalent to the post-development tax value of the area of land required to be dedicated pursuant to 6.1.3: Tree Preservation and Open Space Requirements 6.1.5D.1 and 6.1.5D.2, above. In order to serve the public recreation needs of more than one development or subdivision, the County shall establish recreation service districts and fees paid in lieu of dedication hereunder shall be expended for acquisition ~~or development~~ of recreation or park facilities or areas.
  - 4.2. The County may require payment of the fee-in-lieu of dedication at the time of Final Plat approval upon finding that:
    - (a) The land required to be dedicated is not suitable for public recreation purposes; or

<sup>387</sup> This Paragraph carries forward current SR Section 7.5: *Public Use and Service Areas*, Paragraph A(2): Recreation Sites, including the fee-in-lieu provisions.

- (b) The recreational needs of the proposed development can be met by other public recreational facilities planned or constructed by the County within the recreational service district where the proposed development is located. The County shall decide during the review and approval process which option is available.

### **E.6.1.9 GREENWAYS & TRAILS<sup>388</sup>**

**A. Generally.** Greenways and trails are a linear open space type that links multiple neighborhoods, developments, or open spaces.

**B. Uses and Design.**

1. Greenways contain trails to accommodate pedestrians, bicyclists, and/or equestrians.
2. Greenways generally require a width of 10 feet. However, the Zoning Administrator may allow a reduction in the minimum width to eight feet: in exceptionally constrained areas if the applicant clearly demonstrates a 10-foot wide path is infeasible given the topography, presence of a waterbody, or other natural site constraints.
3. Greenways require a width of 20 feet: if intended for equestrian use.

**7.C. Preservation of Trail Corridors.** When a proposed development site contains a greenway or trail depicted on the Proposed Trail Network map in the Chatham County Parks + Recreation Comprehensive Master Plan, the developer shall preserve the greenway or trail corridor through one of the following techniques:

- ~~(a)~~1. The developer shall reserve the entirety of the greenway or trail corridor within the development site in its current state, without any improvements;
- ~~(b)~~2. The developer shall dedicate the entirety of the greenway or trail corridor within the development site to Chatham County, if the Board of Commissioners accepts the dedication;
- ~~(c)~~3. The developer shall construct the greenway or trail and dedicate it to Chatham County, if the Board of Commissioners accepts the dedication; or
- ~~(d)~~4. The developer shall construct the greenway or trail and maintain it under private ownership. In this case, the greenway or trail may, but is not required to, be accessible to the general public.

**2.D. Construction Specifications.** Greenways and trails must be constructed in accordance with NCDOT Roadway Design Manual § 4.14.1.1: Shared Use Paths, Sidepaths, and Greenways, except when located within a Tree Save Area Natural Area or Transitional Buffer. In such cases, trails must be constructed in accordance with 6.1.14: Uses Allowed in Tree Save Area & Open Space. ~~6.1.6: Uses Allowed in Open Space.~~

<sup>388</sup> This new Section provides the trail and greenway standard from the previous draft.

**6.1.10 INCENTIVE FOR PROVIDING ADDITIONAL OPEN SPACE<sup>389</sup>.**

**H.A. Optional Open Space.** When a development in one of the compact or centers conditional districts (CD-CR, CD-CMU, CD-CN, CD-NC, and CD-AC) proposes to provides more open space than required, the density may be increased as specified in Table 6.1.10-16.1.3-3: *Density Bonus for Additional Open Space (CD Districts)*.<sup>390</sup> The optional open space must comply with the standards of this Subsection.

**I. How to Calculate the Required Amount of Open Space.** The minimum amount of required open space is calculated by multiplying the percentage specified in Table 6.1.3-1: Minimum Amount of Open Space Required in Conventional Districts or Table 6.1.3-2: Minimum Amount of Open Space Required in Conditional Districts by the total area of the site proposed for development.

**Table 6.1.3-1: Minimum Amount of Open Space Required in Conventional Districts**

Subdivision/Development Type	Amount of Open Space Required (min)	Types of Open Space Allowed <sup>1</sup>
<b>Major Subdivision</b>		
Agricultural	45% of site area	Agricultural Area Cultural Resource Protection Area LID Feature Natural Area
Conservation	45% of site area	Cultural Resource Protection Area LID Feature Natural Area Neighborhood Park Pocket Park Linear Park Greenway Square/Green
Conventional	15% of site area	All types listed in Table 6.1.4-1, except Plazas
Townhouse	20% of site area	All types listed in Table 6.1.4-1, except Plazas
<b>Apartment Complex</b>		
New	20% of site area	All types listed in Table 6.1.4-1, except Plazas
<b>Mixed Use Development</b>		
New	15% of site area	All types listed in Table 6.1.4-1

<sup>389</sup> This draft limits the incentive for open space to Conditional Districts.

<sup>390</sup> This density bonus is proposed pursuant to input from the Board of Commissioners.

**Table 6.1.3-1: Minimum Amount of Open Space Required in Conventional Districts**

Subdivision/Development Type	Amount of Open Space Required (min)	Types of Open Space Allowed
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Key: min = minimum required | n/a = not applicable

† See 6.1.4: Types of Open Space for descriptions.

**Table 6.1.3-2: Minimum Amount of Open Space Required in Conditional Districts**

Zoning District†	Amount of Open Space Required (min)	Types of Open Space Allowed†
CD-CR, CD-NC	25%	All types listed in Table 6.1.4-1, except plazas
CD-CMU, CD-AC	20%	All types listed in Table 6.1.4-1
CD-CN	15%	All types listed in Table 6.1.4-1

Key: min = minimum required

† See Section 2.3: Conditional Districts.

**Table 6.1.10-16.1.3-3: Density Bonus for Additional Open Space (CD Districts)**

Type of Residential Use	Additional Open Space Required (min)	Density Bonus (max)
Single-family detached dwellings, duplexes	5% <u>of site area</u>	1 <u>additional</u> du/ac
Townhouses, apartment complexes	5% <u>of site area</u>	2 <u>additional</u> du/ac

Key: min = minimum required | max = maximum allowed | du/ac = dwelling units per acre

**B. Open Space Design.**

1. Generally, The Open space must:

- (a) Be an integral part of the overall development design, with the specific layout of open space designed to be sensitive to the physical and design characteristics of the site; and
- (b) Have direct access to the pedestrian network.
- (c) Open space should be connected with other open space, both within the development and on abutting properties.

2. Connectivity Required. To the maximum extent practicable, open space shall be organized to create integrated systems of open space that connect with the following types of land uses located within or adjacent to the development:

- (a) Dedicated public park or greenway lands;
- (b) Dedicated school sites;

- (c) Other dedicated open spaces;
- (d) Open space located adjacent to the proposed development;
- (e) Neighborhood shopping and activity centers; and
- (f) Adjacent employment centers.

### 7.3. Accessibility Required.

- (a) Where provided, access to open space shall:
  - (1) Include a pedestrian connection, such as a trail or sidewalk, that is at least 10 feet in width;
  - (2) Be located where such access is visible to dwelling units and other buildings in the development;
  - (3) Not be isolated by walls, screening, landscaping, or any other kind of barrier that would prevent resident, occupant, or tenant surveillance of the open space; and
  - (4) Not be located on individual residential lots.

- 4. The decision-making body may require access to open space to be restricted if it would degrade, destroy, or adversely affect sensitive environmental or natural areas or areas with significant historic, cultural, or archaeological resources.

## **1.2.66.1.11 APPLICATION REQUIREMENTS<sup>391</sup>**

### **A. Tree Surveys.**

- 1. *When Required.* If tree save areas are required for a development, a tree survey to identify and verify the existing tree canopy on the development site and proposed locations for TSAs must be provided with:
  - (a) The subdivision concept plat for major subdivisions;
  - (b) The first plat for major subdivisions; and
  - (c) The stormwater plan for all non-residential developments.
- 2. *Standards.* A tree survey and inventory is a to-scale map or a site plan prepared by a licensed engineer, landscape architect, surveyor, or a certified arborist that includes the following information:
  - (a) Delineation of areas with existing tree canopy;
  - (b) Delineation of proposed TSAs;
  - (c) Calculations of the percentage of the site containing existing tree canopy and with the proposed TSAs; and

<sup>391</sup> This new Subsection provides for tree surveys, landscape plans, and ~~tree protection plans~~landscaping plans.

- (d) Identification of trees 12 inches or more in DBH, including size, species, and condition.
- 3. *Review by County.* Upon receipt of a tree survey that has not already been approved, the County will review the survey for compliance with the requirements of this Section within 30 calendar days of receipt. If the submitted survey does not meet the area preservation requirements of this Section, staff will ask the applicant for additional information or a revised plan.

**B. Ecological Evaluation Report Required.**<sup>392</sup>

- 1. Applicants must prepare a report for the entire development site that identifies ecological natural communities and known locations of rare species.
- 2. This requirement does not apply for conservation subdivisions, which have more detailed requirements for Natural Area selection (see the County's Guidelines for Conservation Space Selection).
- 3. The **Administrative Manual** includes an outline and template for the required Ecological Evaluation Report.

**C. Landscape Plans.** For any development project that requires planting of trees or other plant material in Tree Save Areas or ~~to satisfy the TSA requirement~~ other open space, the applicant must submit a landscape plan as provided in 4.4.3: *Landscape Plan*.

1. *When Required.*

- (a) An applicant shall submit the Landscape Plan as a part of the application for a Zoning Compliance Permit, Conditional District Rezoning, or major residential subdivision, as applicable.
- (b) If the development is also subject to the tree preservation requirements, the applicant may combine the tree survey and landscape plan into one document.

2. *Contents of Plan.*

- (a) An Open Space Plan shall:
  - (1) Identify conservation and open space areas;
  - (2) Designate the types of open space that will be provided;
  - (3) Include a written description of how the open space is interconnected, as required by 1.1.1A.1, and a justification for any areas where there is a lack of interconnectivity;

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<sup>392</sup> Revises 1.2: Natural Space from the Chatham County Conservation Subdivision Guidelines for Conservation Space Selection to require an ecological evaluation prepared by the developer rather than a report prepared by the Natural Heritage Program (NHP) staff. County staff and the consultant team met with NHP staff; this Paragraph implements their recommendation.

(4) Specify the manner in which the conservation and open space will be owned, preserved, and maintained as required by 6.3: Long-Term Preservation & Maintenance; and

(5) Include a statement acknowledging that conservation and open space will be maintained in accordance with 6.3: Long-Term Preservation & Maintenance.

(b) The Open Space Plan must incorporate the findings of the ecological evaluation report required by this Subsection.

D. **Cultural Resource Area.** If a Cultural Resource Area exists on a proposed development site, whether or not the applicant intends to preserve it, it shall be identified on all development plans.

E. **Changes to Required Plans.** Any changes to an approved plans required by this Subsection must be reviewed through the same process as the original plan.

### **6.1.12 TREE PROTECTION PLANS.<sup>393</sup>**

1.A. **When Required.** If TSAs are required for a development, the applicant must provide a Tree Protection Plan that complies with this Section with applications for:

(a)1. Construction plan review for major subdivisions; and

(b)2. The stormwater plan for all non-residential developments.

2.B. **Standards.** A Tree Protection Plan (TPP) is a plan of the same scale as, and superimposed on, a site plan or preliminary plat that indicates the root protection zone of all trees to be protected or preserved on a development site.

(a)1. A TPP must locate and identify by species and size the trees on the margin of the designated TSA that is to be protected during land disturbance activities. Trees that are in the interior of TSAs and those on areas of the site outside a TSA do not have to be located or identified on the TPP.

(b)2. The TPP must provide a root protection zone protecting all trees of 12 inches DBH or more that are within 60 feet of the margins of all TSAs. The critical root zone must measure a 1.25 foot radius from the trunk of all trees along the margin of the TSA for each inch DBH.

(c)3. The TPP must describe the management plan for tree, vegetation, and soil protection measures that will be used before, during, and after all construction activities to promote the survival or retention of the trees in the TSA.

3.C. **Review by County.** Upon receipt of a TPP that has not already been approved, the County will review the plan for compliance with the requirements of this Section and best management practices for tree protection within 60~~15~~ working days of receipt.

<sup>393</sup> This new Section provides standards for identifying tree protection areas for construction.

If the submitted TPP does not meet the technical requirements of this Section, staff will ask the applicant for additional information or a revised plan.

### Open Space Plan Required

#### **When Required:**

An applicant shall submit an Open Space Plan as a part of the application for a Zoning Compliance Permit, Conditional District Rezoning, or major residential subdivision, as applicable.

If the development is also subject to Section 6.3: Tree Protection, the applicant may combine into one document the Open Space Plan and the tree survey and plans required by 6.3.6: Application Requirements.

#### **Contents of Plan:**

An Open Space Plan shall:

Identify conservation and open space areas;

Designate the types of open space that will be provided;

Include a written description of how the open space is interconnected, as required by 6.1.8B.2, and a justification for any areas where there is a lack of interconnectivity;

Specify the manner in which the conservation and open space will be owned, preserved, and maintained as required by 6.4: Long Term Preservation & Maintenance; and

Include a statement acknowledging that conservation and open space will be maintained in accordance with 6.4: Long Term Preservation & Maintenance.

The Open Space Plan must incorporate the findings of the ecological evaluation report required by 6.1.7: Selection of Natural Area for Preservation.

**Changes to Open Space Plan.** Any changes to an approved Open Space Plan require review and action through the same process as the original Open Space Plan.

### **1.2.76.1.13 TREE PROTECTION DURING CONSTRUCTION**<sup>394</sup>

#### **A. Tree Protection Fencing.**

1. *Fencing Required.* Before any land disturbance and during the entire duration of construction activity on the site, the root protection zone for tree save areas as shown on the tree protection plan shall be surrounded by approved tree protection fencing fabric or rigid fencing.
2. *Maintenance of Fencing.* Tree protection fencing shall be maintained until a final certificate of occupancy has been issued. Failure to do so will result in a stop-work order until the fencing has been appropriately installed or remedied.

<sup>394</sup> This new Subsection codifies the tree protection strategies in the Design Guidelines § 6: Tree Protection During Construction and adds a requirement for signage on the required fencing.



3. *Signs Required.* Warning signs must be installed on the protective fence, spaced at a minimum of one every 300 linear feet. The signs must contain the following or similar text in both English and Spanish: "TREE PROTECTION ZONE: KEEP OUT."

B. **Prohibited Activities Within the Root Protection Zone.** During the entire construction period, there shall be no soil disturbance, compaction, or changes to the existing grade within the root protection zone. Prohibited activities in these areas include the following:

1. Stockpiling of construction materials;
2. Parking of vehicles or storage of equipment;
3. Portable buildings or portable toilets;
4. Ropes, signs, wires, unprotected electrical installation, or other device or material may not be secured or fastened around or through a tree;
5. Bore sampling;
6. Toxic chemicals, gas, oil, salt brine, or other injurious substances may not be stored or allowed to seep, drain, or empty into a root protection zone; and
7. Silt from stormwater runoff may not be allowed to run onto root protection zones. Silt protection fencing or a drainage swale shall be installed on the uphill side of all root protection zone areas.

### **1.2.8 PLANT MATERIAL INSTALLATION<sup>395</sup>**

~~For any development project that requires planting of trees or other plant material to satisfy the requirement of this Section, the applicant must comply with the standards provided in 4.4.4: General Landscaping Standards.~~

### **1.2.9 USE OF TREE SAVE AREAS<sup>396</sup>**

~~A. **Trails.** Tree save areas may include pedestrian and bicycle trails if:~~

- ~~1. Trees are not removed;~~
- ~~2. The trail surface is pervious, such as dirt or gravel; and~~
- ~~3. Trail placement is coordinated with the County so that the effective tree save area required is maintained.~~

~~Structures. Structures are prohibited within the root protection zone provided in 6.3.6C: Tree Protection Plans. A building restriction must be noted on the recorded plat for the subdivision.~~

<sup>395</sup> ~~This new Subsection references Section 4.4: Landscaping & Screening for planting standards.~~

<sup>396</sup> ~~This new Subsection requires ownership of TSAs by the HOA for subdivisions. TSAs are to be left undisturbed except for minimal maintenance (removal of invasive plants).~~

**6.1.26.1.14 USES ALLOWED IN TREE SAVE AREA AND OPEN SPACE<sup>397</sup>****A. Tree Save Area.**

- ~~1. Trails. The following uses are allowed in all open space types, except Natural Area and Transitional Buffers:~~
  - ~~1. Community gardens;~~
  - ~~2. Public art;~~
  - ~~3. Self-service repair stations for bicycles and other wheeled devices;~~
  - ~~4. Shared water, septic, and sewer infrastructure;~~
  - ~~5. Easements for drainage, access to utilities, and underground utility lines, if the above-ground portion of the easement or right-of-way qualifies as one of the open space types specified in Table 6.1.4: Types of Open Space; and~~
  - ~~6. Recreational trails for pedestrians, bicyclists, and equestrians but not motorized vehicles (e.g., golf carts, ATVs, e-bikes) if they are constructed in accordance with NCDOT Roadway Design Manual § 4.14.1.1: Shared Use Paths, Sidepaths, and Greenways.~~
- ~~B.1. Pedestrian and bicycle trails are allowed in Natural Areas Tree Save Areas if:~~
  - ~~1.(a) The trail surface is pervious, such as dirt or gravel;~~
  - ~~2.(b) The trail is no more than 10 feet in width, with a maximum two-foot non-surfaced maintenance corridor along either side of the trail;~~
  - ~~3.(c) Only trees three inches in diameter at breast height (DBH) or less are removed, except where Natural Area is comprised of tree save area as allowed by 0: Tree Save Areas. In these cases, trees shall not be removed;~~
  - ~~4.(d) Any vegetation removal is accomplished without the use of heavy equipment. Herbicides may be used to eradicate invasive plant species, as specified in 6.3.5: Maintenance Standards; and~~
  - ~~5.(e) If the trail is located outside the Jordan Lake Watershed (see 8.6.5: Vegetation and Activities Within the Riparian Buffer on Lands Within the Jordan Lake Watershed) the trail is at least 30 feet from the water feature if the trail is located in a riparian buffer.~~
- ~~4.2. Structures. Structures are prohibited within the root protection zone provided in 6.1.12: Tree Protection Plans. A building restriction must be noted on the recorded plat for the subdivision.~~

**C.B. Transitional Buffers.** Pedestrian and bicycle trails are allowed in transitional buffers if:

<sup>397</sup> ~~This new Subsection requires ownership of TSAs by the HOA for subdivisions. TSAs are to be left undisturbed except for minimal maintenance and greenways (removal of invasive plants).~~

1. The trail surface is pervious, such as dirt or gravel;
  2. The trail is no more than 10 feet in width; and
  3. The trail is located generally parallel to and approximately in the center of the buffer.
- ~~D. Designated trails and other facilities for motorized vehicles including golf carts, ATVs, and e-bikes are allowed in the following open space types:~~
- ~~7. Regional Parks;~~
  - ~~8. Community Parks; and~~

### **6.1.15 APPEALS<sup>398</sup>**

- A. **Right to Appeal.** The applicant may seek review of administrative decisions under this Section as follows:
1. For subdivision applications, appeal is to the Planning Board as provided in Section 12.2: Appeals of Administrative Decisions; and
  2. For non-residential applications, appeal is to the Board of Adjustment as provided in Section 12.2: Appeals of Administrative Decisions.
- B. **Standard for Appeal.** The decision-making body will review an administrative decision based on the standards set out in this Section.

### **1.1.2 APPLICABILITY**

Except as provided in 6.1.2B and 6.1.2C, below, this Section applies to:

- ~~1. New Tier 1 and Tier 2 major residential subdivisions in conventional districts;~~
- ~~2. New apartment complexes in conventional districts;~~
- ~~3. New mixed use development in conventional districts;~~
- ~~4. Compact conditional districts; and~~
- ~~5. Centers conditional districts.~~

~~Minor subdivisions are subject only to 6.1.5D: Recreation Area Required for Residential Subdivisions.~~

This Section does not apply to:

- ~~6. Individual dwelling units located on lots within residential subdivisions; or~~
- ~~7. Non-residential development.<sup>399</sup>~~

<sup>398</sup> This new Subsection provides for appeals to the Planning Board for decisions on subdivisions and the Board of Adjustment for other applications.

<sup>399</sup> This Subsection provides for applicably to major subdivisions and non-residential development requiring a stormwater plan, with exceptions for agriculture and forestry. It carries forward delays of three or five years for forestry operations resulting in the removal of timber from a site in SR § 1.14G.

### 1.1.3 MINIMUM AMOUNT OF OPEN SPACE REQUIRED

**Conventional Districts.** Table 6.1.3-1: *Minimum Amount of Open Space Required in Conventional Districts* specifies the total amount of open space required in each conventional zoning district, based on the type of subdivision or development.

**Conditional Districts.** Table 6.1.3-2: *Minimum Amount of Open Space Required in Conditional Districts* specifies the amount of open space required in each conditional zoning district.

**Legacy Districts.** Conventional and conditional legacy districts are subject to the open space requirements in Table 6.1.3-1: *Minimum Amount of Open Space Required in Conventional Districts* unless the associated rezoning ordinance specifies a different open space requirement.

### 1.1.4 COMPOSITION OF OPEN SPACE<sup>400</sup>

#### Natural Area Required.

1.—— Generally.

Except in conservation subdivisions and agricultural subdivisions, at least 50% of the open space required by 6.1.3: Minimum Amount of Open Space Required must be Natural Area, as described in Table 0-1: Types of Open Space.<sup>401</sup> If a development site does not contain existing Natural Area, then the required minimum area may be set aside to allow a return to more natural condition through active restoration or passive recovery.

In a conservation subdivision, at least 80% of required open space must be Natural Area.<sup>402</sup> [See 5.4.2: Conservation Subdivisions]

Natural Area is not required in an agricultural subdivision:

2.—— Selection of Natural Area. Natural Area shall be selected in accordance with 6.1.7: Selection of Natural Area for Preservation.

3.—— Protective Fencing Required. Prior to any clearing or grading of the development site, the developer shall install protective fencing around all Natural Area. Fencing shall be placed outside the root protection zone of any trees.<sup>403</sup>

<sup>400</sup> This Section would include requirements/standards for amenities located in conservation and open space areas.

<sup>401</sup> This minimum percentage is included to prioritize the conservation of natural areas in new development. The County could consider also including a maximum amount of Natural Area. For example, "Natural Area must comprise at least 50% but not more than 75% of the required open space." Paragraph 6.1.4.A requires two types of open space, but theoretically a development (other than a residential subdivision, which requires Recreation Area in addition to Natural Area) could have a very small open space area and the rest Natural Area.

<sup>402</sup> Carries forward the current percentage of Natural Space required in conservation subdivisions.

<sup>403</sup> Carries forward SR 7.7.G(4) [Conservation Subdivisions].

4.—— Incentive for Wildlife Corridors.

Where all undisturbed Natural Area in a development is connected by a wildlife corridor<sup>404</sup> at least 50 feet in width and the wildlife corridor connects to a Natural Area on at least one adjacent lot, the total amount of open space required may be reduced by 5%.<sup>405</sup>

This reduction cannot be combined with any other reduction in the total amount of open space required.

Wildlife corridors shall not contain trails.

- 5.—— Incentive for Riparian Access. Where a trail is provided approximately parallel to a river or stream for at least 75% of its length within a development site, the total amount of open space required may be reduced by 5%. This reduction cannot be combined with any other reduction in the total amount of open space required.

**Cultural Resource Protection Area.** If a Cultural Resource Protection Area exists on a proposed development site, whether or not the applicant intends to preserve it, it shall be identified on all development plans.

**E.—— Transitional Buffers.** Transitional buffers required by 4.4.8: *Transitional Buffers* may constitute up to 25% of required open space.

**F.—— Additional Areas Counted as Open Space.**

1.—— *Tree Save Areas.* Tree save areas required by Subsection 6.3.3: *Tree Save Areas* count as required open space. Tree save areas are considered a Natural Area open space type.

2.—— *Transitional Buffers.* Transitional buffers required by 4.4.8: *Transitional Buffers* may constitute up to 25% of required open space.

3.—— *Cemetery Buffers.* Cemetery buffers required by Section 6.2: *Cemetery Buffers* count as required open space. Cemetery buffers are considered a Cultural Resource Protection Area open space type.

4.—— *Riparian Buffers.*

(a)—— Riparian buffers required by Chapter 8: *Watershed & Riparian Buffer Protection* may constitute up to 10% of required open space, even when they overlap other areas counted as open space such as floodplains.

<sup>404</sup> The proposed definition of *wildlife corridor* is “an area of land in a relatively natural state that is unimpeded by significant development disturbance, including roads, such that a particular species can travel between core habitats along the corridor.” This definition is from the North Carolina Wildlife Resources Commission’s *Green Growth Toolbox*, Appendix D, page 125.

<sup>405</sup> This is a simple technique to encourage habitat connectivity in Chatham County. In the future, the County could consider developing a plan for habitat connectivity and amending the UDO to require or incentivize the conservation of important wildlife corridors. See *A Landscape Plan for Wildlife Habitat Connectivity in the Eno River and New Hope Creek Watersheds, North Carolina* (available at <https://connectedconservationnc.org>), which includes a portion of northeastern Chatham County.

(b) — However, any riparian buffer area used to meet the required minimum lot area on an adjacent lot shall not count towards required open space.

(c) — Riparian buffers are considered a Natural Area open space type.

5. — *Floodplains*. Floodplains that are not part of a riparian buffer may constitute up to 25% of required open space. Floodplains are considered a Natural Area open space type.

6. — *Green Roofs*. Green roofs may count as up to 5% of required open space, except in the CD-CR, CD-MU, and CD-CN Districts where they may count as up to 10% of required open space. Green roofs are considered an LID-Feature open space type.

7. — *Human-Made Water Bodies*. Human-made water bodies that are not part of a stormwater management facility may count as up to 25% of required open space if the water body includes one or more amenities such as a kayak dock or fishing pier. Human-made water bodies are considered a Pocket, Neighborhood, Community, or Regional Park, depending on size.

G. — **Areas Not Counted as Open Space.** The following areas do not count towards the minimum required open space:

1. — Natural water bodies;

2. — Stormwater management facilities, except vegetated LID features as allowed by Table 6.1.4: 1: *Types of Open Space*.<sup>406</sup>

3. — Private lots, yards, balconies, and patios dedicated for use by a specific unit;

4. — Required building separation and setback areas;

5. — Rights-of-way and easements for above-ground electrical transmission lines, oil lines, or natural gas lines;<sup>407</sup>

6. — Public and private streets, parking areas, and driveways, unless they provide access only to required open space; and

7. — Designated outdoor storage areas.

### 6.1.3 Selection of Natural Area for Preservation

A. — **Ecological Evaluation Report Required.**<sup>408</sup>

1. — Applicants must prepare a report for the entire development site that identifies ecological natural communities and known locations of rare species for preservation as

<sup>406</sup> The current conservation subdivision standards allow stormwater management facilities in open space (but not natural space) [SR 7.7.D(4)].

<sup>407</sup> The County could consider allowing these areas to count as required open space in all or certain situations. For example, these areas could count as part of a Greenway open space type but not a Neighborhood Park.

<sup>408</sup> Revises 1.2: Natural Space from the Chatham County Conservation Subdivision Guidelines for Conservation Space Selection to require an ecological evaluation prepared by the developer rather than a report prepared by the Natural Heritage Program (NHP) staff. County staff and the consultant team met with NHP staff; this Paragraph implements their recommendation.

Natural Area. The report must evaluate and map any priority areas listed in 6.1.7B.2, below, that are present on the development site.

2. — This requirement does not apply for conservation subdivisions, which have more detailed requirements for Natural Area selection (see the County's [Guidelines for Conservation Space Selection](#)).

3. — The [Administrative Manual](#) includes an outline and template for the required Ecological Evaluation Report.

#### B. — **Preservation Priority.**<sup>409</sup>

1. — Generally, Contiguity of Natural Areas is of most importance. Many isolated pockets of higher priority areas are less valuable than several higher priority areas all connected with lower priority areas.

2. — Priority Areas. The following areas are listed in order of priority for preservation:

(a) — Lands within and adjacent to State Natural Heritage Natural Areas (NHNAs) identified by the North Carolina Department of Natural and Cultural Resources Natural Heritage Program and [Natural Heritage Element Occurrences](#);

(b) — Riparian areas;

(c) — Vulnerable habitats and unique natural features; and

(d) — Priority Habitats defined by the N.C. Wildlife Resource Commission in the [North Carolina Wildlife Action Plan](#), including early successional communities, upland pools, and rock outcrops;

(f) — Upland Pools that may count as required Natural Area include natural depressions that seasonally retain water, either by direct precipitation or through intersection with the water table. Abandoned agricultural or other human-made depressions that do not display these characteristics do not count as required Natural Area.

### 1.1.5 LOCATION & DESIGN OF OPEN SPACE

#### **Open Space Location.**<sup>410</sup>

1. — Required open space should be provided on the same site as the proposed development. However, there may be instances where provision of open space on another site (off site) provides for more efficient or creative development, enables the protection of additional or higher value open space, or serves a greater number of users.

<sup>409</sup> This Paragraph largely replaces the priority areas listed in 1.2: Natural Space [Chatham County Conservation Subdivision Guidelines for Conservation Space Selection] with the priority areas listed in the [Big Woods Conservation Design Guide](#), a component of Plan Chatham. It does continue to include upland pools and rock outcrops.

<sup>410</sup> These provisions for off-site open space are proposed pursuant to input from the Board of Commissioners.

2. ~~In such cases, up to 25% of required open space may be provided off site if it is at least 3 acres in size and is approved by the Board of Commissioners through the major subdivision sketch plan procedure or zoning compliance permit procedure, as applicable for the proposed development.~~
3. ~~The Board of Commissioners may allow up to 50% of required open space to be provided off site if the primary entrance to the proposed development is located within one half mile of existing, publicly accessible open space.~~

### ~~Open Space Design:~~

#### ~~4.1. *Generally:*~~

##### ~~Open space must:~~

~~Be an integral part of the overall development design, with the specific layout of open space designed to be sensitive to the physical and design characteristics of the site; and~~

~~Have direct access to the pedestrian network;~~

~~Open space should be connected with other open space, both within the development and on abutting properties.~~

- 5.1. ~~*Connectivity Required.* To the maximum extent practicable, open space shall be organized to create integrated systems of open space that connect with the following types of land uses located within or adjacent to the development:~~

~~Dedicated public park or greenway lands;~~

~~Dedicated school sites;~~

~~Other dedicated open spaces;~~

~~Open space located adjacent to the proposed development;~~

~~Neighborhood shopping and activity centers; and~~

~~Adjacent employment centers.~~

#### ~~6.1. *Accessibility Required:*~~

~~Where provided, access to open space shall:~~

~~Include a pedestrian connection, such as a trail or sidewalk, that is at least 10 feet in width;~~

~~Be located where such access is visible to dwelling units and other buildings in the development;~~

~~Not be isolated by walls, screening, landscaping, or any other kind of barrier that would prevent resident, occupant, or tenant surveillance of the open space; and~~

~~Not be located on individual residential lots.~~

~~The decision-making body may require access to open space to be restricted if it would degrade, destroy, or adversely affect sensitive environmental or natural areas or areas with significant historic, cultural, or archaeological resources.~~



**~~1.1.61.1.1 OPEN SPACE PLAN REQUIRED~~****~~When Required:~~**

- ~~1. An applicant shall submit an Open Space Plan as a part of the application for a Zoning Compliance Permit, Conditional District Rezoning, or major residential subdivision, as applicable.~~
- ~~2.1. If the development is also subject to Section 6.3: Tree Protection, the applicant may combine into one document the Open Space Plan and the tree survey and plans required by 6.3.6: Application Requirements.~~

**~~Contents of Plan:~~**

- ~~3.1. An Open Space Plan shall:~~

~~Identify conservation and open space areas;~~

~~Designate the types of open space that will be provided;~~

~~Include a written description of how the open space is interconnected, as required by 6.1.8B.2, and a justification for any areas where there is a lack of interconnectivity;~~

~~Specify the manner in which the conservation and open space will be owned, preserved, and maintained as required by 6.4: Long Term Preservation & Maintenance; and~~

~~Include a statement acknowledging that conservation and open space will be maintained in accordance with 6.4: Long Term Preservation & Maintenance.~~

- ~~4.1. The Open Space Plan must incorporate the findings of the ecological evaluation report required by 6.1.7: Selection of Natural Area for Preservation.~~

**6.2 CEMETERY BUFFERS<sup>411</sup>****6.2.1 PURPOSE**

The regulations in this Section are intended to preserve existing cemeteries in Chatham County and protect them from encroachment by new development.

**6.2.2 APPLICABILITY**

This Section applies to new developments, redevelopments, and lot subdivisions located on:

<sup>411</sup> This new buffer requirement is proposed pursuant to input from the Chatham County Historical Association (CCHA). The County could consider expanding this requirement to all historical, archaeological, and cultural resources that are (1) individually listed in or eligible for listing in the National Register of Historic Places; (2) contributing resources to listed or eligible historic districts; (3) contributing resources to individual historic properties such as structures or archaeological sites; or (4) designated by the BOC (or CCHA) as an historical, archaeological, or cultural resource.

- A. A lot or development site that contains a cemetery, whether or not the cemetery is listed on the Chatham County Historical Association's [Cemetery Census](#); and
- B. A lot located within 100 feet of the subject parcel(s) on submitted surveys, concept plans, and plats immediately adjacent to a lot outside the proposed development that contains a cemetery shown on Chatham County's online [Cemeteries & Historical Sites Map](#).<sup>412</sup> The standards in this Section apply when a lot line of the lot proposed for development or subdivision is located less than 30 feet from all headstones, grave markers, and known or obvious unmarked burial sites on an adjacent lot.

### 6.2.3 CEMETERY BUFFER STANDARDS

- A. **Subdivision Required.** A cemetery and its required buffer shall be located on their own separate lot(s) and shall not be located on any portion of a buildable lot.
- B. **Buffer Width.** A buffer at least 30 feet in width is required around the perimeter of all cemeteries.
- C. **Vegetation.**
  - 1. *Existing Vegetation Must Be Maintained.* If vegetation exists within the buffer area, it shall be maintained generally in its natural state except as provided in 6.2.3C.2 and 6.2.3D, below. Existing vegetation may be supplemented with new plantings in accordance with 1.1.1A.1, below.
  - 2. ~~*Planting Allowed.* The lot owner may plant vegetation if it does not disturb known gravesites, and the lot owner selects species from [Appendix A: Plant List](#).~~
  - 3. ~~*Invasive Species.*~~
    - (a) Removal of invasive plant species (see [Appendix B: Invasive Plant List](#)) from a cemetery buffer is allowed.
    - (b) The use of heavy equipment for vegetation removal is prohibited.
    - (c) Herbicides may be used to eradicate invasive plant species if the removal uses best management practices. [See, for example, the [North Carolina Forestry Best Management Practices Manual](#) and the N.C. State Extension publication "[Accomplishing Forest Stewardship with Hand-Applied Herbicides](#)"] Alternative technologies, such as electric weed control, may be used as well.
- D. **Access.** The lot owner may provide an access trail through the cemetery buffer, if:
  - 1. Only trees three inches in diameter at breast height (DBH) or less are removed; and

<sup>412</sup> This ensures developers can easily determine whether a cemetery exists on an adjacent lot and encourages landowners with lots containing cemeteries not shown on the map to request the Chatham County Historical Association add them to its Cemetery Census.

2. Any vegetation removal is accomplished without soil disturbance or the use of heavy equipment or herbicides.
- E. **Site Plan Required.** A cemetery buffer must be shown on all site plans or plats associated with a proposed development. If the proposed development requires open space pursuant to Section 6.1: *Tree Preservation & Other Open Space*, the cemetery buffer also must be shown on the Open Space Plan required by 6.1.11: *Application Requirements*.

## 6.3 LONG-TERM PRESERVATION & MAINTENANCE

### 6.3.1 PURPOSE

This Section sets forth long-term preservation and maintenance requirements to ensure conservation and open space is protected in perpetuity and adequately maintained for its intended purpose.

### 6.3.2 APPLICABILITY

This Section applies to all of the following, collectively referred to as “conservation and open space”:

- A. Open space preserved in accordance with Section 6.1: *Tree Preservation & Other Open Space*; ~~Open Space; and~~
- B. Cemetery buffers established in accordance with Section 6.2: Cemetery Buffers; ~~and~~
- ~~C. — Trees save areas established in accordance with Section 6.3: Tree Protection.~~

### 6.3.3 GENERALLY

Land designated as conservation or open space to meet the requirements of this Chapter shall:

- A. Be platted as a lot;
- B. Remain as conservation or open space in perpetuity; and
- C. Be maintained so that its use and enjoyment as conservation or open space is not diminished or destroyed.

### 6.3.4 PERMANENT PROTECTION REQUIRED

- A. Conservation and open space shall be permanently protected through deed restrictions, covenants, easements, or other legal instruments to:
  1. Ensure the conservation and open space is used for its intended purpose; and
  2. Provide for the continued and effective management, operation, and maintenance of the conservation and open space.

- B. The legal instrument shall include:<sup>413</sup>
1. A statement allocating maintenance responsibilities and establishing guidelines for the upkeep of the conservation and open space and all associated facilities;
  2. Cost estimates for all maintenance, operation, and insurance needs for the conservation and open space, as well as a plan that outlines the means by which funds will be obtained for such expenses; and
  3. Establishment of criteria for enforcement of the plan.
- C. Conservation and open space may be owned, preserved, and maintained by any of the following mechanisms or combinations thereof:
1. Common ownership of the conservation and open space by a property owners' association that assumes full responsibility for its management and maintenance;
  2. Conveyance of the conservation and open space to a third-party organization, such as a land trust or civic organization, that is capable of and willing to accept responsibility for managing and maintaining the conservation and open space for its intended purpose.
    - (a) The organization shall be bona fide and in perpetual existence; and
    - (b) The conveyance instrument shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions;
  3. Upon request of the applicant, dedication to a public agency that is capable of and willing to accept responsibility for managing and maintaining the conservation and open space for its intended purpose; or
  4. Private ownership, if the owner is capable of and willing to place a permanent deed restriction on the property and accept responsibility for managing and maintaining the conservation and open space for its intended purpose.

### 6.3.5 MAINTENANCE STANDARDS

#### A. Maintenance of Open Space.

1. Natural Areas shall remain undisturbed,<sup>414</sup> except that:
  - (a) Pedestrian and bicycle trails may be installed as allowed by O: *Uses Allowed in [Tree Save Area & Open Space](#)*.
  - ~~(b) Invasive plant species may be removed without County approval.~~

<sup>413</sup> Carries forward SR 7.7.G: Management of Conservation Space [Conservation Subdivisions] but eliminates the requirement for a separate "Conservation Space Management Plan."

<sup>414</sup> Alternatively, the UDO could be more permissive and allow removal of dead, dying, or diseased trees and plant materials, as well as brush.

- ~~(1) The use of heavy equipment is prohibited.~~
- ~~(2) Herbicides may be used to eradicate invasive plant species if the removal uses best management practices. [See, for example, the [North Carolina Forestry Best Management Practices Manual](#) and the N.C. State Extension publication "[Accomplishing Forest Stewardship with Hand Applied Herbicides](#)"] The removal should be conducted by a professional with experience in the eradication of invasive plants.~~
- ~~(3) Alternative technologies, such as electric weed control, may be used as well;~~
- ~~(b) Invasive plant species may be removed in accordance with 6.3.5A.3 below~~
- (c) Natural water courses may be maintained as free flowing, and removal of debris may be permitted as necessary; and
- (d) Stream channels shall be maintained so as not to alter floodplain levels, nor violate U.S. Army Corps of Engineers or N.C. Department of Environmental Quality requirements.
2. All other open space shall be:
- (a) Maintained free from hazards, nuisances, and unhealthy conditions; and
- ~~(b) Maintained using standard landscaping practices, including regular mowing, trimming, weeding, and cleaning to ensure neatness. The use of pesticides and herbicides is prohibited except as allowed by 6.3.5A.3 below.<sup>415</sup> Hardscaped areas shall be maintained in good repair.~~
- ~~3. In all open space areas, invasive plant species may be removed without County approval.~~
- ~~(a) The use of heavy equipment is prohibited.~~
- ~~(b) Herbicides may be used to eradicate invasive plant species if the removal uses best management practices. [See, for example, the [North Carolina Forestry Best Management Practices Manual](#) and the N.C. State Extension publication "[Accomplishing Forest Stewardship with Hand-Applied Herbicides](#)"] The removal should be conducted by a professional with experience in the eradication of invasive plants.~~

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<sup>415</sup> Alternatively, the UDO could allow pesticide and herbicide use in accordance with Best Management Practices. This implements a recommendation in the Audit Report (p. 26)— "Stakeholders also suggest the County consider limiting or prohibiting the use of herbicides and pesticides in conservation and open space or incentivizing the use of best practices if herbicides and pesticides are used in conservation and open space."

(c) Alternative technologies, such as electric weed control, may be used as well.;

3. —

- B. **Maintenance of Cemetery Buffers.** Cemetery buffers must be maintained in a natural state and left undisturbed, except as provided in 6.2.3: *Cemetery Buffer Standards*.
- C. **Maintenance of Tree Save Areas.**
1. *Generally.* Tree save areas must be maintained in a natural state and left undisturbed. The cutting or removal of trees or other vegetation, dead or alive, or the disturbance of other natural resources is prohibited except for:
    - (a) Removal of hazards to visitors;
    - (b) Control of disease that would damage the existing trees and other plants;
    - (c) Removal of non-native plant species;
    - (d) Reduction of fire fuel load after severe storm damage;
    - (e) Trail clearance or maintenance; and
    - (f) Maintenance or restoration of natural communities or rare species populations in the TSA.
  2. *Removal of Non-Native Species.* Invasive plant species may be removed from a tree save area without County approval. The use of heavy equipment is prohibited. Herbicides may be used as specified in 6.3.5A.1(a), above.
  3. *Maintenance of New Plantings.* All new plant material installed to satisfy the requirements of 6.1.5: Sites Without Sufficient Trees~~Tree Protection~~ must be maintained as provided in 4.4.10: *Landscaping Maintenance*.

### 6.3.6 FAILURE TO MAINTAIN CONSERVATION & OPEN SPACE

- A. In the event any owner of conservation or open space fails to maintain it, the County, in accordance with the approved Open Space Plan or Tree Protection Plan, as applicable, and following reasonable notice and demand that the owner correct any deficiency of maintenance, may enter the conservation or open space to conduct maintenance activities.
- B. The cost of the maintenance will be charged to the person or entity with the primary responsibility for maintenance of the open space.

# CHAPTER 7 INFRASTRUCTURE & PUBLIC IMPROVEMENTS<sup>416</sup>

## 7.1 APPLICABILITY AND GENERAL REQUIREMENTS

### 7.1.1 REQUIRED IMPROVEMENTS BY DEVELOPMENT TYPE<sup>417</sup>

Developers shall install improvements as specified in this Section. Table 7.1.1-1 summarizes the types of improvements required by development type.

Table 7.1.1-1: Required Improvements by Development Type						
Required Improvement	Development Type					
	Minor Subdivision (<5 lots)	Major Subdivision, Tier 1 (6-15 lots)	Major Subdivision, Tier 2 (>15 lots)	Apartment Complex	Mixed Use Dev.	Non-Residential Dev.
<a href="#">Monuments &amp; Lot Markers</a>	✓	✓	✓			
<a href="#">Pedestrian &amp; Multimodal Systems</a>			✓	✓	✓	✓
Stormwater Drainage Systems	Refer to Chapter 9: <i>Stormwater Management</i> for applicable regulations					
<a href="#">Public Streets</a>			✓			
<a href="#">Private Streets</a>	✓	✓		✓	✓	✓
<a href="#">Private Driveways</a>	✓	✓				

<sup>416</sup> This Chapter updates and revises the requirements for developers to install infrastructure in new developments. Important changes include 1) requirement for infrastructure improvements to non-residential development; 2) adoption of new street framework with public streets, private streets, and private driveways that requires dedication of public streets in major subdivisions, requires private streets to comply with NCDOT design standards, and allows gravel access by private easement for subdivisions of 15 or fewer lots; 3) addition of new street connectivity standards; 4) clarifies and requires pedestrian and multimodal transportation infrastructure; and 5) adds location standards for wastewater treatment facilities on development sites.

<sup>417</sup> This Section significantly updates SR 8.1: *Required Improvements* and converts it to a tabular format. The Section clarifies the types of improvements required for minor vs. major subdivisions and for non-subdivision development and adds infrastructure requirements for non-residential developments.

**Table 7.1.1-1: Required Improvements by Development Type**

Required Improvement	Development Type					
	Minor Subdivision (<5 lots)	Major Subdivision, Tier 1 (6-15 lots)	Major Subdivision, Tier 2 (>15 lots)	Apartment Complex	Mixed Use Dev.	Non-Residential Dev.
<a href="#">Street Name &amp; Traffic Signs</a>	✓	✓	✓	✓	✓	✓
<a href="#">Utilities</a>	✓	✓	✓	✓	✓	✓
<a href="#">Wastewater Systems</a>	✓	✓	✓	✓	✓	✓
<a href="#">Water Supply Systems</a>	✓	✓	✓	✓	✓	✓

**Key:** ✓ = the improvement is required | [blank cell] = the improvement is not required

**7.1.2 COMPLETION OF IMPROVEMENTS<sup>418</sup>**

- A. Before the County issues a Zoning Compliance Permit for developments to which this Chapter applies or approves the Final Plat for a subdivision, all applicants shall:
  - 1. Complete, in accordance with the County's requirements, all the street, sanitary, and other infrastructure improvements required by this Chapter including, without limitation, improvements on the individual lots of the subdivision as required in these regulations, specified in the Final Plat, and as approved by the County; and
  - 2. If required, dedicate the same to the appropriate government body, free and clear of all liens and encumbrances on the property and public improvements thus dedicated.
- B. Alternatively, the applicant may request to post a performance guarantee in accordance with 7.4: *Performance Guarantees for Completion of Improvements*, prior to completion of the required improvements. This Section ensures improvements will be made and utilities installed without cost to public bodies in the event of default of the developer or subdivider. This also assures prospective purchasers that improvements will be installed as shown on the Final Plat.

**7.1.3 COSTS OF IMPROVEMENTS<sup>419</sup>**

All required improvements shall be made by the applicant, at their expense, without reimbursement by the County.

<sup>418</sup> Carries forward and consolidates SR 3.1.A: Completion of Improvements and SR 8.1 I: Guarantee in Lieu of Completed Improvements. Replaces the term *security* with *performance guarantee* for consistency with [N.C.G.S. 160D-804.1](#).

<sup>419</sup> Carries forward SR 3.1.D: Costs of Improvements [Improvement and Adequate Security].



### 7.1.4 ACCEPTANCE OF DEDICATION OFFERS

The approval by the County of a subdivision plat or site plan shall not be deemed to constitute or imply the acceptance by the County of any offer of dedication shown on the plat. Offers of dedication may be accepted only by resolution of the Board of Commissioners.

## 7.2 STREET IMPROVEMENTS<sup>420</sup>

### 7.2.1 ACCESS REQUIRED<sup>421</sup>

- A. Every subdivision developer is required to grade and improve new streets for access as provided in this Section. These improvements for streets and easements shall be in accordance with the minimum standards for design as specified in this Section.
- B. No building, structure, or use of land shall be established on a lot, nor shall any lot be created, that does not abut a public or private street right-of-way or an easement to which it has legal access.
- C. The access requirement does not apply:
  - 1. To land exempt from these regulations;
  - 2. To lots that might be created within a conditional zoning district<sup>422</sup> where access may be through common area or otherwise provided; or
  - 3. To situations otherwise exempt from street access by this UDO.

### 7.2.2 STREET CLASSIFICATIONS<sup>423</sup>

- A. Streets and roads are classified according to the function that they are to serve, the type, speed, and volume they will carry.
- B. The street classifications are:
  - 1. Arterials;
  - 2. Collectors; and
  - 3. Local roads.

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<sup>420</sup> This Section significantly revises the current street development standards in SR 7.2: Rural Roads, and several other locations noted in the subdivision and zoning regulations. Important changes include: 1) requiring all major subdivisions to dedicate the streets; 2) requiring minor subdivisions' private streets to comply with NCDOT design standards; and 3) providing new connectivity standards.

<sup>421</sup> This Section carries forward and clarifies SR 8.1 B.: *Street Development* and ZO 8.4. *Access to Property*

<sup>422</sup> Changed from "planned residential development," which is no longer a distinct use/development type.

<sup>423</sup> This Section carries forward current SR 7.2.A: *Classification*.

- C. The designation in a transportation plan of arterials and collectors does not prevent other streets proposed in adjoining subdivisions from being similarly classified.

### 7.2.3 CONNECTIVITY REQUIRED<sup>424</sup>

- A. **Purpose.** A proposed subdivision with public streets or any non-subdivision development to which this Chapter applies shall provide multiple direct connections in its local street system to and between local destinations, such as parks, schools, and shopping, without requiring the use of arterial streets. This reduces trips on the arterial network which has the potential to reduce traffic congestion. It also encourages the use of alternative modes of transportation, such as walking and bicycling.
- B. **Connection to Existing Stub Streets Required.** Each development shall incorporate and continue all collector or local streets stubbed to the boundary of the development by previously approved but unbuilt development or existing development.
- C. **Future Connections.**
1. To ensure future street connections to adjacent developable parcels, a proposed development shall provide a local street connection along each boundary that abuts undeveloped land suitable for development.
    - (a) In the CD-CR, CD-CMU, CD-CN, CD-NC, and CD-AC districts, at least one connection is required for every 1,320 linear feet of lot line along the development boundary.
    - (b) In all other districts, at least one connection is required for every 2,640 linear feet of lot line along the development boundary.
  2. This provision does not apply:
    - (a) To proposed development of secure sites that will allow limited or no access by the general public, such as manufacturing facilities, distribution facilities, and electricity generation stations; or
    - (b) When open space areas, riparian areas, sensitive environmental or historical resources, or other areas not proposed for development are adjacent to a boundary that abuts undeveloped land suitable for development.
- D. **Intersections.**
1. A proposed subdivision or development to which this Chapter applies shall provide a full-movement intersection of a collector or a local street with an arterial street at an interval of at least every 1,320 feet along arterial streets. This intersection shall be designed with current or potential signalization.

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<sup>424</sup> This new Section provides objective standards for connectivity that will provide for a grid-like street network.

2. A proposed development shall provide an additional unsignalized, potentially limited-movement intersection of a collector or local street with an arterial street at an interval not to exceed 660 feet between the full-movement collector and the local street intersection.
  3. Any limited-movement collector or local street intersections must include an access-control median or other acceptable access-control device as provided in the NCDOT's [Roadway Design Manual](#).
- E. **Waiver.** As specified in 7.3.7: Deferral or Waiver of Required Improvements, the Board of Commissioners may waive the requirements of Paragraphs B., C., and D.<sup>425</sup>

#### 7.2.4 DEDICATIONS & DESIGN FOR EXISTING & FUTURE STREETS<sup>426</sup>

##### A. **Streets Identified in Applicable Transportation Plans.**

1. The location and width of all streets and roads shall not conflict with any adopted NCDOT and/or Chatham County transportation or corridor plan.
2. When a subdivision is proposed in an area designated for a future right-of-way on any adopted NCDOT and/or Chatham County transportation or corridor plan and the construction of a road along this right-of-way is not necessary for the purpose of providing access to platted lots or carrying the traffic that will be generated by the subdivision development, the subdivider is not required to construct this road.
3. However, the subdivider must reserve such right-of-way for dedication to the NCDOT for the purpose of implementing the transportation plan. The subdivider also must reserve sufficient area adjacent to the right-of-way for a slope easement, if required by the NCDOT.

##### B. **Consistency with Existing Streets.**

1. For the purpose of these design standards, existing streets that terminate at or adjoin a subdivision boundary shall be deemed a part of the subdivision.
2. The proposed street system shall extend the right-of-way of existing streets at no less than the required minimum width.
3. Subdivisions that adjoin only one side of existing streets shall dedicate one-half of the additional right-of-way needed to meet minimum width requirements.
4. If any part of the subdivision includes both sides of an existing street, all the required additional right-of-way shall be dedicated.

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<sup>425</sup> Alternatively, the County could consider eliminating this waiver provision. In this case, any applicant unable to comply with the standards would have to seek a variance from the Board of Adjustment.

<sup>426</sup> This Section carries forward the street dedication standards from SR 7.2B: *Relation to Present, Proposed and Future Road System*.

- C. **Access for Landlocked Adjacent Parcels.**
1. Where necessary to provide public street access to adjoining landlocked property or connectivity to large tracts with future development potential, proposed public streets shall be extended by dedication of right-of-way to the boundary of such property. Legal documents shall be recorded assuring future public accessibility.
  2. Two of the issues to be reviewed when considering the extension of public roads are the improvement of traffic distribution to prevent unnecessary congestion and the improvement of public safety by providing increased access for law enforcement and emergency vehicles.
- D. **Temporary Turnarounds for Stub Streets.** If the proposed public street to be extended is to be used as access for any lots, such stub street must have a temporary turn around located within the public right-of-way and/or a dedicated easement. A notation of this reservation must be noted on the plat.
- E. **Access Management.** When an arterial adjoins or is included in a subdivision, lots that abut the arterial shall have the number of access points limited or reduced with such conditions specified on the plat or shall be provided with another means of access, such as:
1. Platting a single tier of lots that back to the arterial and front on a minor street; or
  2. Other method approved by the Board of Commissioners, such as a frontage road.
- F. **Alignment for Future Subdivision.** When land is subdivided into larger parcels than necessary for ordinary building lots, such parcels may be required to be arranged to allow for the opening of streets in the future and for logical further re-subdivision.
- G. **Reserve Strips.** Reserve strips that control or prevent access to public streets are prohibited except where approved by the Board of Commissioners in a conditional zoning district.<sup>427</sup>

### 7.2.5 STREET ALIGNMENT AND NAMING<sup>428</sup>

- A. Proposed streets that align with others already existing and named shall bear the names of existing streets.
- B. In no case shall the name for a proposed street duplicate any existing street names in Chatham County or the towns therein, irrespective of the use of the suffix street, avenue, boulevard, road, pike, drive, way, place, court, or other derivatives.

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<sup>427</sup> Carries forward prohibition on reserve strips in SR 7.2.C(3) but revises to limit BOC discretion to conditional zoning districts.

<sup>428</sup> This Section carries forward SR 7.2.C.(4): *Street Names*.

- C. Streets must be named in accordance with the [Chatham County Road Name Ordinance](#).

### 7.2.6 PUBLIC STREETS<sup>429</sup>

- A. **Generally.** All streets in Tier 2 major subdivisions must be public streets unless otherwise allowed in a conditional zoning district.
- B. **Design Standards.** The design and construction of all public streets and roads, including the grading, roadbed, shoulders, slopes, medians, ditches, drainage, driveway entrances to lots, right-of-way and pavement widths, grades, curves, intersections, and other proposed features shall conform to the respective current standards of the North Carolina Department of Transportation, except as provided.
- C. **Offer of Dedication.** A developer of roads in subdivisions that are to be public roads shall provide an irrevocable offer of dedication to the NCDOT prior to Final Plat approval.
- D. **On-Street Parking.** Pursuant to Section 4.3: *Fire Protection*, the Fire Marshal may enforce prohibitions against on-street parking on any public streets not expressly designed and constructed to accommodate it, if the on-street parking obstructs access by fire apparatus.

### 7.2.7 PRIVATE STREETS<sup>430</sup>

- A. **Generally.** All streets in minor subdivisions and other developments subject to this Chapter, except Tier 2 major subdivisions, may be private streets.
- B. **Design Standards.**
1. Except as provided in 7.2.7B.2, below, the design and construction of all private streets, roads, and drives, including the grading, roadbed, shoulders, slopes, medians, ditches, drainage, driveway entrances to lots, right-of-way and pavement widths, grades, curves, intersections and other proposed features shall conform to the NCDOT's [Roadway Design Manual](#), unless the subdivision qualifies for access from a private easement as provided in 7.2.8: Private Driveways.
  2. The County must accept engineered pavement design standards that do not meet minimum standards required by the NCDOT if the proposed design standard is signed and sealed by a duly licensed professional engineer, under N.C.G.S. [Chapter 89C: Engineering and Land Surveying](#), and meets vehicular traffic and fire apparatus access requirements. This applies to construction of new privately owned driveways, parking lots, and driving areas associated

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<sup>429</sup> This Section updates and clarifies SR 7.2.C: *Design Standards for Roads [Rural Roads]*. All streets in major subdivisions will have to be dedicated to the NCDOT.

<sup>430</sup> This Section significantly updates SR 7.2.D: *Private Road*. Under the proposed draft, all private streets will be required to comply with the NCDOT road design standards. However, they will not require dedication to the NCDOT.

with parking lots within a new development or subdivision that the developer designates as private and that are intended to remain privately owned after construction.<sup>431</sup>

- C. **Certification of Private Streets.** The design and construction of private streets shall be certified to comply with the NCDOT's [Roadway Design Manual](#) by a licensed engineer.

### 7.2.8 PRIVATE DRIVEWAYS<sup>432</sup>

#### A. **Applicability.**

1. This Section authorizes the use of private driveways for access to lots in minor subdivisions and tier 1 major subdivisions, except as provided in 7.2.8A.2 below.
2. The driveway must be designed and built to NCDOT standards instead of the standards in this Section if:
  - (a) There is an established (prior to subdivision) easement to adjacent land on the property to be subdivided and the developer proposes to use the easement as the driveway; or
  - (b) Connectivity to adjacent parcels is required pursuant to 7.2.3: Connectivity Required.

#### B. **Private Driveways for Minor Subdivisions.**

1. *Generally.*
  - (a) Lots in a minor subdivision may be accessed from a private driveway if:
    - (1) Every lot has frontage on the driveway;
    - (2) The driveway is established by a perpetual easement;
    - (3) The driveway is at least 30 feet in width and intersects a public road.
    - (4) The driveway is at least 100 feet from another easement of this type and driveway does not connect with other driveways or access easements.
  - (b) Proof of the permanence of the easement shall be provided to the Subdivision Administrator and shall be certified by the applicant's attorney.

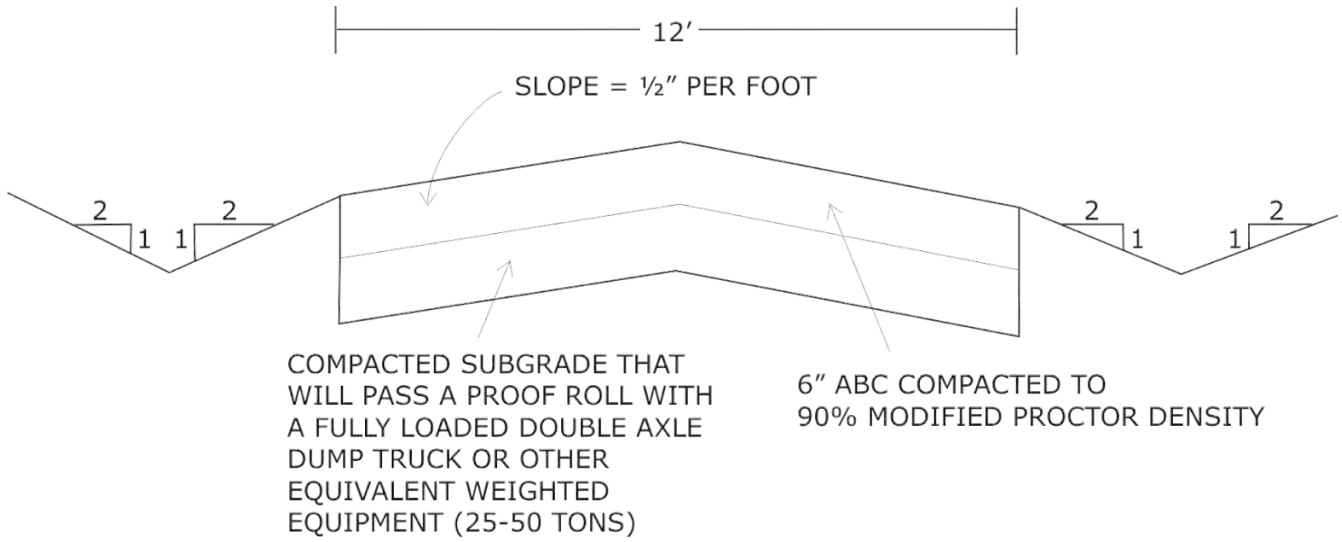
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<sup>431</sup> This Paragraph is from N.C.G.S. [§ 160D-804\(j\)](#), which was added by [SL 2023-108](#).

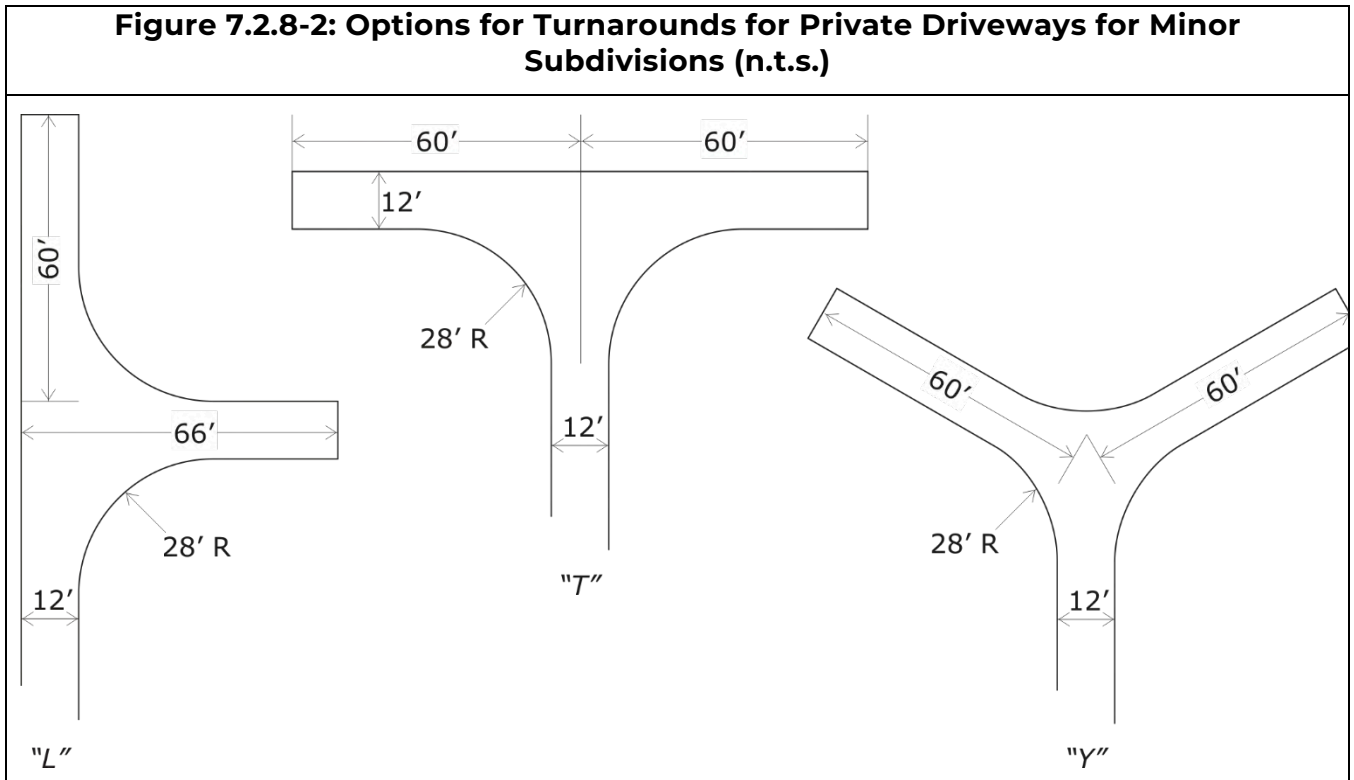
<sup>432</sup> Increases the number of lots allowed on a private driveway to 15 to match the new threshold for Tier 1 major subdivisions. This Section carries forward and clarifies the private easement standards from 7.4.B.: *Arrangement* and applies them to minor subdivisions. The draft removes the 60 ft standard for easements for additional lots. These should not apply because access by connecting easements is not allowed. Carries forward the private road standards in SR 7.2.D and applies them to Tier 1 major subdivisions.

- (c) The applicant must note on the plat that the driveway is subject to a shared maintenance agreement and record the driveway maintenance agreement at the same time as the Final Plat.
  - (d) The applicant shall contact the NCDOT to determine whether a driveway permit is needed and shall provide proof of such to the Subdivision Administrator.
2. *Minor Subdivision Private Driveway Design and Construction Standards.*
- (a) If there is not an existing roadbed on which the driveway will be located, private driveways must comply with these standards for the entire length of the driveway.
  - (b) The design and construction of private driveways must be certified to be in compliance with these regulations by a licensed engineer.
  - (c) These driveway improvements must be made prior to the issuance of a building permit for any building on the subdivided lots. This restriction must be noted on the subdivision plat.
  - (d) Driveways serving one lot shall be improved such that the driveway has a minimum clearance of 12 feet wide and 14 feet high and an all-weather travel surface.
  - (e) Driveways serving more than one lot shall be improved such that the driveway has:
    - (1) A minimum unobstructed clearance of 12 feet wide and 14 feet high;
    - (2) An all-weather travel surface; and
    - (3) At a minimum, is designed to the specifications in Figure 7.2.8-1: *Minimum Gravel Driveway Standard.*
  - (f) If the length of the driveway is more than 250 feet, then a turnaround must be provided at the end of the driveway.
    - (1) Options for acceptable turnarounds are shown in Figure 7.2.8-2: *Options for Turnarounds for Private Driveways.*
    - (2) If applicable, one or more legs of the turnaround may be the entrance to a private, un-shared driveway, if the minimum dimensions of the turnaround are accommodated entirely within the shared driveway easement.
  - (g) Additionally, for driveways that are more than 500 feet in length, the easement shall be widened to 22 feet wide for a distance of 40 linear feet to provide a pull-out for safe passing, at a maximum interval of 500 feet as measured from the center of the pull-out.
  - (h) The maximum distance between the turnaround and a pull-out is 500 feet. See Figure 7.2.8-3: *Illustration of Pull-outs for Private Driveways.*

**Figure 7.2.8-1: Minimum Gravel Driveway Standard for Minor Subdivisions (not to scale)**

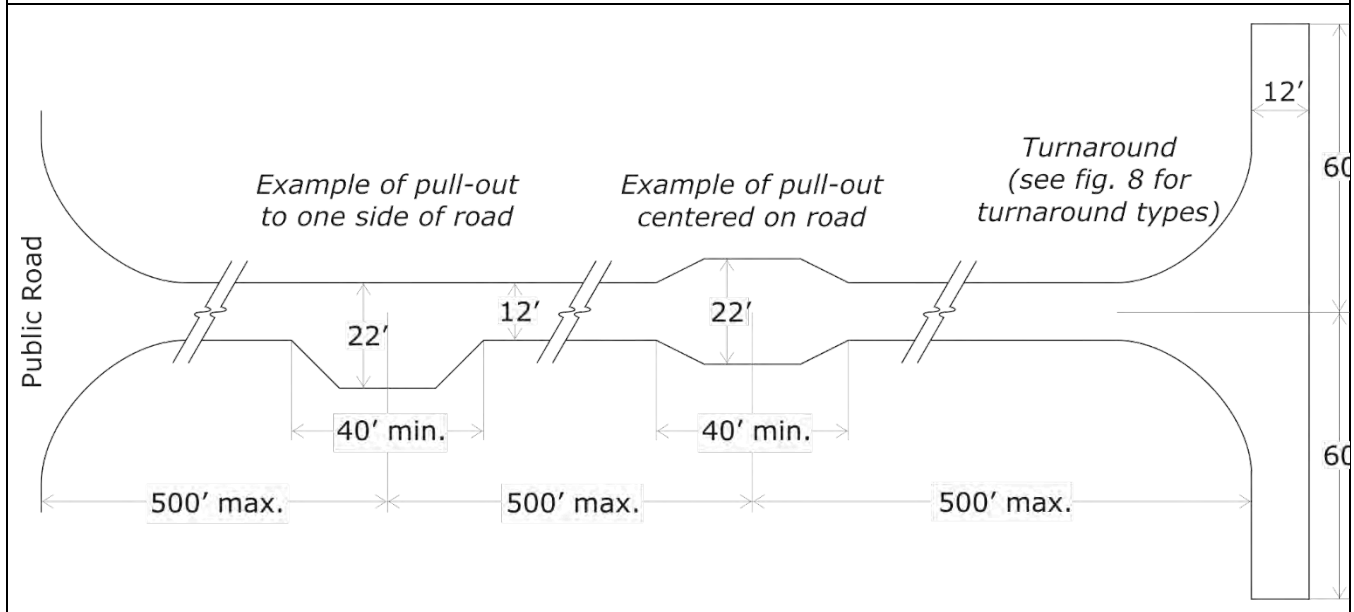


**Figure 7.2.8-2: Options for Turnarounds for Private Driveways for Minor Subdivisions (n.t.s.)**





**Figure 7.2.8-3: Illustration of Pull-outs for Private Driveways for Minor Subdivisions (n.t.s.)**

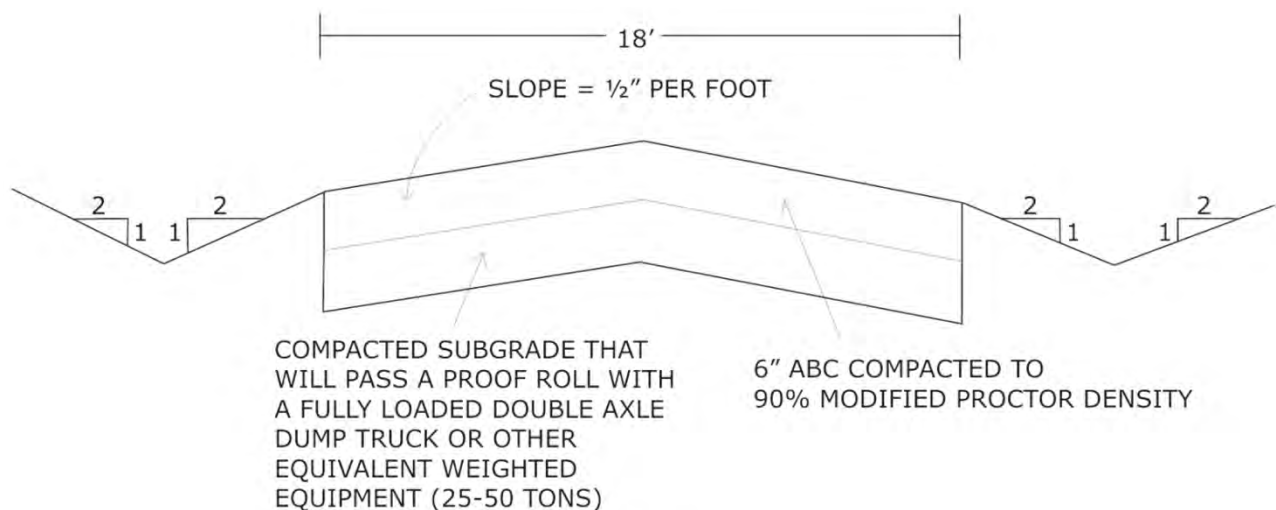


**C. Private Driveways for Tier 1 Major Subdivisions.**

1. *Generally.* The developer shall reference on the Final Plat the recording of a roads instrument that provides the following:
  - (a) Guarantees full right of access via any private driveways in the subdivision to any lot served by that driveway;
  - (b) Specifies the standards to which private driveways in the subdivision have been designed and constructed.
  - (c) Affirms the developer's responsibility to maintain the private driveways in the subdivision to the specified standards until such responsibility is formally transferred to a legally constituted association of subdivision property owners;
  - (d) Includes a road maintenance agreement that, at a minimum, establishes the following:
    - (1) A legally constituted association of subdivision property owners with specified authority to set and collect fees from members for driveway maintenance purposes;
    - (2) A sinking fund for emergency repair and long range improvement of subdivision driveways;
    - (3) An association decision-making process; and
    - (4) An association road maintenance policy with related standards.
2. *Tier 1 Major Subdivision Private Driveway Design and Construction Standards.*

- (a) The minimum width of private driveway easements shall be 60 feet. Where necessary for adequate drainage, the Subdivision Administrator may require additional width.
  - (b) The travel way width shall be at least 18 feet, shall be unobstructed, and, at a minimum, shall be constructed to the design specifications shown in Figure 7.2.8-4: *Tier 1 Major Subdivision Gravel Road Standard*.
  - (c) The ditch slope shall be established according to best management practices that deter erosion.
  - (d) Cut and fill slopes shall be established to maintain stability and provide for maintenance where necessary.
  - (e) The maximum grade of the travel way is 10%. Grades at stop intersections shall not be greater than 4% for a distance not less than 50 feet from the intersection of driveways.
  - (f) Private driveways that are cul-de-sacs must have an adequate turn around that has a roadbed with a radius of at least 40 feet. The radius of the easement of the turn-around must be at least 55 feet. The driveway into the cul-de-sac must remain unobstructed.
  - (g) Sight distance easements at the intersection of private driveways with public state maintained roads shall be equal to or greater than those required by NCDOT.
  - (h) Drainage and erosion control measures shall be equal to those required for public roads.
3. *Certification of Private Driveways in Tier 1 Major Subdivisions.* A licensed engineer must certify that the design and construction of private driveways comply with these regulations.

**Figure 7.2.8-4: Tier 1 Major Subdivision Gravel Road Standard**



- D. **Pre-1975 Easement.** One additional subdivision lot may be allowed if the lot has frontage on a private driveway with a perpetual easement or private road that extends to meet a public road, and the driveway or private road existed prior to October 1, 1975.
1. Proof of the existence of the easement before October 1, 1975, and proof of its permanence, shall be provided to the Subdivision Administrator and certified by the applicant's attorney.
  2. If these conditions are met, the existing private driveway does not require improvements pursuant to this Chapter.
- E. **Limitation on Multiple Subdivisions.** A subdivider shall not create any subdivision from the same parent parcel or adjacent commonly owned parcel for a period of 12 months after receiving approval of a subdivision with access by a private driveway as provided in this Section.

### 7.2.9 REVIEW BY THE DEPARTMENT OF TRANSPORTATION

The NCDOT's District Highway Engineer will have the opportunity to review and provide recommendations for all state streets, highways, and related drainage systems before the Preliminary Plat approval.

## 7.3 OTHER REQUIRED IMPROVEMENTS

### 7.3.1 MONUMENTS & LOT MARKERS<sup>433</sup>

- A. Monuments and lot markers shall be set in accordance with [21 NCAC 56 .1602: Surveying Procedures](#) and any other applicable rules established by the N.C. State Board of Examiners for Engineers and Surveyors.
- B. Monuments and lot markers must be set prior to submittal of the Final Plat so that all necessary inspections may be made by the various agencies involved in the review of the subdivision.

### 7.3.2 PEDESTRIAN & MULTIMODAL SYSTEMS<sup>434</sup>

- A. **Applicability.** All subdivisions and other developments to which this Chapter applies must provide pedestrian and multimodal transportation networks as required by Table 7.3.2-1: *Multimodal Transportation Standards*.

<sup>433</sup> Carries forward SR 8.1.A: Monuments and Lot Markers.

<sup>434</sup> This Section significantly modifies current SR 8.1.G.: Sidewalks. Major changes include 1) requiring sidewalks in all major subdivisions of more than 50 lots with average lot sizes of 1 acre or less; 2) requiring greenways or trails for all major subdivisions; 3) requiring all multimodal infrastructure to be constructed to the NCDOT's specifications; and 4) requiring the developer or homeowners' association to own and maintain multimodal infrastructure.

Table 7.3.2-1: Multimodal Transportation Standards					
Multimodal Transportation Type	Major Subdivision < 50 lots	Major Subdivision > 50 lots	Apartment Complex	Mixed Use Development	Non-Residential Development
Sidewalks <sup>3</sup>		✓ <sup>1</sup>	✓	✓	✓
Bicycle Lanes		✓ <sup>2</sup>	✓ <sup>2</sup>	✓ <sup>2</sup>	
Side Paths					
Transit Stops		✓ <sup>4</sup>	✓ <sup>4</sup>	✓ <sup>4</sup>	✓ <sup>4</sup>

**Key:** ✓ = the improvement is required | [blank cell] = the improvement is not required

<sup>1</sup> Sidewalks are only required in major subdivisions where the average lot size is 1.0 acre or less.

<sup>2</sup> Bicycle lanes are only required on collector and arterial streets.

<sup>3</sup> Sidewalks are not required for development located in the PP, AG, RA, R5, or R2 districts.

<sup>4</sup> If the proposed development meets the thresholds specified in 7.3.2.D.

**B. Sidewalks.**

1. *Major Subdivision Standards.*
  - (a) For all major subdivisions resulting in more than 50 parcels, the developer must provide sidewalks only if the average lot size is 1.0 acre or less in area.
  - (b) If they are required, sidewalks must be provided on all arterial, collector, and local street segments.
2. *All Other Developments.* Where sidewalks are required, the developer must provide both internal sidewalks and external sidewalks. Internal sidewalks are located on the interior of the development and connect buildings, parking areas, open space, and amenity areas. External sidewalks are located along the development’s boundary and connect to other existing or planned sidewalks.
3. *Design Standards.* Where they are required or provided voluntarily, all sidewalks must conform to the standards of the NCDOT’s Roadway Design Manual, [Section 4.14 Pedestrian Facilities](#) and documents referenced in the Manual.

**C. Bicycle Lanes and Side Paths.**

1. Bicycle lanes are required on all collector and arterial streets in developments indicated in Table 7.3.2-1: *Multimodal Transportation Standards*.
2. Bicycle lanes or side paths are recommended but not required in all development types.
3. Where they are required or provided voluntarily, all bicycle lanes and side paths must conform to the standards of the NCDOT’s Roadway Design Manual, [Section 4.15 Bicycle Facilities](#) and documents referenced in the Manual.

**D. Transit Stops.**

1. *Locations.* Transit stops are required as follows:
  - (a) *Adopted Plans.* Transit stops must be provided in locations specified in the [DCHC MPO Long Range Transportation Plan](#), [Chatham County Comprehensive Transportation Plan](#), [Chatham Transit Network Community Connectivity Plan](#), [CAMPO Metropolitan Transportation Plan](#), [Orange County Transit Plan](#), [Wake Transit Plan](#), or any other [Chatham](#) County- or NCDOT-adopted plan.
  - (b) *Significant Transit Generators and Destinations.* In the RB, CD-CMU, CD-CN, CD-NC, and CD-AC districts, transit stops must be provided adjacent to proposed significant transit generators and destinations, in locations approved by the Chatham Transit Network (CTN). Significant transit generators and destinations are:
    - (1) Residential developments that will, at build-out, contain 300 or more dwelling units;
    - (2) Non-residential developments that are:
      - i. Projected to generate at least 1,500 average daily trips, according to the most recent edition of the Institute of Transportation Engineers Trip Generation Manual; and
      - ii. Not located within 1,320 feet (1/4-mile) of an existing, conforming transit stop (see 7.3.2D.2: *Transit Stop Standards*, below); and
    - (3) Mixed use developments that meet either of the thresholds above.
2. *Transit Stop Standards.*
  - (a) Transit stops must comply with the Americans with Disabilities Act (ADA) and include the following elements:
    - (1) Concrete shelter pad;
    - (2) Covered shelter with a bench;
    - (3) Bicycle rack; and
    - (4) Transit stop and route signs.
  - (b) If a proposed non-residential or mixed use development subject to this Paragraph is served by an existing transit stop that does not include all of the elements listed above or does not comply with ADA standards, the developer must upgrade the transit stop to comply with 7.3.2D.2(a) above.
  - (c) Where a transit stop is required on a new street associated with a new development, the street must include a bus turn-out to serve the transit stop unless waived by the NCDOT or CTN.

**E. Ownership and Maintenance.**

1. All pedestrian and multimodal transportation infrastructure may be dedicated to the NCDOT, if allowed, or owned by the developer or homeowners' association, if one exists.
2. All pedestrian and multimodal transportation infrastructure must be maintained by the developer or homeowners' association unless another organization or agency agrees to undertake maintenance.

### 7.3.3 STREET NAME SIGNS & TRAFFIC SIGNS<sup>435</sup>

- A. Appropriate street signs enable visitors, delivery drivers, and emergency services providers to find their way around.
- B. Street name signs shall be installed at all intersections. Traffic control signs shall also be installed where required by the [FHWA Manual on Uniform Traffic Control Devices \(MUCTD\)](#) and the [North Carolina Supplement to the MUCTD](#).
- C. The signs shall be of standard design, size, and material as specified by the MUCTD or North Carolina Supplement to the MUCTD, as applicable.
- D. State and local permits for signs may be required prior to installation.
- E. The owner of the street must maintain the street name signs and traffic control signs in good repair and replace the signs as needed to ensure legibility.

### 7.3.4 UTILITIES<sup>436</sup>

- A. All utility services shall be designed and installed to conform with all appropriate state, local, and utility agency requirements.
- B. Underground utility lines are encouraged.

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<sup>435</sup> Carries forward SR 8.1 H: Street Name Signs and Traffic Signs and clarifies when traffic signs are required by adding a cross-reference to the [FHWA Manual on Uniform Traffic Control Devices \(MUCTD\)](#) and the [North Carolina Supplement to the MUCTD](#). Revises Paragraph A by replacing *strangers* with *visitors* and *potential lot buyers* with *emergency services providers*.

<sup>436</sup> Carries forward SR 8.1 F: Installation of Utilities with a significant edit to remove the ability of the BOC to require underground utilities in subdivisions where lot densities and soil conditions exist to make the installation of such facilities economically feasible in the opinion of the Board of Commissioners. The BOC could include this as a condition of approval for a Conditional District Rezoning, even if not expressly stated here. Further, Chapter 12: Procedures proposes to change the major subdivision approval process such that the BOC would review and act on a Sketch Plan (formerly Concept Plan), but not a Preliminary Plat (formerly First Plat). A soils survey is not required for a Sketch Plan application.

### 7.3.5 WASTEWATER SYSTEMS<sup>437</sup>

- A. **Sewer Connections Required if Available.** Where public service is available, public sewer shall be provided and installed in such a manner as to serve adequately all lots within the subdivision or other development to which this Chapter applies.
- B. **Private Sewage Treatment Facilities.**
1. Where public service is not available and the subdivision or development will use private sewer, the wastewater treatment facility must be integrated into the developed area.
  2. For subdivisions, private sewage treatment facilities shall not be sited on lots bordering the external boundary of the subdivision area.
  3. For other developments and for subdivisions that only have lots with external boundaries, private sewage treatment facilities must be set back from any external property line at least;
    - (a) 300 feet for developments that contain 100 acres or less;
    - (b) 400 feet for developments that contain more than 100 acres but less than 500 acres; and
    - (c) 500 feet for developments that contain more than 500 acres.
- C. **Septic Systems.**
1. Where public service is not available and the subdivision or development will use septic systems for wastewater treatment, a soil scientist, licensed in North Carolina, shall certify that suitable soils are available for each lot in accordance with applicable state and local rules.
  2. The Chatham County Environmental Health ~~Department~~ Division will review soil scientist reports and maps and indicate ~~its~~ their adequacy prior to proceeding with Final Plat approval.
- D. **Regulatory Compliance Required.** Installation of all sewage disposal systems shall conform to appropriate regulations of any governmental agency having jurisdiction.
- E. **Review by the Director of Environmental Health.** The Director of the County's Environmental Health ~~Department~~ Division will have the opportunity to review and provide recommendations for wastewater handling before the Preliminary Plat approval.

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<sup>437</sup> This Section significantly updates SR 8.1 D: Sanitary Sewers by adding 1) location standards for private sewage treatment systems and 2) Health Department input for preliminary plats.

### 7.3.6 WATER SUPPLY SYSTEMS<sup>438</sup>

- A. **Public Water Connections Required if Available.** Where public water service is available and feasible, as defined by the [Chatham County Water System Operating Policies](#), public water shall be provided and installed in such a manner as to serve adequately all lots within the subdivision or other development to which this Chapter applies.
- B. **Private Water Supply.** Where public service is not available, each lot must have a suitable water supply system approved by the Chatham County Environmental Health ~~Department~~ [Division](#) or other appropriate agency.
- C. **Regulatory Compliance Required.** Installation of all water supply systems shall conform to appropriate regulations of any governmental agency having jurisdiction.
- D. **Review by the Director of Environmental Health.** The Director of the County's Environmental Health ~~Department~~ [Division](#) will have the opportunity to review and provide recommendations for water supply systems before the Preliminary Plat approval.

### 7.3.7 DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS<sup>439</sup>

- A. **Conditions.**
  - 1. At the time of approval of a Major Subdivision Sketch Plan, the Board of Commissioners may defer or waive, subject to appropriate conditions, the provision of any or all required improvements as, in its judgment, are not requisite in the interests of the public health, safety, and general welfare, or that are inappropriate because of inadequacy or lack of connecting facilities. This includes the standards in 7.2.3: Connectivity Required, which may be waived if they are impracticable or infeasible due to unusual topographic features, existing development, or the presence of a natural feature or an historical or cultural resource.
  - 2. If the proposed development is not a major subdivision, the applicant may request the waiver or deferral described in 7.3.7A.1 above as part of the Zoning Compliance Permit application (see Section 12.19).
- B. **Payment in Lieu of Improvements.** Whenever the County deems it necessary to defer the construction of any improvement required in this Chapter because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the applicant may be required to:

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<sup>438</sup> This Section carries forward SR 8.1 E: Water Supply Systems with the addition of Environmental Health ~~Department~~ [Division](#) input for Preliminary Plats.

<sup>439</sup> Carries forward SR 3.3: Deferral or Waiver of Required Improvements with minor edits. Replaces the term *financial security* with *performance guarantee*.



1. Pay their share of the costs of the future improvements to the County prior to approval of the Final Plat or issuance of the Zoning Compliance Permit for other developments to which this Chapter applies; or
2. Post a performance guarantee ensuring the completion of required improvements upon demand of the County.

## 7.4 PERFORMANCE GUARANTEES FOR COMPLETION OF IMPROVEMENTS<sup>440</sup>

### 7.4.1 APPLICABILITY

- A. This Section applies to major subdivisions and all other developments to which this Chapter applies.
- B. This Section does not apply to performance guarantees associated with erosion control and stormwater control measures.<sup>441</sup>

### 7.4.2 GENERALLY

- A. **Requests to Provide a Performance Guarantee.** Upon request by the applicant, the County may enter into a contract with the applicant under which the applicant agrees to complete all required improvements by providing a performance guarantee. This contract may be executed when:
  1. Seventy-five percent of the improvements (based on the total estimated cost of the improvements to be installed) have been completed;
  2. All weather access for emergency vehicles has been provided; and
  3. Waterlines are completed and ready for acceptance by the County if public water is available.
- B. **Timing of Request.** The applicant must submit the request, including a detailed construction cost estimate, at the time of submittal of the Final Plat or Certificate of Occupancy for other development types to which this Chapter applies.
- C. **Approval & Recording of Final Plat.** The Final Plat may be signed and recorded if:
  1. The County and the applicant have executed the contract;
  2. The applicant has provided the required performance guarantee; and
  3. All requirements of this UDO, except the completion of the required improvements, have been met.

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<sup>440</sup> This Section carries forward and reorganizes SR Section 3: Security for Completion of Improvements. Replaces the terms *security*, *financial security*, and *financial guarantee* with *performance guarantee* for consistency with [N.C.G.S. 160D-804.1](#). Simplifies the language and limits the use of passive voice.

<sup>441</sup> This exclusion is from [N.C.G.S. 160D-804.1\(7\)](#).

**7.4.3 FORM OF PERFORMANCE GUARANTEE<sup>442</sup>**

- A. To secure the obligation under the contract, the applicant shall provide any one or a combination of the performance guarantees set forth below to cover the costs of the uncompleted improvements.
1. Surety bond issued by a company authorized to issue such bonds in North Carolina;
  2. Letter of credit issued by any financial institution licensed to do business in North Carolina; or
  3. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- B. The performance guarantee shall be made payable to Chatham County.
- C. The performance guarantee shall comply with all statutory requirements and shall be satisfactory to the County Attorney as to form and manner of execution as set forth in this Chapter and to the Subdivision Administrator as to sufficiency (i.e., inflation or rising construction costs shall be taken into account of security amount). A copy of the power of attorney for any countersigning agent shall be attached.
- D. A contract, satisfactory to the County as to form, shall accompany any performance guarantee accepted by the County for improvements, and shall be signed and approved prior to recordation of the Final Plat.
- E. The applicant may post one type of a performance guarantee as provided for in 7.4.3A, above, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.<sup>443</sup>
- F. The County Attorney may at any time during the period of the performance guarantee accept a substitution of principal or sureties on the guarantee.

**7.4.4 AMOUNT OF PERFORMANCE GUARANTEE<sup>444</sup>**

- A. The amount of the performance guarantee shall not exceed 125% of the reasonably estimated cost to complete the required improvements at the time the performance guarantee is issued. The Subdivision Administrator may determine the amount of the performance guarantee or use a cost estimate determined by a registered landscape architect, registered engineer, surveyor, or licensed contractor.

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<sup>442</sup> These provisions are carried forward with minor revisions for consistency with [N.C.G.S. 160D-804.1\(3\)](#) and to reduce redundancies.

<sup>443</sup> This Paragraph is added for consistency with [N.C.G.S. 160D-804.1\(6\)](#).

<sup>444</sup> The provisions related to the performance guarantee amount are revised for consistency with [N.C.G.S. 160D-804.1\(3\)](#).

- B. The reasonably estimated cost of completion shall be sufficient to secure the satisfactory construction, installation, and dedication of the incomplete portion of required improvements.
- C. The reasonably estimated cost of completion shall include 100% of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional 25% allowed includes inflation and all costs of administration, regardless of how such fees or charges are denominated.
- D. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.
- E. The performance guarantee shall also ensure the installation of all lot improvements on the individual lots of the subdivision as required in these regulations.

#### **7.4.5 COVERAGE OF PERFORMANCE GUARANTEE<sup>445</sup>**

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

#### **7.4.6 DURATION OF PERFORMANCE GUARANTEE**

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

#### **7.4.7 EXTENSION OF PERFORMANCE GUARANTEE**

- A. The applicant shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension.
- B. If the improvements are not completed to the specifications of Chatham County and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete.
- C. The form of any extension shall remain at the election of the developer.

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<sup>445</sup> Carries forward the last sentence of 3.1.B(1).

- D. If a new performance guarantee is issued, the amount shall be determined by the procedure in 7.4.4: Amount of Performance Guarantee and shall include the total cost of all incomplete improvements.<sup>446</sup>

#### **7.4.8 RETURN OR RELEASE OF PERFORMANCE GUARANTEE**

- A. When the requirements of 7.5.2A: Certificate of Satisfactory Completion have been met, the performance guarantee shall be returned or released, as appropriate, in a timely manner upon acknowledgement by the County that the improvements for which the performance guarantee is being required are complete.
- B. The County shall return letters of credit or escrowed funds upon completion of required improvements to the specifications of the County or upon acceptance of the required improvements, if subject to County acceptance.
- C. When required improvements that are secured by a bond are completed to the specifications of the County, upon request by the applicant, the County shall timely provide written acknowledgement that the required improvements have been completed.

#### **7.4.9 FAILURE TO COMPLETE IMPROVEMENTS<sup>447</sup>**

- A. In cases where the required improvements have not been installed in accordance with the contract, the Subdivision Administrator may declare the applicant to be in default and require installation of all the improvements regardless of the extent of the building development at the time of default.
- B. The Subdivision Administrator may take such actions necessary to collect on the security and provide for the completion of the required improvements.

#### **7.4.10 LEGAL RESPONSIBILITIES**

No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this Section or in proceeds of any such performance guarantee other than the following:

- A. The County to whom such performance guarantee is provided;
- B. The developer at whose request or for whose benefit such performance guarantee is given; or
- C. The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.

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<sup>446</sup> This sentence is added for consistency with [N.C.G.S. 160D-804.1\(1b\)](#).

<sup>447</sup> Carries forward SR 3.1.E: Failure to Complete Improvements.

## 7.5 INSPECTION OF IMPROVEMENTS<sup>448</sup>

### 7.5.1 GENERAL PROCEDURE

- A. The County and other reviewing agencies responsible for approval or permitting of the improvements may provide for inspection of required improvements during construction to ensure their satisfactory completion.
- B. If the reviewing agencies find, upon inspection, that any of the required improvements have not been constructed in accordance with the construction standards and specifications of the County or agencies involved, the applicant must correct<sup>449</sup> the improvements.
- C. Wherever the cost of improvements is covered by a performance guarantee, the applicant and the bonding company, if applicable, shall be jointly and severally liable for completing the improvements according to specifications.

### 7.5.2 RELEASE OR REDUCTION OF PERFORMANCE GUARANTEE

- A. **Certificate of Satisfactory Completion.**
  - 1. The County will not accept the required improvements, nor will the Subdivision Administrator release or reduce the security, until the District Engineer of the NCDOT or other appropriate authority has submitted a certificate stating that all required public street improvements have been satisfactorily completed, or until an engineer, surveyor, registered landscape architect, or contractor acceptable to the County has certified that all other required improvements have been completed in conformity with the requirements of this Ordinance.
  - 2. Upon such certification, the County may accept the improvements in accordance with the established procedure and release the performance guarantee.
- B. **Reduction of Security.** A performance guarantee may be reduced upon actual completion of required improvements and then only to the ratio that the required improvements completed bears to the total required improvements for the subdivision.

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<sup>448</sup> Carries forward SR 3.2 Inspection of Improvements. Relocates from the section pertaining to performance guarantees since 7.5.1: General Procedure applies in all situations, not just those involving a performance guarantee.

<sup>449</sup> Replaced the term *complete* with *correct*.

# CHAPTER 8 WATERSHED & RIPARIAN BUFFER PROTECTION<sup>450</sup>

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## 8.1 PURPOSE<sup>451</sup>

### 8.1.1 GENERAL

This Chapter implements the following:

- A. The water supply watershed management and protection program required by [N.C.G.S. § 143-214.5](#) that is administered by the North Carolina Department of Environmental Quality (NCDEQ), including the water supply watershed program rules at [15A NCAC 02B .0620 et. seq.](#)
- B. The riparian buffer protection program for land located within the Jordan Lake Watershed required by N.C.G.S. § 143-214.20 *et. seq.* and NCDEQ's administrative rules at [15A NCAC 02B .0267](#).
- C. The County's watershed management and riparian buffer standards.

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<sup>450</sup> See discussion of proposed revisions to the Watershed Protection Ordinance (WPO) in the [Audit Report](#) (pp. 32-35). This Chapter also includes additional direction from staff regarding integration of the watershed standards with the district and use standards, as well as integration of the County's standards regarding riparian buffers. It has been significantly simplified from the current WPO and includes the following key changes: 1) The low-density development option is maintained; 2) The high-density option is added for certain areas. The built-upon maximums in this Chapter are set at higher levels than what will be allowed in the base zoning districts. In addition, all single-family development is assumed to include 100% built-upon area, which will limit development intensity compared to the maximum that would be allowed under state law.

The following sections will be carried forward in other parts of the UDO. The definitions in Section 109 are consolidated with the general definitions in Chapter 17. Article 200, Subdivision Regulations, requires that no plat be filed unless it is approved in accordance with the WPO. However, the WPO provides no affirmative review duties. We recommend, in accordance with the provisions in the [2023 Model Water Supply Watershed Protection Ordinance](#), that the subdivision procedures include provisions stating that compliance with the watershed regulations is required, providing for review by the Watershed Administrator, and incorporating any specific subdivision review requirements.

<sup>451</sup> The authority section in Section 101, Authority and Enactment, of the WPO is replaced by the general authority section in Chapter 1 of the UDO; this incorporates explicit reference to the state statute which establishes the watershed regulation requirements. The purpose statement is new.

### 8.1.2 PURPOSE

The purpose of this Chapter is to allow development while protecting the health of the waterways and the ecosystem by improving water quality, preserving natural features, and protecting aquatic habitats.

## 8.2 APPLICABILITY

### 8.2.1 GENERAL<sup>452</sup>

This Chapter applies to all lands in the unincorporated parts of the County that are not part of a municipality's extraterritorial jurisdiction. This Chapter only applies within any incorporated municipality within the County or to land subject to an incorporated municipality's extraterritorial jurisdiction pursuant to an interlocal agreement between the County and the municipality.

### 8.2.2 EXCEPTIONS<sup>453</sup>

- A. Existing development, as defined in this Ordinance, is not subject to the requirements of Section 8.3: *Watershed Areas*, Section 8.4: *Watershed Intensity and Use Standards*, and Section 9.5: *Watershed Development Standards*.
- B. Expansions to existing development shall comply with the requirements of Section 8.3: *Watershed Areas*, Section 8.4: *Watershed Intensity and Use Standards*, and Section 9.5: *Watershed Development Standards*, except for expansion of a single-family residential development that is not part of a common plan of development, subject to the following:
  - 1. In an expansion, the built-upon area of the existing development is not required to be included in the density calculations.
  - 2. Where there is a net increase of built-upon area, only the area of net increase is subject to the requirements of this Chapter.

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<sup>452</sup> This generally carries forward and simplifies Section 102, Jurisdiction, of the Watershed Protection Ordinance (WPO) and clarifies its applicability to lands under which municipalities have extraterritorial jurisdiction. The County may wish to confirm that each local municipality's regulations enforce watershed and riparian buffer standards within their extraterritorial jurisdiction and, if not, may consider whether these powers should be so extended.

<sup>453</sup> Carries forward and revises Section 103, Exceptions to Applicability, of the WPO, with minor revisions to conform to Sec. 203 of the [2023 Model Water Supply Watershed Protection Ordinance](#). Based on discussion with staff, Section 103D (regarding pre-existing lots established before the WPO was enacted) is not carried forward. Section 307 is duplicative and is not carried forward. The phrase that nothing in this Section shall repeal, modify, or amend "any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace" is not carried forward.

3. In redevelopment, when existing development is being replaced with new built-upon area and there is a net increase of built-upon area, only areas of net increase shall be subject to the requirements of this Chapter.<sup>454</sup>
- C. A lot or parcel created after [REDACTED] ~~insert~~ the effective date of this Ordinance ~~†~~ (see Section 1.10: *Effective Date*) shall be exempt from the regulations in Section 8.3: *Watershed Areas*, Section 8.4: *Watershed Intensity and Use Standards*, and Section 9.5: *Watershed Development Standards* if it is developed for one single-family detached residence and was created as part of a family subdivision (see Section 12.5: *Exempt Subdivisions*).<sup>455</sup>
  - D. A nonconforming lot of record that is not contiguous to any other lot owned by the same party may be developed for single-family residential purposes and is not subject to the regulations in Section 8.3: *Watershed Areas*, Section 8.4: *Watershed Intensity and Use Standards*, and Section 8.5: *Watershed Development Standards*. However, if at any time after January 1, 1994, a vacant lot adjoins one or more vacant lots in the same ownership, prior to any development or redevelopment on the lot the lots shall be combined to create one or more lots that meet the standards of this Ordinance, or, if it is not possible to meet the standards of this Ordinance, to reduce the extent of nonconformity of the lots to the maximum extent practicable.<sup>456</sup>
  - E. The following types of activities within the Jordan Lake Watershed are not subject to the requirements of Section 8.6: *Riparian Buffer Standards*, but may be subject to state laws and regulations that establish rules for riparian buffers, including but not limited to regulations established by the North Carolina Department of Environmental Quality Division of Water Resource:<sup>457</sup>
    1. Activities conducted under the authority of the State, the federal government, multiple jurisdictions, or local governments;
    2. Agricultural activities; and
    3. Forest harvesting activities that comply with [15 NCA 02B .0267\(14\)](#).
  - F. Nothing contained in this Chapter shall repeal, modify, or amend any federal or state law or regulation.
  - G. It is generally not intended that these regulations interfere with any easement, covenants, or other agreements between private parties. However, if the provisions

<sup>454</sup> Carries forward Section 104(c) of the WPO, with additional provisions regarding the applicability of the regulations to only the additional built-upon area on expansions of existing development taken from the [2023 Model Water Supply Watershed Protection Ordinance](#)

<sup>455</sup> This clarifies that single-family lots are exempt from the watershed regulations, in accordance with state law, but not the riparian buffer regulations.

<sup>456</sup> Implements a standard exception set out in 15A NCAC 02B .0622(1)(e), along with the requirement (permitted by the regulations) that contiguous lots owned by the same entity be combined to eliminate or reduce the inadequate lot size in Sec. 308(A)(2) of the WPO.

<sup>457</sup> This incorporates the limitation on local government authority set out in 15A NCAC 02B .0267(3) and advises these exempt landowners that state law and regulations regarding riparian buffers may apply.



of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

## 8.3 WATERSHED AREAS<sup>458</sup>

### 8.3.1 WATERSHED AREAS CLASSIFICATION

#### A. Watershed Areas Established.

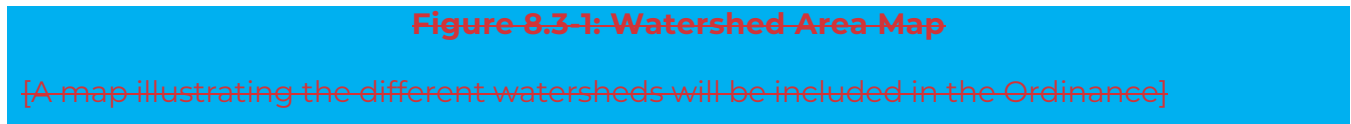
1. Table 8.3-1: Watershed Areas identifies the watershed areas that are subject to the requirements of this Chapter and includes general descriptions of each area. ~~Figure 8.3: Watershed Areas illustrates the approximate boundaries of each watershed area.~~
  2. The official boundaries of the watershed areas are identified on the Watershed Map, which is incorporated herein by reference, and maintained in the Planning Department Office of [REDACTED]. The Watershed Map may be maintained either on paper or as an electronic map layer spatial databases entitled "Watershed Districts" and "Jordan Lake Watersheds," in which the County's maintains as part of its Geographic Information System (GIS) under the direction of the Zoning Administrator and Management Information Systems Director database. The map is available for public inspection and copies are available as provided in 2.1.4: Zoning Map and Other Official Maps.
- A.3. All land in the watersheds are subject to the riparian buffer regulations in Section 8.6: Riparian Buffer Standards.

Table 8.3-1: Watershed Areas	
Name	Description
WS-II-BW (Balance of Watershed)	The portion of Chatham County draining to University Lake. Generally, it is bounded on the east by U.S. 15-501, on the south by S.R. 1532 (Manns Chapel Road), on the west by S.R. 1534, and on the north by the County's border with Orange County.
WS-II-CA (Critical Area)	The land extending beyond the area designated as River Corridor, but within 2,640 feet from the normal pool elevation of approximately 540 feet of the Rocky River Lower Reservoir.
WS-III-BW (Balance of Watershed)	The land draining to the Siler City water system intake on the Rocky River.

<sup>458</sup> This section carries forward the existing set of watershed areas established in Section 301 of the WPO, except for the Jordan Lake Watershed. As drafted in the WPO, the WS-IV-PA area overlaps the WS-IV-CA area; the definitions have been updated to correct the overlap. Added option of maintaining the watershed map as a digital GIS layer.

Table 8.3-1: Watershed Areas	
Name	Description
WS-IV-CA (Critical Area)	The land within one mile and draining to the water intakes for Pittsboro (Haw River), Sanford (Cape Fear River), and Goldston-Gulf (Deep River), and one-half mile from the normal pool level and draining to Jordan Lake.
WS-IV-PA (Protected Area)	The land between one and ten miles from and draining to the water intakes for Pittsboro (Haw River), Sanford (Cape Fear River), and Goldston-Gulf (Deep River), and the land between one-half mile and five miles from the normal pool level and draining to Jordan Lake.
RC: River Corridor	Land within a line drawn parallel to rivers 2,500 feet from the banks, except for specific excluded areas on the Watershed Map
RCSA: River Corridor Special Area	Land within the river corridor that, due to various existing infrastructure, is given a special designation on the Watershed Map, and in the text.
LW: Local Watershed	All the land area of Chatham County outside the WS-II, WS-III, WS-IV, RC, and RCSA areas, and outside the designated municipal watershed jurisdictions.

- B. **Jordan Lake Watershed.** The Jordan Lake Watershed consists of all lands and waters draining to the B. Everette Jordan Reservoir and is identified on the Watershed Map. It overlays portions of the WS IV-CA, WS IV- PA, WS II-BW, WS III-BW, RC, and LW watershed areas. Lands in the Jordan Lake Watershed are subject to additional riparian buffer regulations in Section 8.6: *Riparian Buffer Standards*.<sup>459</sup>



**8.3.2 INTERPRETATION AND AMENDMENT OF WATERSHED AREA BOUNDARIES**

- A. **Interpretation.** The following rules of interpretation govern the boundaries of the Watershed Areas:<sup>460</sup>
1. If a watershed area boundary is shown as approximately following a street, alley, railroad or highway, the boundary shall be deemed to be the center line of the feature.
  2. If a watershed area boundary is shown as approximately following lot lines, the boundary shall be construed as following such lot lines. However, a surveyed plat prepared by a registered land surveyor may be submitted as

<sup>459</sup> This carries forward and simplifies Sec. 301(l) of the WPO.

<sup>460</sup> This updates and simplifies the rules governing interpretation of watershed district boundaries in Section 306 of the current WPO.

evidence that one or more properties along these boundaries do not lie within the watershed area.

3. If a watershed area boundary is shown on the Watershed Map as being more than 25 feet from any parallel lot line, the boundary shall not be impacted. If a watershed area boundary is 25 feet or less from any parallel lot line, the boundary shall be construed to follow the lot line.

**B. Amendment.<sup>461</sup>**

1. The Watershed Administrator may recommend amendments to the watershed area boundaries and shall transmit the recommendation to the Watershed Review Board. The Watershed Review Board shall review the application and may request additional information from the Watershed Administrator regarding the appropriate delineation of the watershed area boundaries.
2. A landowner may apply to the Watershed Administrator for a determination as to whether a property or portion of a property that is shown on the Watershed Map as lying within a particular watershed area actually lies within a different watershed area. The Watershed Administrator shall review and refer the application to the Watershed Review Board, which shall evaluate the request. The Watershed Review Board shall review the application and may require the landowner to produce relevant expert testimony and exhibits regarding the appropriate delineation of the watershed area boundaries.
3. Following its review of a request by the Watershed Administrator or a landowner, the Watershed Review Board shall transmit its determination to the Watershed Administrator. If the Watershed Review Board determines that all or a portion of a property lies outside the drainage area of the applicable watershed area, the Watershed Administrator shall initiate an amendment of the watershed area boundaries on the Watershed Map in accordance with the Watershed Review Board's determination. All proposed modifications to the WS-II-BW, WS-II-CA, WS-III-BW, WS-IV-CA, and WS-IV-PA boundaries shall be approved by the [North Carolina Environmental Management Commission](#) (EMC), or its designee, prior to approval of the amended boundary by the County Board of Commissioners.

## 8.4 WATERSHED INTENSITY AND USE STANDARDS

The standards of this Section apply to development in all watershed areas.

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<sup>461</sup> This new provision allows landowners and the Watershed Administrator an opportunity to justify a change in the watershed boundaries. The application is referred to the Planning Board and could also be referred to the Watershed Review Board. It also includes the state requirement that the Environmental Management Commission sign off on any modification. The County should consider whether a formal procedure should be added.

**8.4.1 INTENSITY STANDARDS<sup>462</sup>**

- A. **Intensity Standards.** Table 8.4.1-1: Maximum Development Intensity in WS-II-BW, WS-III-CA, WS-III-BW, and WS-IV-CA, establishes the maximum development intensity permitted within the WS-II-BW, WS-III-CA, WS-III-BW, and WS-IV-CA watershed areas, and Table 8.4.1-2: Maximum Development Intensity in WS-IV-PA, RC, RCSA, and LW, establishes the maximum development intensity permitted within the WS-IV-PA, RC, RCSA, and LW watershed areas, depending on the type of development permitted and the density option selected, in accordance with the following:
1. Where applicable, maximum built-upon area shall be calculated in accordance with 8.4.1A.3: Built-Upon Area, below. Zoning districts or land use areas on the County’s Land Use and Conservation Plan (see Table 8.4.1-3: Land Use Areas Eligible for High Density Development Option) may include maximum built-upon area standards that are lower than the maximums included in Table 8.4.1-1 or Table 8.4.1-2. In the event of conflict between the maximum built-upon area allowed in this Section, the maximum built-upon area allowed in a land use area on the County’s Land Use and Conservation Plan, or the maximum built-upon area allowed in a zoning district, the maximum built-upon area that is lowest shall control.
  2. In all watershed areas, the minimum lot size requirements do not apply for lots created specifically for minor utilities, provided that any noise-producing equipment (including generators) are stored within a structure or setback at least 50 feet from any public right-of-way or property line.

<b>Table 8.4.1-1: Maximum Development Intensity in WS-II-BW, WS-III-CA, WS-III-BW, and WS-IV-CA</b>				
	<b>WS-II-BW</b>	<b>WS-III-CA</b>	<b>WS-III-BW</b>	<b>WS-IV-CA</b>
<b>Low Density Development Option—Single-Family Detached Residential</b>				
Density, General, Max.	1 du/acre <sup>463</sup>	1 du/acre	1 du/acre	1 du/acre

<sup>462</sup> Intensity standards are drafts established by staff and are subject to change. In this draft, low density development has been included as an option, and the standards in Tables 8.4.1-1 and 8.4.1-2 generally carry forward the density and built-upon limits in Section 302 of the WPO with changes as noted below. The maximum built-upon area for the high-density development option are based on the state requirements for the watershed areas at 15A NCAC 02B .0624 and are new for the local watershed areas.

<sup>463</sup> The standards in WS-II-BW and WS-III-CA have been simplified from the standards in the current WPO. In WS-II-BW, the maximum density is 1 du per 40,000 sf or 1 per 63,540 sf for lots with individual wells and individual wastewater disposal systems. The minimum lot size is 40,000 sf

**Table 8.4.1-1: Maximum Development Intensity in WS-II-BW, WS-III-CA, WS-III-BW, and WS-IV-CA**

	<b>WS-II-BW</b>	<b>WS-III-CA</b>	<b>WS-III-BW</b>	<b>WS-IV-CA</b>
Density within Approved Conservation Subdivision, Max.	n/a	n/a	2 du/acre	2 du/acre
Lot Size, Min. <sup>1</sup>	40,000 sf	40,000 sf	40,000 sf	40,000 sf
<b>Low Density Development Option—Non-Residential and All Other Residential</b>				
Built-Upon Area, Max.	12%	12%	24%	24%
Lot Size, Min. <sup>2</sup>	40,000 sf	40,000 sf	40,000 sf	40,000 sf
<b>High Density Development Option</b>				
Built-Upon Area, Max.	30%	30%	50%	50%

**Key:** min = minimum required | max = maximum allowed | ft = feet | sf = square feet | du = dwelling unit | n/a = not applicable

<sup>1</sup> The minimum lot size for lots with individual wells and individual wastewater disposal systems shall be 63,5450 square feet. The required minimum lot size may be reduced for development in accordance with 5.4.2: Conservation Subdivisions and 8.5.2: Conservation Subdivision.

<sup>2</sup> Minimum lot size may be reduced for development in accordance with 5.4.2: Conservation Subdivisions and 8.5.2: Conservation Subdivision. Additionally, in WS-III-BW and WS-IV-CA, minimum lot size may be reduced for development in accordance with the regulations in 2.3.2: CD-CR, Compact Residential Conditional District; 2.3.3: CD-CMU, Compact Mixed Use Conditional District; and 2.3.4: CD-CN, Compact Non-Residential Conditional District.

**Table 8.4.1-2: Maximum Development Intensity in WS-IV-PA, RC, RCSA, and LW**

	<b>WS-IV-PA</b>	<b>RC</b>	<b>RCSA</b>	<b>LW</b>
<b>Low Density Development Option—Single-Family Detached Residential</b>				
Density, General, Max.	1 du/acre	1 du/5 acres	1 du/acre	1 du/acre
Density within Approved Conservation Subdivision, Max.	2 du/acre	1 du/acre	2 du/acre	2 du/acre
Lot Size, Min. <sup>1</sup>	40,000 sf	3 acres	40,000 sf	40,000 sf

except within an approved cluster development. In WS-III-CA, the maximum density is 1 du per acre, and minimum lot size is 40,000 sf or 63,540 sf for lots with individual wells and individual wastewater disposal systems, except within an approved cluster development. In this draft, the density for both districts has been changed to be 1 du/acre, which is consistent with each other and consistent with the low-density regulations in the 2023 model ordinance and the regulations at 15A NCAC 02B .0264(3).

**Table 8.4.1-2: Maximum Development Intensity in WS-IV-PA, RC, RCSA, and LW**

	<b>WS-IV-PA</b>	<b>RC</b>	<b>RCSA</b>	<b>LW</b>
<b>Low Density Development Option— Non-Residential and All Other Residential</b>				
Built-Upon Area, Max.	2	12%	2	2
Lot Size, Min. <sup>3</sup>	40,000 sf	5 acres	40,000 sf	40,000 sf
<b>High Density Development Option</b>				
Built-Upon Area, Max.	70%	12%	12%	70%

**Key:** min = minimum required | max = maximum allowed | ft = feet | sf = square feet | du = dwelling unit | n/a = not applicable

<sup>1</sup> In WS-IV-PA and LW, minimum lot size for lots with individual wells and individual wastewater disposal systems shall be 63,5450 square feet. In RC, the minimum lot size in a family subdivision shall be two acres. In all areas, the required minimum lot size may be reduced for development in accordance with 5.4.2: Conservation Subdivisions and 8.5.2: Conservation Subdivision.

<sup>2</sup> Maximum built-upon area is 36% for projects without a curb and gutter street system, or 24% for all other non-residential projects.

<sup>3</sup> Minimum lot size may be reduced for development in accordance with the regulations in 2.3.2: CD-CR, Compact Residential Conditional District; 2.3.3: CD-CMU, Compact Mixed Use Conditional District; and 2.3.4: CD-CN, Compact Non-Residential Conditional District.

3. All development in the County may use the low density development option.
4. The only development that may use the high density development option is the following:<sup>464</sup>
  - (a) Development on land within the WS-IV PA watershed area that is located in the Cape Fear drainage area may use the high density development option up to a maximum of 70 percent built-upon area.
  - (b) Development on land within the land use areas on the County’s Land Use and Conservation Plan set forth in the first column of Table 8.4.1-3: Land Use Areas Eligible for High Density Development Option, may use the high density development option. The maximum amount of built-upon area shall be limited to (1) the maximum amount of built-upon area permitted in the land use area in accordance with the second column of Table 8.4.1-3, (2) the maximum amount of built-upon area permitted in the watershed area under the high density development

<sup>464</sup> This defines the areas in the County where development may use the high-density development option (development in all other land use areas or watersheds is limited to the use of the low-density development option). The intention is to allow high density development in the parts of the county that have been targeted for higher intensity development, including the area around the Moncure Megasite, and key nodes in the county such as the Town Center land use designations in the unincorporated county, and the Employment Center area.

option, in accordance with Tables 8.4.1-1 and 8.4.1-2, or (3) the maximum amount of built-upon area permitted in the zoning district, whichever is lowest.

(b)5. Development that uses the high density development option shall be required to pay a fee established by the Board of Comimssioners based upon the amount of built-upon area that exceeds the built-upon area permitted by the low density development option.

Table 8.4.1-3: Land Use Areas Eligible for High Density Development Option <sup>465</sup>	
Area	Built-Upon Area, Max.
Town Center	70%
Employment Center	70%
Community Center	60%
Neighborhood Center	60%
Compact Residential	50%
Villages	50%
Crossroad Community	45%

**B. Built-Upon Area.**<sup>466</sup>

1. A project’s built-upon area shall be calculated as the total built-upon area divided by the total project area. If development is located on land included in two or more watershed areas, the maximum built-upon area shall be calculated separately for the portion of land within each watershed area. For purposes of this Subsection, the built-upon area of a lot containing a single-family (detached) dwelling that is part of a common plan of development shall be calculated as 100% of the lot’s area.<sup>467</sup>

<sup>465</sup> These are new built-upon area maximums for discussion purposes; development using the high-density development option is not currently permitted in the County.

<sup>466</sup> This is a new provision that integrates standards from the watershed protection program regulations at 15A NCAC 02B .0624(4). Rules for single-family development are not required by the state regulations. However, they are included to facilitate calculation of built-upon areas for staff, and to facilitate modifications of residential dwelling units without the requirement of tracking built-upon area.

<sup>467</sup> This is a new provision that simplifies calculation of built-upon area by assuming that 100% of the land on a lot with a single-family (detached) dwelling consists of built-upon area. This reduces the workload of staff, who does need to track the built-upon area of every single single-family development; it also makes redevelopment easier for single-family homeowners, who do not need to track built-upon area as part of expansion or addition of accessory uses; and allows the County to implement accessory dwelling unit regulations without requiring conditions based on built-upon area. It also clarifies that this assumption of 100% coverage does not apply to a single lot that is used as a single-family dwelling which is not part of a larger development, such as a residential subdivision.

2. Total project area shall exclude any areas below the Normal High Water Mark.
  3. A project with existing development may calculate built-upon area by excluding the built-upon area of existing development from both the total built-upon area and the total project area.
- C. **Density Averaging.** Two noncontiguous lots may be paired and their permitted development intensity averaged together for compliance with the maximum development intensity permitted by Table 8.4.1-1: Maximum Development Intensity in WS-II-BW, WS-III-CA, WS-III-BW, and WS-IV-CA, and Table 8.4.1-2: Maximum Development Intensity in WS-IV-PA, RC, RCSA, and LW, provided a Density Averaging Certificate (DAC) is issued in accordance with Section 8.8.2D: Density Averaging Certificate, and all of the following standards are met:<sup>468</sup>
1. The paired lots are within the same watershed area.
  2. The maximum development intensity of the paired lots does not exceed the development intensity that would be permitted if the lots were developed separately. If only one of the paired lots is within the Critical Area of the watershed, the lot within the Critical Area shall not be developed beyond the intensities allowed for land in the watershed area in accordance with Table 8.4.1-1 or Table 8.4.1-2, as applicable.
  3. The lots or portions of the lots that are not being developed remain in a vegetated or natural state. They may be managed by a homeowners' association as common area, conveyed to the County as a park or greenway with the County's approval, or placed under a permanent conservation or farmland preservation easement. Stormwater Control Measures are prohibited within the area being retained in a vegetated or natural state.
  4. A metes and bounds description of the areas to remain vegetated and limits on use is recorded on the subdivision plat, in homeowners' covenants, and on individual deeds, and is irrevocable.
  5. Vegetated buffers comply with the standards of this Chapter.
  6. Built-upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas. Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.<sup>469</sup>

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<sup>468</sup> This is a new provision that implements the density averaging provisions in [N.C.G.S. § 143-214.5\(d2\)](#) and [15A NCAC 02B .0624\(9\)](#).

<sup>469</sup> These standards, including the requirement that the design “minimize” and “maximize” certain flows, are taken directly from state law, [N.C.G.S. § 143-214.5\(d2\)\(4\)](#). The terms are not defined in either the regulations or the [2023 Model Water Supply Watershed Protection Ordinance](#).



7. Development using density averaging that complies with the low density option development requirements transports stormwater runoff from the development by vegetated conveyances, to the maximum extent practicable.

### 8.4.2 USE STANDARDS

All uses and associated activities listed as allowed in Section 3.2: *Principal Use Tables* for the zoning district in which the development is located are allowed on land within the watershed areas, except as provided in Table 8.4.2-2: Uses Prohibited in Watershed Areas.<sup>470</sup>

Table 8.4.2-2 Uses Prohibited in Watershed Areas								
Uses	WS-II-BW	WS-III-CA	WS-III-BW	WS-IV-CA	WS-IV-PA	RC	RCSA	LW
Key: No = Use prohibited   blank cell = Use allowed if allowed in underlying base zoning district								
Sewage <sup>471</sup>	No <sup>1</sup>	No <sup>1</sup>	No <sup>1</sup>	No <sup>1</sup>	No <sup>1</sup>			
Industrial waste	No <sup>1</sup>	No <sup>1</sup>	No <sup>1</sup>	No <sup>1</sup>	No <sup>1</sup>			
Other wastes <sup>472</sup>	No <sup>1</sup>	No <sup>1</sup>	No <sup>1</sup>	No <sup>1</sup>	No <sup>1</sup>			
New NPDES Individual Permit domestic treated wastewater discharge	No	No						
New NPDES Individual Permit industrial treated wastewater discharge	No	No <sup>2</sup>	No <sup>2</sup>					
Non-process industrial waste	No							
New industrial connections and expansions to existing municipal discharge with pretreatment program pursuant to 15A NCAC 02H .0904 <sup>473</sup>	No	No						
New sludge application site	No	No	No	No		No	No	

<sup>470</sup> This generally carries forward the list of prohibited uses from the current WPO, and adds new prohibited uses identified in the [2023 Model Water Supply Watershed Protection Ordinance](#). The WPO includes two lists of permitted uses in the watershed areas—Attachment A and Attachment B. These lists of uses are not carried forward; instead, use permissions will be established for zoning districts in the permitted use table in Chapter 3: Use Regulations. If the County wishes to further restrict allowable uses, it is recommended that a table be included here or in Chapter 3: Use Regulations that identifies additional uses defined in Chapter 3 that are permitted in some districts but prohibited in particular watershed areas.

<sup>471</sup> This term is included in the table taken from the [2023 Model Water Supply Watershed Protection Ordinance](#) but is not defined. The consultant team is working on a definition.

<sup>472</sup> This term is included in the table taken from the [2023 Model Water Supply Watershed Protection Ordinance](#) but is not defined. The consultant team is working on a definition.

<sup>473</sup> This is a new prohibited use that is integrated from the [2023 Model Water Supply Watershed Protection Ordinance](#).

**Table 8.4.2-2 Uses Prohibited in Watershed Areas**

Uses	WS-II-BW	WS-III-CA	WS-III-BW	WS-IV-CA	WS-IV-PA	RC	RCSA	LW
Key: No = Use prohibited   blank cell = Use allowed if allowed in underlying base zoning district								
New landfill	No	No	No	No		No	No	
New permitted residual land application <sup>473</sup>		No		No				
New permitted petroleum contaminated soil sites <sup>473</sup>		No		No				
Petroleum contaminated soil remediation <sup>474</sup>								
Toxic or hazardous materials, unless specifically in relation to a permitted use with an approved and implemented spill containment plan	No	No	No	No		No		
Storage of toxic or hazardous materials unless a spill containment plan is approved and implemented					No			
Toxic or hazardous materials unless specifically in relation to a permitted use, and unless a spill containment plan is approved and implemented						No		
Toxic or hazardous materials unless a spill containment plan is approved by the County Fire Inspector and implemented.							No	

<sup>1</sup> Only allowed if specified in 15A NCAC 02B .0104.

<sup>2</sup> Non-process industrial discharges are allowed.

**8.4.3 USE REGULATIONS**

The following standards apply to specific uses:

- A. **Agriculture.** In all watershed areas, Agricultural uses conducted after January 1, 1993, shall comply with the riparian buffer standards in 8.6: Riparian Buffer Standards, or if the riparian buffer standards do not apply, shall maintain a minimum 20-foot vegetated setback or equivalent control as determined by SWCC along all perennial

<sup>474</sup> Allowed in all watershed areas, per best practice (Tetra Tech).

waters indicated on the most recent version of USGS 1:24000 scale (7.5 minute) topographic maps, or as determined by local government studies.<sup>475</sup>

- B. **Silviculture.** In all watershed areas, silviculture activities shall comply with the provisions of the Forest Practices Guidelines Related to Water Quality, 02 NCAC 60C; and other applicable forestry water quality standards, as determined by the North Carolina Forest Service. [Silviculture activities on land in riparian buffers within the Jordan Lake Watershed \(see 8.6.5: Vegetation and Activities Within the Riparian Buffer on Lands Within the Jordan Lake Watershed\) also subject to the regulations at 15A NCAC 02B .0267\(14\)](#).<sup>476</sup>
- C. In the RC and RCSA watershed areas, buildings, equipment, or material storage shall not be located within the 100-year flood hazard area as designated on the most recent FEMA Regulatory Flood Maps, available at <https://www.fema.gov/flood-maps>.<sup>477</sup>

## 8.5 WATERSHED DEVELOPMENT STANDARDS

Development in the watershed areas is subject to the following standards, in addition to any other applicable standards in this Ordinance.

### 8.5.1 STORMWATER MANAGEMENT<sup>478</sup>

All development shall comply with the stormwater management standards of Chapter 9: *Stormwater Management*. At a minimum, all development in the watershed areas that includes stormwater control measures (SCMs) shall comply with the standards in [15A NCAC 02B .0624\(6\)](#) and include SCM operation and maintenance agreements and plans in accordance with [15A NCAC 02B .0624\(10\)](#). Development that uses the low development

<sup>475</sup> This carries forward the standards that apply everywhere in the WPO and includes a reference to the riparian buffer standards. This sentence is not included in the [2023 Model Water Supply Watershed Protection Ordinance](#) and is outdated and has not been carried forward – “Animal operations greater than 100 animal units shall employ Best Management Practices as recommended by the Soil and Water Conservation Commission.” This provision may be deleted depending on the revisions to the riparian buffer standards.

<sup>476</sup> This updates the current standards in the WPO to reflect the location of the current regulations. It also includes a reference to the North Carolina Forest Service as noted in [15A NCAC 02B .0622](#).

<sup>477</sup> This carries forward existing standards in the WPO and modernizes the reference to the relevant flood hazard maps.

<sup>478</sup> For purposes of brevity and to refrain from including standards that are duplicative of or less stringent than the standards in Chapter 10, the specific stormwater management standards from the state regulations (which are also included in the [2023 Model Water Supply Watershed Protection Ordinance](#)) are not copied in the Ordinance but only referenced. Revised in this draft to reflect that not all development may have SCMs (e.g., a single-family detached dwelling built on an existing large lot) and to reference the allowance of vegetated conveyances or curb outlet systems for low-density development if permitted elsewhere by this Ordinance.

density option and that does not include SCMs shall comply with the standards that apply to low density projects in [15A NCAC 02B .0624\(5\)](#).

### 8.5.2 CONSERVATION SUBDIVISION<sup>479</sup>

Land in the watershed areas may be developed as a conservation subdivision in accordance with 5.4.2: *Conservation Subdivisions*, provided that all the standards of this Chapter are met, as well as the following:

- A. Built-upon areas shall be designed and located to minimize stormwater runoff impact to receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- B. Areas of concentrated development shall be located in upland areas and away, to the maximum extent practicable, from surface waters and drainageways, considering site-specific factors such as topography and site layout as well as protection of water quality.

### 8.5.3 VEGETATED SETBACKS<sup>480</sup>

Vegetated buffers are required along surface waterbodies in accordance with 8.6: *Riparian Buffer Standards*.

### 8.5.4 PUBLIC HEALTH REGULATIONS<sup>481</sup>

- A. No activity, situation, structure, or land use is allowed within the watershed area that poses a threat to water quality and the public health, safety, and welfare.
- B. The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality and report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations and may also coordinate with the local inspections department.
- C. Where the Watershed Review Board finds a threat to water quality and the public health, safety, and welfare, the Watershed Review Board may institute any appropriate action or proceeding to restrain, correct, or abate the condition or violation.

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<sup>479</sup> This incorporates the cluster development standards in 15A NCAC 02B .0264(8), excluding certain standards that are incorporated in the conservation subdivision standards.

<sup>480</sup> This is a significant simplification from the WPO and the waterbody regulations, replacing basic requirements from the WPO and requirements from the regulations (15 NCAC 02B .0624(11)) with a reference to the riparian buffers that apply to areas both within and outside the Jordan Lake watershed.

<sup>481</sup> This carries forward Article 400 of the WPO, with minor revisions to conform with the updated model ordinance.

**8.6 RIPARIAN BUFFER STANDARDS<sup>482</sup>**

**8.6.1 APPLICABILITY<sup>483</sup>**

A permanently protected riparian buffer is required to be provided for development adjacent to perennial, intermittent and ephemeral streams, as well as perennial water bodies and wetlands (both jurisdictional and non-jurisdictional), in accordance with the standards of this Chapter.

**8.6.2 BUFFERS ESTABLISHED**

The streams, water bodies, and wetlands subject to the regulations of this Section, the extent of the required riparian buffers along each feature, and the activities allowed within the riparian buffers vary based on the location of the stream, water body, and wetland, and whether the land are on lots that have been subdivided and when they were subdivided, in accordance with the following:

- A. **Riparian Buffers Outside the Jordan Lake Watershed.** Riparian buffers are established along surface water bodies on land outside the Jordan Lake Watershed in accordance with the following:
  - 1. On lots that were subdivided on or after December 2, 2008, or that are proposed to be subdivided in connection with a development proposal under this Ordinance, riparian buffers shall be established in accordance with Table 8.6.2-1: *Riparian Buffers on Lots Created On or After December 2, 2008.*<sup>484</sup>

Table 8.6.2-1 Riparian Buffers on Lots Created On or After December 2, 2008		
Surface Water Classification	Buffer Length (feet landward)	How Measured
Perennial Stream	100	Horizontally on a line perpendicular from top of bank; this distance is measured on all sides of perennial streams or is the full horizontal extent of the Area of Special Flood Hazard as most recently mapped by the North Carolina Floodplain Mapping Program, NC Division of Emergency Management, whichever is the greater horizontal distance.

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<sup>482</sup> This section reorganizes and updates the riparian buffer standards in Section 304 of the WPO, both as applied to lands within and outside the Jordan Lake Watershed, and the mitigation provisions included in Section 305 of the WPO.

<sup>483</sup> This applicability statement is new.

<sup>484</sup> This carries forward Section 304(D) of the WPO, which establishes the buffers by surface waters classification outside the Jordan Lake Watershed and reorganizes the requirements into tabular format to improve legibility.

**Table 8.6.2-1 Riparian Buffers on Lots Created On or After December 2, 2008**

Surface Water Classification	Buffer Length (feet landward)	How Measured
Intermittent Stream	50	Horizontally on a line perpendicular from top of bank; this distance is measured on all sides of intermittent streams
Ephemeral Stream	30	Horizontally on a line perpendicular from top of bank; this distance is measured on all sides along all ephemeral streams
Wetland	50	Horizontally on a line perpendicular from the delineated boundary, surrounding all features classified as wetlands and linear wetlands.
Perennial Water Body	50	Horizontally on a line perpendicular from the delineated boundary

- On lots that were created before December 2, 2008, and that are not currently proposed to be subdivided, riparian buffers shall be established in accordance with Table 8.6.2-1: *Riparian Buffers on Lots Created Before December 2, 2008 Outside the Jordan Lake Watershed.*<sup>485</sup>

**Table 8.6.2-2 Riparian Buffers on Lots Created Before December 2, 2008 Outside the Jordan Lake Watershed**

Surface Water Classification	Buffer Length (feet landward)	How Measured
Perennial and Intermittent Waters not within 2,500 ft of the Haw, Deep, or Rocky Rivers	50	Horizontally on a line perpendicular from top of bank or the full horizontal extent of the Area of Special Flood Hazard as most recently mapped by the North Carolina Floodplain Mapping Program, NC Division of Emergency Management, whichever is the greater horizontal distance.
Haw, Deep, and Rocky Rivers	100	

<sup>485</sup> This carries forward the standards from the 1999 ordinance, which are not included in the WPO.

**Table 8.6.2-2 Riparian Buffers on Lots Created Before December 2, 2008 Outside the Jordan Lake Watershed**

Surface Water Classification	Buffer Length (feet landward)	How Measured
Perennial and Intermittent Waters within 2,500 ft of the Haw, Deep, or Rocky Rivers	100	

- B. **Riparian Buffers Within the Jordan Lake Watershed.** Riparian buffers are established along surface water bodies on land inside the Jordan Lake Watershed in accordance with the following:
1. On lots that were created on or after December 2, 2008, or that are proposed to be subdivided in connection with a development proposal under this Ordinance, riparian buffers shall be established in accordance with Table 8.6.2-1: *Riparian Buffers on Lots Created On or After December 2, 2008.*<sup>486</sup>
  2. On lots that were created before December 2, 2008, riparian buffers shall be established in accordance with Table 8.6.2-3: *Riparian Buffers on Lots Created Before December 2, 2008 Within the Jordan Lake Watershed.*<sup>487</sup>

**Table 8.6.2-3 Riparian Buffers on Lots Within the Jordan Lake Watershed Created Before December 2, 2008**

Surface Water Classification	Buffer Length (feet landward)	How Measured
Perennial Stream	50	Horizontally on a line perpendicular from top of bank; this distance is measured on all sides of perennial streams or is the full horizontal extent of the Area of Special Flood Hazard as most recently mapped by the North Carolina Floodplain Mapping Program, NC Division of Emergency Management, whichever is the greater horizontal distance.
Intermittent Stream	50	Horizontally on a line perpendicular from top of bank; this distance is measured on all sides of intermittent streams

<sup>486</sup> This carries forward existing standards in the WPO.

<sup>487</sup> This carries forward the regulations that apply in the WPO, as described on the County's [Riparian Buffer Requirements web page](#).

**Table 8.6.2-3 Riparian Buffers on Lots Within the Jordan Lake Watershed Created Before December 2, 2008**

Surface Water Classification	Buffer Length (feet landward)	How Measured
Perennial Water Body	50	Horizontally on a line perpendicular from the delineated boundary

3. Wetlands adjacent to surface waters or within 50 feet of surface waters are regulated in accordance with 15A NCAC 02H. 0506.

C. The buffers established on land within the Jordan Lake Watershed in accordance with 8.6.2B: *Riparian Buffers Within the Jordan Lake Watershed*, are separated into two zones:

1. *Zone One.* Zone One consists of the first 30 feet landward of the water body. If the buffer is only 30 feet in width, the buffer shall consist solely of Zone One.
2. *Zone Two.* Zone Two consists of the entire buffer landward of the water body that is beyond the outer edge of Zone One.

D. **Identification of Waters with Riparian Buffers Subject to this Chapter.** Riparian buffers subject to this Chapter shall be identified in accordance with the following:<sup>488</sup>

1. *Mapped Surface Waters.* ~~Riparian buffers for lots outside the Jordan Lake Watershed that were created before December 2, 2008, and that are not currently proposed to be identified, Except for land on lots outside the Jordan Lake watershed that were created before December 2, 2008, and that is not currently proposed to be subdivided, for which riparian buffers~~ shall be identified based on the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). ~~Surface waters within the Jordan Lake Watershed, surface water~~ may be subject to this Chapter if it is approximately shown on any of the following references, provided that a field delineation in accordance with Paragraph 2, below, is required:
  - (a) The most recent version of the ~~North Carolina published~~ soil survey map ~~prepared by the Natural Resources Conservation Service of the United States Department of Agriculture;~~

<sup>488</sup> This reorganizes and clarifies the provisions in the WPO relating to the designation and identification of surface water bodies that are subject to the riparian buffer regulations. Subsection 1, Mapped Surface Waters, builds on Section 304(A) of the WPO and identifies the materials used for baseline identification of relevant waterbodies. Subsection 2, Field Delineation, and 3, Identification Procedures, carries forward the requirement of field delineation from Sections 304(B) and 304(E) of the WPO with significant restructuring to improve clarity.



- (b) The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps [which includes the National Hydrography Dataset High Resolution data](#) prepared by the USGS; or
  - (c) Maps approved by the Geographic Information Coordinating Council and the Environmental Management Commission.
2. *Field Delineation.* Except for land on lots outside the Jordan Lake watershed that were created before December 2, 2008, and that is not currently proposed to be subdivided, field determinations of all surface water bodies shall be performed in accordance with the following. All field determinations of perennial water bodies, wetlands, and streams are subject to review and approval by the County, which may include an on-site review.
  - (a) Field delineations may be completed by the County or privately contracted environmental professionals for those reviews described below. Privately contracted environmental professionals are required to complete field delineations for Major Subdivisions. All field delineations of ~~perennial water bodies, wetlands, and streams, and perennial water bodies~~ are subject to review and approval by the County, which may include an on-site review.
  - (b) The specific origination point of a perennial or intermittent stream shall be established using the latest version of the DWR publication *Methodology for Identification of Intermittent and Perennial Streams and Their Origins*, available at <https://www.deq.nc.gov/about/divisions/water-resources/water-quality-permitting/401-buffer-permitting/application-forms-help-documents>.
  - (c) All perennial water body and stream classifications shall be conducted by a qualified professional who has successfully completed DWR's *Surface Water Identification Training Certification* course, its successor, or other equivalent training curriculum approved by DWR.
  - (d) Field delineations of wetlands shall be conducted using the 1987 U.S. Army Corps of Engineers methodologies and supplements for each development project. (The current applicable version is Environmental Laboratory (1987) Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, and supplements, U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS.)<sup>489</sup> Wetlands considered to be non-jurisdictional by the US Army Corps of Engineers or DWR are subject to Chatham County riparian buffers. All wetland delineations shall be conducted by a qualified professional who has at least two years of demonstrated experience in conducting wetlands delineations

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<sup>489</sup> This has been carried forward from footnote 1 in the WPO. Because of the organization of this Ordinance, substantive material must be included in the text of the Ordinance. We recommend that the specific reference be removed, and that the County maintain specific information about references in a separate manual or on its website.

in North Carolina under the Clean Water Act Sections 401 and 404 provisions.

- (e) Surface waters that appear on the maps used to determine surface water classifications shall not be subject to the requirements of this Section 8.6 if a site evaluation reveals any of the following:
- (1) Human-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with [15A NCAC 2B .0100](#), including ponds and lakes created for animal watering, irrigation, or other agricultural uses. For purposes of this Paragraph, a pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.
  - ~~(1)~~(2) [Certain ponds used for agricultural purposes, in accordance with S.L. 2013-413, Section 52\(a\).](#)
  - ~~(2)~~(3) The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond.
  - ~~(3)~~(4) Ditches or other human-made water conveyances, other than modified natural streams.
- (f) Any disputes over on-site determinations made in accordance with this section with regard to perennial water bodies and perennial and intermittent streams located within the Jordan Lake Watershed should be referred to the Director of the NC Division of Water Resources c/o the 401 Oversight Express Permitting Unit, or its successor, in writing, [within 60 days of written notification of the determination](#). The Director's determination is subject to review as provided in N.C.G.S. Ch. 150B, Arts. 3 and 4. All other disputes over on-site determinations made in accordance with this Section shall be referred to the Watershed Review Board in writing. Appeals from a decision of the Watershed Review Board shall be in accordance with 8.8.2H: *Appeals from Decision of Watershed Review Board*.
3. *Identification Procedures.*<sup>490</sup> Allowable methodologies for establishing the location and extent of streams and water bodies in the field are described in the guidance document *Field Procedures for the Classification of Streams and Waterbodies, Chatham County, NC*. All perennial water body and stream classifications shall be conducted by a qualified professional who has successfully completed NC Division of Water Resources' (DWR's) Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by DWR.

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<sup>490</sup> Detailed procedures for identification in Section 304(A) of the WPO have been replaced with a reference to the Field Procedures

- E. **Exemptions When Existing Uses are Present and Ongoing.** Within the Jordan Lake Watershed, this Section 8.6 does not apply to uses that are existing and ongoing within the buffer for an intermittent stream or perennial water body, or for the inner 50 feet of the buffer for a perennial stream; however, this Section 8.6 does apply at the time an existing and ongoing use is changed to another use. Change of use shall involve the initiation of any activity that does not meet either of the following criteria for existing and ongoing activity:<sup>491</sup>
1. It was present within the riparian buffer as of August 11, 2009, and has continued to exist since that time. Existing uses shall include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems, any of which involve either specific, periodic management of vegetation or displacement of vegetation by structures or regular activity. Only the portion of the riparian buffer occupied by the footprint of the existing use is exempt from this Section. Change of ownership through purchase or inheritance is not a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within 50 feet of the surface water where it did not previously exist as of August 11, 2009, and existing diffuse flow is maintained. Grading and revegetating Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised, the ground is stabilized, and existing diffuse flow is maintained; or
  2. Projects or proposed development that the County determines to meet at least one of the following criteria:
    - (a) Project requires a 401 Certification/404 Permit and these were issued prior to August 11, 2009;
    - (b) Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, and that have begun construction or are under contract to begin construction and had received all required state permits and certifications prior to August 11, 2009;
    - (c) Projects that are being reviewed through the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor and that have reached agreement with the Department of Environmental and Natural Resources<sup>492</sup> on avoidance and minimization prior to August 11, 2009; or
    - (d) Projects that are not required to be reviewed by the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process

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<sup>491</sup> This carries forward the exemptions in Section 304(J)(6) of the WPO.

<sup>492</sup> The Department of Environmental and Natural Resources is the predecessor to the Department of Environmental Quality, which was formed in 2015.

(published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor if a Finding of No Significant Impact has been issued for the project and the project has the written approval of the County prior August 11, 2009.

### 8.6.3 VEGETATION AND ACTIVITIES WITHIN THE RIPARIAN BUFFER ON LOTS OUTSIDE THE JORDAN LAKE WATERSHED CREATED AFTER DECEMBER 2, 2008, OR THAT ARE PROPOSED TO BE SUBDIVIDED IN CONNECTION WITH A DEVELOPMENT PROPOSAL UNDER THIS ORDINANCE<sup>493</sup>

The following standards apply to riparian buffers on land on lots located outside the Jordan Lake Watershed that were created on or after December 2, 2008, or that are proposed to be subdivided in connection with a development proposal under this Ordinance:

- A. **Vegetation Requirements.** Riparian buffers shall be left in an existing vegetated condition, except for the following:
1. Silvicultural or allowable forest management activities using Best Management Practices;
  2. Removal of invasive species by hand; or
  3. Activities permitted elsewhere in this Chapter.<sup>494</sup>
- B. **Allowed Uses and Structures.** The following uses and structures are allowed, as are maintenance activities associated with the uses and structures, provided there are no practical alternatives to the requested use and an Authorization Certificate is issued in accordance with 8.8.2F: *Authorization Certificate*, below:<sup>495</sup>
1. Water dependent structures;
  2. Signs and lighting as necessary for public health, safety, and welfare purposes;
  3. Drainage and forestry maintenance associated with agricultural and silvicultural activities, in accordance with applicable Best Management Practices, including the Food Security Act of 1985 (Pub L. 99-198), as amended; the Food, Agriculture, Conservation and Trade Act of 1990 (Pub. L. 101-624, as amended); and 02 NCAC 60C .0101 through .0209.<sup>496</sup>
  4. Stream crossings (such as roads, driveways, and trails) that are perpendicular to the stream flow, following a consultation meeting with County staff for

<sup>493</sup> This updates and reorganizes the allowed and prohibited uses and structures in riparian buffers outside the Jordan Lake Watershed in Sections 304(F) and (G) of the WPO.

<sup>494</sup> This is significantly simplified from the standards in Section 304(H) of the WPO; staff reports that the provisions have not been enforced and buffer vegetation requirements are managed through the subdivision regulations.

<sup>495</sup> The last phrase is added to clarify that a no practical alternatives determination is required before the use may take place.

<sup>496</sup> This carries forward footnote 4 of the WPO and adds references to the relevant Public Laws and the updated sections of the NCAC.

private roads and County staff and NCDOT representatives for public roads. Stream crossings shall be designed to minimize the amount of stream channel bed and bank disturbance and shall comply with all applicable Best Management Practices and permit requirements. Stream crossing design alternatives that are preferred include arches, span bridges, and submerged culverts (see CSI Mitigation Measure No. 7 contained in the [Guidance Memorandum To Address And Mitigate Secondary And Cumulative Impacts To Aquatic And Terrestrial Wildlife Resources And Water Quality](#), N.C. Wildlife Resources Commission (August 2002)). The following standards also apply:

- (a) Bents or other support structures for bridges are not allowed within the bankfull area of perennial streams, except where necessary by permit on the Haw, Cape Fear, and Deep Rivers.
- (b) For public road crossings, the crossing shall be designed in accordance with the alternative that best meets the intent of this Chapter and as required by permit.<sup>497</sup>
- (c) Culverts or arches are allowed for crossing perennial, intermittent, and ephemeral streams. Culverts and arches shall be sized and designed in accordance with standard design practices, including allowing for safe passage for wildlife and floodplain flows, using guidance from Weakley, Alan S.; *Flora of the Carolinas, Virginia, and Georgia, and Surrounding Areas*, (UNC Herbarium, NC Botanical Garden, 2007); *Plants to Avoid in the Southeastern United States* compiled by Allison Schwarz and Johnny Randall, Spring 1999; *Controlling Invasive Plants*, NC Botanical Gardens (UNC Press, 2002).<sup>498</sup>
- (d) Fill required for crossings shall not restrict flows during a 25-year, 24-hour storm event, based on hydrologic and hydraulic models. Additional culverts within the floodplain and at bankfull elevation may be required to ensure these flows are not restricted.
- (e) There shall be no concentrated discharge of road or driveway runoff into riparian buffers. Diffuse flow into riparian buffers is allowed using Best Management Practices.<sup>499</sup>

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<sup>497</sup> In the WPO, this references *Subdivision Roads Minimum Construction Standards*, N.C. Division of Highways Board of Transportation (January 2010). This reference has not been carried forward.

<sup>498</sup> This incorporates footnotes 8 and 9, which are referenced in this carry-forward provision in the WPO. This provision in the WPO also references footnote 10, which states: "Any potential exemption from buffer requirements for all other riparian buffers in the Jordan Lake Watershed shall be determined in accordance with Section 304(c)." Because that reference does not make sense in the context of this provision, it has not been carried forward.

<sup>499</sup> In the WPO, this statement referenced footnote 7 that cited the Stormwater Best Management Practices Manual, NC Division of Water Quality [now known as the Division of Water Resources] (July 2007). This has not been carried forward, and we recommend a simple reference to Best Management Practices.

5. Utility crossings (including water, sanitary sewer, electric, communication lines, easements, manholes, and appurtenances) are allowed in the riparian buffer only where no practical<sup>500</sup> alternative exists, in accordance with the following:
    - (a) The preferred methodology for crossings is:
      - (1) Attaching to bridges as permitted by NCDOT or private bridge owners;
      - (2) Directional boring under the riparian buffer and associated stream, water body, or wetland; or
      - (3) In combination with road crossings, culvert-type design within the road right- of-way.
    - (b) Culvert-type crossings shall not cause any restriction of stream channel flows up to the 25-year, 24-hour design storm.
    - (c) Sewage treatment crossings of ephemeral streams may be trenched in accordance with the applicable laws and rules for sewage treatment disposal systems only for on-site (on-parcel) sewage treatment systems;
  6. Electric, petroleum, and gas pipeline construction and maintenance activities within the prescribed easement area;
  7. Stream and riparian buffer restoration and associated maintenance activities;
  8. All trails, provided that Best Management Practices and an approved Trail Management Plan are employed for trails that are used for recreational purposes, such as walking, mountain biking, and horseback riding. Land disturbance associated with these activities is limited to the outer or landward portions, measured from top of the bank, of perennial streams (beginning 50 feet), and intermittent and ephemeral streams (30 feet), ~~and ephemeral streams (20 feet)~~; and
  9. Where permitted by state or federal law for public health and safety purposes, wastewater treatment and disposal components, including surface and subsurface wastewater disposal areas. However, any buffer areas disturbed or impacted by these components shall comply with the erosion and sedimentation control design practices described in the *North Carolina Erosion and Sedimentation Control Planning and Design Manual*, June 1, 2006 edition or current version.
- C. **Prohibited Uses and Structures.** The following uses and structures are prohibited within riparian buffers on land that is located outside the Jordan Lake Watershed, even if allowed within the zoning district that applies to the land:
1. Utilities (i.e., gas, electric, communications, water lines, wells, sanitary sewer, lift stations, etc.) except where stream and buffer crossings are required;

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<sup>500</sup> Changed from “practicable” in the WPO to “practical” for consistency.

2. Receiving, collection, storage or distribution areas for hazardous waste and hazardous materials;
3. Sanitary landfills and landfills as defined in this Ordinance. Mulching or chipping of inert, organic plant materials is allowed for forestry or maintenance activities;
4. Constructed stormwater features;
5. Discharge of concentrated storm water runoff or drainage from culverts, ditches, and other conveyances;
6. Entry by motor powered vehicles, except for the purpose of maintaining existing utility corridors (or new power line or gas corridors) and providing emergency services;
7. Excavation, land clearing, grading or fill material that is not allowed by permit; and
8. Stream or buffer maintenance activities unless otherwise allowed by permit.

#### **8.6.4 VEGETATION AND ACTIVITIES WITHIN THE RIPARIAN BUFFER ON LOTS OUTSIDE THE JORDAN LAKE WATERSHED THAT WERE CREATED BEFORE DECEMBER 2, 2008, AND THAT ARE NOT CURRENTLY PROPOSED TO BE SUBDIVIDED<sup>501</sup>**

The following standards apply to riparian buffers on land on lots located outside the Jordan Lake Watershed that were created before December 2, 2008, and that are not currently proposed to be subdivided:

- A. No new development is allowed in the buffer, except for water-dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters, and maximize the utilization of stormwater BMPs. Desirable artificial streambank or shoreline stabilization is permitted.
- B. To avoid a loss of effectiveness in protecting streams, the stream buffer shall remain in natural undisturbed vegetation, except as follows:
  1. Clearing, grading, or other land disturbing activities which would reduce the effectiveness of the buffer shall be revegetated.
  2. Buildings and other features that require grading and construction shall be set back at least 10 feet from the edge of the buffer. Crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities,

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<sup>501</sup> This incorporates, with no substantive changes, the regulations that apply under the County's 1994 Watershed Protection Ordinance to land that was subdivided prior to December 2, 2008, or never subdivided (former Section 304, available on the County's riparian buffer website). These standards were not included in the WPO but are proposed to be included in these regulations to provide clarity to landowners. No changes have been made to the existing regulations except for the addition of commas for consistency, and the update of a reference to "an approved use permit" to a Watershed Protection Permit.

bridges, or other facilities shall be designed to minimize the amount of intrusion into the buffer. The buffer can serve to meet minimum lot size requirements if there is sufficient buildable area remaining on the lot.

3. Stream buffers can be used for passive recreational activities such as walking and bicycling trails, provided that service facilities for such activities, including but not limited to parking, picnicking, and sanitary facilities, are located outside the buffer. Trails running parallel to the stream shall be located at least ~~70~~<sup>30</sup> feet from the edge of the stream. Water oriented recreational facilities, such as boat or fishing piers, shall require approval of a Watershed Protection Permit in accordance with 8.8.2A: *Watershed Protection Permit Procedure*.
4. Clearing and re-vegetating the stream buffer for the purposes of improving its pollutant removal efficiency may be permitted.

### 8.6.5 VEGETATION AND ACTIVITIES WITHIN THE RIPARIAN BUFFER ON LANDS WITHIN THE JORDAN LAKE WATERSHED<sup>502</sup>

The following standards apply to riparian buffers on land located within the Jordan Lake Watershed:

- A. **Vegetation Requirements.** Zone One and Zone Two shall be vegetated areas that are undisturbed except for uses allowed in accordance with this Section. Within Zone Two, grading and revegetating is allowed provided that the health of the vegetation in Zone One is not compromised.
- B. **Diffuse Flow Requirements.** Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation, in accordance with the following:<sup>503</sup>
  1. Concentrated runoff from new ditches or artificial conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone Two of the riparian buffer.
  2. Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies.
  3. No new stormwater conveyances are allowed through the buffers except for those specified in Table 8.6.5-1: *Allowed Uses and Structures in Jordan Lake Watershed*.

<sup>502</sup> This updates and reorganizes the allowed and prohibited uses and structures in riparian buffers outside the Jordan Lake Watershed in Sections 304(F) and (G) of the WPO.

<sup>503</sup> This carries forward Section 304(J)2 of the WPO, with the following changes: 1) Subsection (3) has been simplified by referencing the table and not certain types of stormwater conveyances; 2) Subsection (4) is new and provides additional protection to the hydrology within the riparian buffers; it is adopted from the regulations at 15A NCAC 02B .0267(8)(d).



4. Activities conducted outside of riparian buffers that alter the hydrology in violation of the diffuse flow requirements of this subsection are prohibited.

C. **Allowed Uses and Structures.** Table 8.6.5-1: *Allowed Uses and Structures in Jordan Lake Watershed* establishes the uses that are allowed in the buffer. All allowed uses shall comply with the standards that apply in this Section. Certain uses are subject to additional standards in Paragraph D below as listed in the right-most column of Table 8.6.5-1. All uses not identified in Table 8.6.5-1 are considered prohibited and may not proceed within the riparian buffer or outside the riparian buffer if the use could impact the buffer, unless a variance is granted in accordance with 8.8.2C: *Watershed and Riparian Buffer Variance Procedure*, below. Uses are classified as exempt, allowable, or allowable with mitigation, as follows.<sup>504</sup>

1. *Exempt Uses.* Uses designated as exempt are permissible without authorization by the County provided that they adhere to the limitations of the activity as defined in this Section. In addition, exempt uses shall be designed, constructed, and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.
2. *Allowable Uses.* Uses designated as allowable may proceed provided that there are no practical alternatives to the requested use and an Authorization Certificate is issued in accordance with 8.8.2F: *Authorization Certificate*, below. This includes construction, monitoring, and maintenance activities.
3. *Allowable with Mitigation.* Uses designated as allowable with mitigation may proceed provided that there are no practical alternatives to the requested use and an Authorization Certificate is issued in accordance with 8.8.2F: *Authorization Certificate*, below, and an appropriate mitigation strategy has been approved in accordance with 8.6.6: *Mitigation*, below. Mitigation will be required only for impacts to Zone One and to the first landward 20 feet of Zone Two, in accordance with 8.6.6: *Mitigation*.

**Table 8.6.5-1 Allowed Uses and Structures in Jordan Lake Watershed**

Use	Exempt	Allowable	Allowable with Mitigation	Additional Standards
<b>Access trails:</b> Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities:				

<sup>504</sup> This carries forward the list of permitted uses and structures in Section 304(J) of the WPO, as well as whether the uses and structures are exempt, allowable, or allowable with mitigation.

Table 8.6.5-1 Allowed Uses and Structures in Jordan Lake Watershed				
Use	Exempt	Allowable	Allowable with Mitigation	Additional Standards
<ul style="list-style-type: none"> <li>• Pedestrian access trails that are restricted to the minimum width practicable and do not exceed four feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees<sup>505</sup> and no impervious surface is added to the riparian buffer</li> </ul>	✓			
<ul style="list-style-type: none"> <li>• Pedestrian access trails that exceed four feet in width of buffer disturbance, the installation or use results in removal of trees, or impervious surface is added to the riparian buffer</li> </ul>		✓		
<b>Airport facilities:</b>				
<ul style="list-style-type: none"> <li>• Airport facilities that impact equal to or less than 150 linear feet or 1/3 (one-third) of an acre of riparian buffer</li> </ul>		✓		
<ul style="list-style-type: none"> <li>• Airport facilities that impact greater than 150 linear feet or 1/3 (one-third) of an acre of riparian buffer</li> </ul>			✓	
<ul style="list-style-type: none"> <li>• Activities necessary to comply with FAA requirements (e.g., radar uses or landing strips)</li> </ul>		✓		C.1
<b>Archaeological Activities</b>	✓			
<b>Bridges</b>		✓		
<b>Canoe Access</b> provided that installation and use does not result in removal of trees and no impervious surface is added to the buffer.	✓			
<b>Dam maintenance activities:</b>				

<sup>505</sup> Reference to “trees as defined in this Ordinance” in the WPO and “trees as defined in this Rule” in the Jordan riparian buffer regulations has been simplified to “trees.”

Table 8.6.5-1 Allowed Uses and Structures in Jordan Lake Watershed				
Use	Exempt	Allowable	Allowable with Mitigation	Additional Standards
<ul style="list-style-type: none"> <li>• Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3.</li> <li>• Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3.</li> </ul>	✓			
		✓		
<p><b>Drainage ditches, roadside ditches, and stormwater conveyances through riparian buffers:</b></p> <ul style="list-style-type: none"> <li>• New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies.</li> <li>• Realignment of existing roadside drainage ditches retaining the design dimensions, provided that no additional travel lanes are added, and the minimum required roadway typical section is used based on traffic and safety considerations.</li> <li>• New or altered drainage ditches, roadside ditches, and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer.</li> </ul>	✓			
		✓		
		✓		

Table 8.6.5-1 Allowed Uses and Structures in Jordan Lake Watershed				
Use	Exempt	Allowable	Allowable with Mitigation	Additional Standards
<ul style="list-style-type: none"> <li>New drainage ditches, roadside ditches, and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topography constraints provided that other practicable BMPs are employed.</li> </ul>			✓	
<p><b>Drainage of a pond in a natural drainage way</b> provided that a new riparian buffer that meets the requirements of 8.6.28.6.2C and 8.6.5B, above, is established adjacent to the new channel.<sup>506</sup></p>	✓			
<p><b>Driveway crossings of streams and other surface waters</b> subject to this Chapter:</p> <ul style="list-style-type: none"> <li>Driveway crossings on single family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer</li> <li>Driveway crossings on single family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer</li> <li>In a subdivision that cumulatively disturb equal to or less than 150 linear feet or one-third of an acre of riparian buffer</li> <li>In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer</li> </ul>	✓			
		✓		
		✓		
			✓	

<sup>506</sup> In the WPO, this is the fifth bulleted point under the “Drainage ditches, roadside ditches, and stormwater conveyances through riparian buffers” category. Under the Jordan Lake regulations’ Table of Uses (15A NCAC 02B .0267(9)), this is listed as a separate use/structure. We have carried this use forward as a separate use/structure.

Table 8.6.5-1 Allowed Uses and Structures in Jordan Lake Watershed				
Use	Exempt	Allowable	Allowable with Mitigation	Additional Standards
<b>Driveway impacts</b> other than crossing of a stream or other surface waters subject to this Ordinance			✓	
<b>Fences:</b> <sup>507</sup>				
<ul style="list-style-type: none"> <li>• Fences in Zone Two provided that disturbance is minimized, and installation does not result in removal of trees as defined in this Ordinance</li> <li>• Fences in Zone Two provided that disturbance is minimized and installation results in removal of trees as defined in this Ordinance</li> </ul>	✓			
		✓		
<b>Forest harvesting</b> – only in accordance with <a href="#">15A NCAC 02B .0267</a> (14)				C.6
<b>Fertilizer application:</b> one-time application to establish vegetation	✓			
<b>Greenway / hiking trails</b> designed, constructed, and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical.		✓		
<b>Historic preservation</b>	✓			
<b>Maintenance access on modified natural streams:</b> A grassed travel way on one side of the water body when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading.		✓		
<b>Mining activities:</b>				

<sup>507</sup> The Jordan buffer rules permit fences in both Zones One and Two. The WPO permits fences only in Zone Two. This draft follows the current WPO regulations.

Table 8.6.5-1 Allowed Uses and Structures in Jordan Lake Watershed				
Use	Exempt	Allowable	Allowable with Mitigation	Additional Standards
<ul style="list-style-type: none"> <li>• Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of this Chapter are established adjacent to the relocated channels</li> <li>• Mining activities that are not covered by the Mining Act (N.C.G.S Ch. 74 Art. 7), or where new riparian buffers that meet the requirements of this Chapter, are not established adjacent to the relocated channels</li> <li>• Wastewater or mining dewatering wells with approved NPDES permit</li> </ul>		✓		
			✓	
	✓			
<p><b>Playground equipment:</b></p> <ul style="list-style-type: none"> <li>• Playground equipment on single-family lots provided that installation and use does not result in removal of vegetation</li> <li>• Playground equipment installed on lands other than single-family lots or that requires removal of vegetation</li> </ul>	✓			
		✓		
<p><b>Protection of existing structures, facilities, and stream banks</b> when this requires additional disturbance of the riparian buffer or the stream channel</p>		✓		
<p><b>Railroad impacts other than crossings of streams</b> and other surface waters subject to this Rule</p>			✓	
<p><b>Railroad crossings of streams and other surface waters</b> subject to this Rule:</p> <ul style="list-style-type: none"> <li>• Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer</li> <li>• Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer</li> </ul>	✓			
		✓		

Table 8.6.5-1 Allowed Uses and Structures in Jordan Lake Watershed				
Use	Exempt	Allowable	Allowable with Mitigation	Additional Standards
<ul style="list-style-type: none"> <li>Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer</li> </ul>			✓	
<b>Removal of previous fill or debris</b> provided that diffuse flow is maintained, and vegetation is restored	✓			
<b>Road impacts other than crossings</b> of streams and other surface waters subject to this Chapter			✓	
<b>Road crossings</b> of streams and other surface waters subject to this Chapter:				
<ul style="list-style-type: none"> <li>Road crossings that impact equal to or less than 40 linear feet of riparian buffer</li> </ul>	✓			
<ul style="list-style-type: none"> <li>Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer</li> </ul>		✓		
<ul style="list-style-type: none"> <li>Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer</li> </ul>			✓	
<b>Road relocation:</b> Relocation of existing private access roads associated with public road projects where necessary for public safety:				
<ul style="list-style-type: none"> <li>Less than or equal to 2,500 square feet of buffer impact</li> </ul>		✓		
<ul style="list-style-type: none"> <li>Greater than 2,500 square feet of buffer impact</li> </ul>			✓	
<b>Scientific studies and stream gauging</b>	✓			
<b>Streambank or shoreline stabilization</b>		✓		

Table 8.6.5-1 Allowed Uses and Structures in Jordan Lake Watershed					
Use	Exempt	Allowable	Allowable with Mitigation	Additional Standards	
<p><b>Temporary roads</b>, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation: At the end of five years the restored buffer shall comply with the restoration requirements of <a href="#">15A NCAC 02B.0295(n)(1)</a>.<sup>508</sup></p> <ul style="list-style-type: none"> <li>• Less than or equal to 2,500 square feet of buffer disturbance<sup>509</sup></li> <li>• Greater than 2,500 square feet of buffer disturbance</li> <li>• Associated with culvert installation or bridge construction or replacement</li> </ul>					
		✓			
		✓			
<p><b>In-stream temporary erosion and sediment control measures:</b></p> <ul style="list-style-type: none"> <li>• In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Section 401 and 404 of the Federal Water Pollution Control Act</li> <li>• In-stream temporary erosion and sediment control measures for work within a stream channel.</li> </ul>	✓				
		✓			
<p><b>Utility, electric, aerial, perpendicular crossings</b> of streams and other surface waters subject to this Chapter</p>				C.2, 3, 5	

<sup>508</sup> This has been updated to reference current state riparian buffer mitigation regulations.

<sup>509</sup> In the Jordan Lake regulations, this is listed as an exempt activity. In the WPO, this is listed as an allowable activity.



Table 8.6.5-1 Allowed Uses and Structures in Jordan Lake Watershed				
Use	Exempt	Allowable	Allowable with Mitigation	Additional Standards
<ul style="list-style-type: none"> <li>Disturb equal to or less than 150 linear feet of riparian buffer</li> </ul>	✓			
<ul style="list-style-type: none"> <li>Disturb greater than 150 linear feet of riparian buffer</li> </ul>		✓		
<b>Utility, electric, aerial, other than perpendicular crossings:</b> <ul style="list-style-type: none"> <li>Impacts in Zone Two</li> <li>Impacts in Zone One</li> </ul>		✓		C.5
			✓	C.2, 3, 5
<b>Utility, electric, underground, perpendicular crossings:</b> <ul style="list-style-type: none"> <li>Disturb less than or equal to 40- linear feet of riparian buffer<sup>510</sup></li> <li>Disturb greater than 40 linear feet of riparian buffer</li> </ul>		✓		C.3, 4, 5
		✓		C.3, 4, 5
<b>Utility, electric, underground, other than perpendicular crossings:<sup>511</sup></b> <ul style="list-style-type: none"> <li>Impacts in Zone Two</li> <li>Impacts in Zone One</li> </ul>		✓		C.4
		✓		C.1, 4
<b>Utility, non-electric, perpendicular crossings of streams and other surface waters subject to this Ordinance:</b> <ul style="list-style-type: none"> <li>Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width<sup>512</sup></li> <li>Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width</li> </ul>		✓		C.3, 5
		✓		C.3, 5

<sup>510</sup> Listed as exempt in the Jordan Lake regulations, allowable in the WPO.

<sup>511</sup> Both are listed as exempt in the Jordan Lake regulations, allowable in the WPO.

<sup>512</sup> Listed as exempt in the Jordan Lake regulations, allowable in the WPO.

Table 8.6.5-1 Allowed Uses and Structures in Jordan Lake Watershed				
Use	Exempt	Allowable	Allowable with Mitigation	Additional Standards
<ul style="list-style-type: none"> <li>Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width</li> </ul>		✓		C.3, 5
<ul style="list-style-type: none"> <li>Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width</li> </ul>			✓	C.3, 5
<ul style="list-style-type: none"> <li>Disturb greater than 150 linear feet of riparian buffer</li> </ul>			✓	C.3, 5
<b>Utility, non-electric, other than perpendicular crossings:</b>				
<ul style="list-style-type: none"> <li>Impacts in Zone Two</li> </ul>		✓		C.4, 5
<ul style="list-style-type: none"> <li>Impacts in Zone One</li> </ul>			✓	C.1, 4, 5
<b>Vegetation management:</b>				
<ul style="list-style-type: none"> <li>Emergency fire control measures provided that topography is restored</li> </ul>	✓			
<ul style="list-style-type: none"> <li>Planting vegetation species native to Chatham County<sup>513</sup> to enhance the riparian buffer</li> </ul>	✓			
<ul style="list-style-type: none"> <li>Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised</li> </ul>	✓			
<ul style="list-style-type: none"> <li>Removal of individual trees that are in danger of causing damage to dwellings, other structures, or human life, or are imminently endangering stability of the streambank</li> </ul>	✓			
<ul style="list-style-type: none"> <li>Removal of individual trees which are dead, diseased, or damaged</li> </ul>	✓			
<ul style="list-style-type: none"> <li>Removal of poison ivy</li> </ul>	✓			

<sup>513</sup> Text “native to Chatham County” is included in the WPO but not included in Jordan Lake regulations (and there is no similar text included in the regulations either, such as “native to the local jurisdiction”).

Table 8.6.5-1 Allowed Uses and Structures in Jordan Lake Watershed				
Use	Exempt	Allowable	Allowable with Mitigation	Additional Standards
<ul style="list-style-type: none"> <li>Removal of invasive exotic vegetation as defined: (i) in Smith, Cherril L. 1998, Exotic Plant Guidelines, Dept. of Environment and Natural Resources, Division of Parks and Recreation, Raleigh, NC, Guideline #30; (ii) in Plants to Avoid in the Southeastern United States compiled by Allison Schwarz and Johnny Randall, Spring 1999; or (iii) by the NC Native Plant Society website: <a href="http://www.ncwildflower.org/invasives/invasives.htm">http://www.ncwildflower.org/invasives/invasives.htm</a></li> <li>Revegetation in Zone Two<sup>514</sup></li> </ul>	<p>✓</p> <p>✓</p>			
<b>Vehicular access roads leading to water-dependent structures</b> (as defined in 15A NCAC 02B .0202) provided they do not cross the surface water and have minimum practicable width not exceeding 10 feet.		<p>✓</p>		
<b>Water dependent structures</b> (as defined in 15A NCAC 02B .0202) where installation and use result in disturbance to riparian buffers.		<p>✓</p>		
<b>Wetland, stream, and buffer restoration</b> that results in impacts to the riparian buffers				
<ul style="list-style-type: none"> <li>Wetland, stream, and buffer restoration that requires Division of Water Resources approval for the use of a 401 Water Quality Certification</li> </ul>	<p>✓</p>			
<ul style="list-style-type: none"> <li>Wetland, stream, and buffer restoration that does not require Division of Water Resources approval for the use of a 401 Water Quality Certification</li> </ul>		<p>✓</p>		
<b>Wildlife passage structures</b>		<p>✓</p>		

<sup>514</sup> Included in the WPO, not included in the Jordan Lake regulations.

- D. **Applicable Standards.** The following standards apply to uses when referenced in the right-most column of Table 8.6.5-1: *Allowed Uses and Structures in Jordan Lake Watershed*, labeled “Additional Standards,” for a particular use.
1. The following standards apply:
    - (a) No heavy equipment shall be used in Zone One;
    - (b) Vegetation in undisturbed portions of the buffer shall not be compromised;
    - (c) Felled trees shall be removed by chain;
    - (d) No permanent felling of trees shall occur in protected buffers or streams;
    - (e) Stumps shall be removed only by grinding; and
    - (f) At the completion of the project, the disturbed area shall be stabilized with native vegetation.
  2. Allowed provided that, in Zone 1, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require an Authorization Certificate in accordance with 8.8.2F: *Authorization Certificate*:
    - (a) A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
    - (b) Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
    - (c) Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
    - (d) Rip rap shall not be used unless it is necessary to stabilize a tower.
    - (e) No fertilizer shall be used other than a one-time application to re-establish vegetation.
    - (f) Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
    - (g) Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
    - (h) In wetlands, mats shall be utilized to minimize soil disturbance.
  3. Allowed provided that poles or towers shall not be installed within 10 feet of a water body unless the County issues an Authorization Certificate in accordance with 8.8.2F: *Authorization Certificate*:
  4. Allowed provided that, in Zone 1, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground

utility line shall require an Authorization Certificate in accordance with 8.8.2F: *Authorization Certificate*:

- (a) Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
  - (b) Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench, where trees are cut.
  - (c) Underground cables shall be installed by vibratory plow or trenching.
  - (d) The trench shall be backfilled with the excavated soil material immediately following cable installation.
  - (e) No fertilizer shall be used other than a one-time application to re-establish vegetation.
  - (f) Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
  - (g) Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
  - (h) In wetlands, mats shall be utilized to minimize soil disturbance.
5. Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.
  6. Requirements are administered by the Division of Water Resources, but the Watershed Administrator shall be notified in advance of forest harvesting activity in buffer areas.

### 8.6.6 MITIGATION<sup>515</sup>

- A. **Applicability.** The mitigation standards of this section apply to persons whose actions will impact a riparian buffer in the Jordan Lake watershed when one of the following applies:
1. The person has received an Authorization Certification in accordance with 8.8.2F: *Authorization Certificate*, that permits a proposed use identified as “allowable with mitigation” in Table 8.6.5-1: *Allowed Uses and Structures in Jordan Lake Watershed*; or
  2. The person has received a variance in accordance with 8.8.2D: *Riparian Buffer Variance Procedure*, and is required to perform mitigation as a condition of the approval of the variance.

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<sup>515</sup> This carries forward Section 305 of the WPO with updates for legibility and to reference the state mitigation requirements, which have changed since the WPO was adopted, instead of duplicating those requirements here.

- B. **Mitigation Approval.** The Watershed Review Board shall issue a mitigation approval upon making a determination that the proposed mitigation complies with the requirements of [15A NCAC 02B .0295, including any applicable location restrictions](#). The approval shall specify, at minimum, the option chosen for meeting the mitigation requirement, the required area of mitigation, [the total mitigation required](#), and either the mitigation location or amount of offset payment, as applicable. [Any mitigation approval is subject to the requirements of 15A NCAC 02B .0295, including any review and approval required by the North Carolina Division of Mitigation Services.](#)

## 8.7 NONCONFORMITIES

### 8.7.1 PURPOSE

The purpose and intent of this article is to recognize the interests of the landowner in continuing to use land legally developed prior to the adoption of the County's watershed and riparian buffer standards, but to establish limitations on expansions of such uses.

### 8.7.2 GENERAL STANDARDS

In addition to the standards in this Section, all development on land subject to this Ordinance are subject to the nonconformity standards in Chapter 14: *Nonconformities & Vested Rights*. In the event of conflict between the regulations in this Section and Chapter 14: *Nonconformities & Vested Rights*, the more restrictive provision shall control. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

### 8.7.3 NONCONFORMING LOTS OF RECORD (EXISTING LOTS)

- A. **General.** No development shall be established on a nonconforming lot of record except in accordance with the standards in this Section.
- B. **Vacant Lot of Record.** An existing vacant lot may be developed for any use allowed in this Section and this Ordinance, in accordance with the standards in this Ordinance. The Watershed Administrator is authorized to issue a Watershed Protection Permit to a vacant lot of record in accordance notwithstanding that the lot area is below the minimum specified in this Section or this Ordinance,<sup>516</sup>

### 8.7.4 NONCONFORMING USES<sup>517</sup>

A use or activity in a location where the use or activity was legally allowed at the time of the adoption of the County's watershed and riparian buffer protection regulations but that are

<sup>516</sup> Carries forward Section 308(A) of the WPO.

<sup>517</sup> Carries forward Section 308(C) of the PWO.

not permitted to take place under this Chapter are permitted to continue, subject to the following:

- A. If the nonconforming use or activity has been discontinued for one year, it shall not be reestablished.
- B. If the nonconforming use or activity has been changed to an allowed use, the prior nonconforming use or activity shall not be reestablished.
- C. The nonconforming use or activity may only be changed to a use or activity allowed in this Section and this Ordinance.

### 8.7.5 NONCONFORMING BUILDINGS AND STRUCTURES

- A. Nonconforming buildings and structures associated with single-family residential uses that are damaged or destroyed may be repaired and reconstructed notwithstanding that they do not comply with this Chapter.
- B. Nonconforming buildings and structures associated with uses other than single-family residential uses that are damaged, destroyed, or otherwise removed may be repaired and reconstructed notwithstanding the nonconformities only in accordance with the following:
  - 1. The repair or reconstruction of the buildings and structures is initiated within 12 months of the event that caused the damage or destruction of the building, or from the date of removal, and completed within two years of the event; and
  - 2. The total amount of space devoted to built-upon area may not be increased unless stormwater control measures that equal or exceed the measures provided for the prior nonconforming development is provided.

## 8.8 ADMINISTRATION<sup>518</sup>

### 8.8.1 REVIEW AND DECISION-MAKING BODIES

- A. **Watershed Administrator.** The Watershed Administrator is hereby established and has the following powers and duties, which may be delegated to other professional level staff in accordance with 13.2.12: *Watershed Protection Director*.<sup>519</sup>
  - 1. To review applications for and make decisions on applications for Watershed Protection Permits in accordance with 8.8.2A: *Watershed Protection Permit Procedure*, and Watershed Protection Occupancy Permits in accordance with 8.8.2B: *Watershed Protection Occupancy Permit Procedure*, below.

<sup>518</sup> The section builds on the provisions in the WPO with revisions based on state regulations and the [2023 Model Water Supply Watershed Protection Ordinance](#).

<sup>519</sup> This builds on Section 501 of the WPO. Statement that the “County” shall appoint the Watershed Administrator has been removed—County manager will appoint in accordance with their general authority.

2. To maintain a record of all Watershed Protection Permits and Watershed Protection Occupancy Permits that are issued and make them available for public inspection;
3. To serve as a clerk for the Watershed Review Board;
4. To maintain a record of all development projects that receive Special Non-Residential Intensity Allocations or that are developed under the 10/70 development option and make them available for public inspection, and for each watershed area maintain the following information:<sup>520</sup>
  - (a) Total acres of non-critical watershed area;
  - (b) Total acres eligible to be developed under this option;
  - (c) Total acres approved for this development option; and
  - (d) Individual records for each project with the following information: location, acres, site plan, use, stormwater management plan as applicable and inventory of hazardous materials, as applicable;
5. To maintain a record of all requests for variances from the watershed protection standards including any findings of facts, and on an annual basis submit a report to the state Division of Water Resources which identifies each project that received a variance and the reasons for granting the variance; and
6. To maintain a record of all amendments to the watershed protection standards and to provide copies of all amendments to the Stormwater Branch of the Division of Energy, Mineral, and Land Resources.
7. To administer and enforce the provisions of this Chapter, exercising in the fulfillment of these responsibilities the full police power of the County. The Watershed Administrator, or the Watershed Administrator's duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon the Watershed Administrator by this Ordinance.

**B. Watershed Review Board.<sup>521</sup>**

1. *Membership.* The Watershed Review Board is hereby established. Members of the Watershed Review Board are subject to the following requirements:

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<sup>520</sup> If there has not been development using the 10/70 option, this section can be removed.

<sup>521</sup> This carries forward the portions of Sections 505 through 507 of the WPO that establish the Watershed Review Board. Section 505 states that the Watershed Review Board has five members appointed by the County Commission, and that the Chatham County Environmental Review Board serves as the Watershed Review Board. These provisions are contradictory. Therefore, this has been simplified to establish the Watershed Review Board and to provide the flexibility for the County to maintain the current practice or establish a separate board. Section 506(F) states: "No Board member shall vote on any matter that decides an application or appeal unless he had attended the public hearing on that application or appeal." That standard is unusual and has not been carried forward. References to the Watershed Review Board's "delegated authority" have been removed.



- (a) Each member shall faithfully attend meetings and conscientiously perform their duties.
  - (b) No member shall participate in or vote on any quasi-judicial matter, such as an administrative appeal or a request for a variance, in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include but are not limited to a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter.<sup>522</sup> Members shall notify the Board chair of a conflict of interest at least 48 hours prior to the hearing on a case.
2. *Powers and Duties.* The Watershed Review Board shall have the following powers and duties:<sup>523</sup>
- (a) To make recommendations regarding amendments to the Watershed Map, in accordance with 8.3.2: Interpretation and Amendment of Watershed Area Boundaries, above;
  - (b) To hear applications for variances from the requirements in Section 8.3: Watershed Areas, Section 8.4: Watershed Intensity and Use Standards, and Section 9.5: Watershed Development Standards, and to decide applications for Minor Watershed Variances and to make recommendations on applications for Major Watershed Variances in accordance with 8.8.2C: *Watershed Variance Procedure*, below;
  - (c) To hear applications for variances from the requirements in Section 8.6: *Riparian Buffer Standards*, and to decide applications for Minor Riparian Buffer Variances and to make recommendations on applications for Major Riparian Buffer Variances in accordance with 8.8.2D: *Riparian Buffer Variance Procedure*, below;
  - (d) To hear and decide applications for a Density Average Certificate in accordance with 8.8.2E: *Density Average Certificate*, below;

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<sup>522</sup> This incorporates the new conflict of interest provisions in N.C.G.S. § 160D-109(d) and replaces the existing conflict-of-interest standards in Section 506(B) of the WPO, the *ex parte* communication restrictions in Section 506(C), and the expression of opinion restrictions in Section 506(D). It is included to provide clarity to board members and the public about board members' need to avoid conflicts of interest.

<sup>523</sup> Section 507(C) states that the Board has powers and duties with respect to subdivision approval and references Article 200. Article 200 states only that "No subdivision plat of land within the jurisdiction of this Ordinance shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Ordinance. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this Ordinance." Because there are no affirmative duties assigned to the Board, this provision has not been carried forward.

- (e) To hear and decide applications for an Authorization Certificate in accordance with 8.8.2F: *Authorization Certificate*, below;
- (f) To hear and decide appeals from any decision or determination made by the Watershed Administrator, in accordance with Section 12.2: *Appeals of Administrative Decisions* and 8.8.2G: *Appeal from Decision of the Watershed Administrator*, below; and
- (g) To receive reports from the Watershed Administrator and institute actions or proceedings to address threats to water quality and the public health, safety, and welfare, in accordance with 8.5.4: *Public Health Regulations*, above.

### 8.8.2 PROCEDURES

#### A. **Watershed Protection Permit Procedure.**<sup>524</sup>

1. *Purpose.* The purpose of this Paragraph 8.8.2A is to establish the procedures and standards for issuance of a Watershed Protection Permit.
2. *Applicability.* No building or built-upon area shall be erected, moved, enlarged, or structurally altered; no building permit shall be approved; and no change in the use of any building or land shall be made except in compliance with a Watershed Protection Permit approved in accordance with this Paragraph.<sup>525</sup>
3. *Procedure.*
  - (a) Applications shall be submitted in accordance with the requirements in Chapter 18: *Submittal Requirements*.
  - (b) The Watershed Administrator shall review the application and may consult with other County staff.
  - (c) The Watershed Administrator shall approve the application if the proposal complies with all applicable standards of this Chapter. If the application fails to comply with the applicable standards of this Chapter, the application shall be denied. The applicant shall be notified of the decision, and if the application is denied, be provided the reasons for denial in writing.
  - (d) A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within 12 months from the date of issuance of the Watershed Protection Permit.

#### B. **Watershed Protection Occupancy Permit Procedure.**<sup>526</sup>

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<sup>524</sup> This carries forward and reorganizes Section 309 of the WPO.

<sup>525</sup> Section 310 of the WPO is duplicative of this provision, so it is not carried forward.

<sup>526</sup> This carries forward and reorganizes Section 311 of the WPO.

1. *Purpose.* The purpose of this Paragraph 8.8.2B is to establish the procedures and standards for issuance of a Watershed Protection Occupancy Permit.
2. *Applicability.* No building or structure that is erected, moved, or structurally altered may be occupied and no change in the use of any building or land shall be made until a Watershed Protection Occupancy Permit is approved in accordance with this Paragraph.
3. *Procedure.*
  - (a) Applications shall be submitted in accordance with the requirements in Chapter 18: *Submittal Requirements*. A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for at the same time as an application for a Watershed Protection Permit and shall be approved or denied within 10 days after the erection or structural alteration of the building.
  - (b) The Watershed Administrator shall review the application and may consult with other County staff.
  - (c) The Watershed Administrator shall approve the application if the proposal complies with the standards of this Chapter and, if only a change in use of land or an existing building is proposed, the Watershed Protection Occupancy Permit shall be issued at the same time as the Watershed Protection Permit. Otherwise, the Watershed Administrator shall deny the application and notify the applicant stating the reasons for denial in writing.<sup>527</sup>

**C. Watershed Variance Procedure.<sup>528</sup>**

1. *Purpose.* The purpose of this Paragraph 8.8.2C is to establish the procedures and standards for variances from the requirements in Section 8.3: Watershed Areas, Section 8.4: Watershed Intensity and Use Standards, and Section 9.5: Watershed Development Standards, and to provide other local governments having jurisdiction in the designated watershed an opportunity to comment on a variance application.
2. *Applicability.* This Paragraph may be used to vary the requirements in Section 8.3: Watershed Areas, Section 8.4: Watershed Intensity and Use Standards, and Section 9.5: Watershed Development Standards.

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<sup>527</sup> This has been reorganized to make clear that the fact that the application involves only a change in use of land or an existing building does not exempt the applicant from the requirement to comply with the provisions of this chapter.

<sup>528</sup> This carries forward the variance procedures at Section 507(B) of the WPO as they apply to variances from the watershed protection standards in Sections 9.3 through 9.5, with changes as noted below. Application requirements have been taken out of the regulations (Section 507(B)(1)) and will be maintained in accordance with Chapter 18: Submittal Requirements.

3. *Types of Variances.* There are two types of Watershed Variances:<sup>529</sup>
  - (a) *Minor Watershed Variance.* A request for a modification of up to 5% of any buffer, density, or built-upon area requirement under the high density option, or a modification of up to 10% of any management requirement in the form of a numerical standard for the low-density development option.
  - (b) *Major Watershed Variance.* A request for a modification that is not a Minor Watershed Variance. If approval of a Major Watershed Variance is recommended by the Watershed Review Board, the recommendation is required to be transmitted to the [North Carolina Environmental Management Commission](#) (EMC) for its review and decision-making.
4. *Procedure.*<sup>530</sup>
  - (a) Applications shall be submitted in accordance with the requirements in Chapter 18: *Submittal Requirements*. The Watershed Review Board shall refuse to hear an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the application.
  - (b) After receipt of an application, the Watershed Administrator shall provide public notice in accordance with Section 12.19.5: *Notice* and schedule an evidentiary hearing on the application. In addition, notice by first class mail shall be provided to each local government having jurisdiction in the watershed area where the variance is requested. The notice to local governments shall include a description of the variance being requested and indicate the date by which the local government may submit comments regarding the variance request to be included in the materials reviewed by the Watershed Review Board.<sup>531</sup>
  - (c) The Watershed Review Board shall hold a quasi-judicial evidentiary hearing on the application and, after its review, make a decision on the application.
  - (d) If the application is for a Minor Watershed Variance, the Watershed Review Board shall make a decision based on the standards in 8.8.2C.5: Watershed Variance Review Standards, below. The Watershed Review

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<sup>529</sup> This updates the current definitions of major watershed variance and minor watershed variance in Section 109 of the WPO with changes for consistency with the definition at 15 NCAC 02B .0621 and the new allowance of high density development in this Ordinance.

<sup>530</sup> This generally carries forward the procedure in Section 507(B)(3)-(6) of the current WPO, with the changes noted below. In addition, the sections of the WPO that establish criteria for the EMC in making its decision are removed, as local ordinances do not regulate the EMC's actions.

<sup>531</sup> The provision providing other local governments notice of and an opportunity to comment on requests for a watershed buffer variance reflects the interconnected nature of watersheds, and that the award of a variance on one part of a watershed may impact other parts of the watershed, including land in another jurisdiction.

Board's decision shall be to approve the application as submitted; approve the application subject to conditions of approval; or deny the application.

- (e) If the application is for a Major Watershed Variance, the Watershed Review Board shall make a recommended decision based on the standards in 8.8.2C.5: Watershed Variance Review Standards, below. If the Watershed Review Board's recommendation is to deny the application, the application shall be deemed denied. If the Watershed Review Board's recommendation is to approve the application as submitted or approve the application subject to conditions of approval, then the application and a preliminary record of the hearing shall be transmitted to the EMC. The preliminary record of the hearing shall include:
    - i. The variance application;
    - ii. The hearing notices;
    - iii. The evidence presented;
    - iv. Motions, offers of proof, objections to evidence, and rulings on them;
    - v. Proposed findings and exceptions; and
    - vi. The proposed decision, including all proposed conditions of approval.
  - (2) If the EMC approves the Major Watershed Variance or approves the Major Watershed Variance with conditions or stipulations added, the EMC will prepare a decision to be sent to the Watershed Review Board that authorizes the Watershed Review Board to issue a final decision that includes any conditions or stipulations added by the EMC. Following receipt of the EMC's decision, the Watershed Review Board shall issue a decision including any such conditions or stipulations. If the EMC denies the Major Watershed Variance, the EMC will prepare a decision to be sent to the Watershed Review Board denying the application. Following receipt of the EMC's decision denying the application, the Watershed Review Board shall issue a decision denying the application.
  - (f) A Watershed Variance shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six months from the date of the decision.
5. *Watershed Variance Review Standards.* The Watershed Review Board shall approve a Minor Watershed Variance, or decide in favor of granting a Major

Watershed Variance, on finding that the applicant demonstrates all of the following:<sup>532</sup>

- (a) Compliance with 12.19.7: Review Criteria; ~~<The standards that apply to a standard request for a variance.>~~
- (b) The variance is in accordance with the general purpose and intent of this Chapter; and
- (c) The project will ensure equal or better protection of waters of the state than state and local regulations; and
- (d) If applicable, the stormwater controls will function in perpetuity.

**D. Riparian Buffer Variance Procedure.**<sup>533</sup>

1. *Purpose.* The purpose of this Paragraph 8.8.2D is to establish the procedures and standards for variances from the requirements in Section 8.6: *Riparian Buffer Standards*.
2. *Applicability.* This Paragraph may be used to vary the requirements in Section 8.6: *Riparian Buffer Standards*.
3. *Types of Variances.* There are two types of Riparian Buffer Variances:<sup>534</sup>
  - (a) *Minor Riparian Buffer Variance.* A request pertaining to activities that will impact only Zone Two of a riparian buffer on land inside the Jordan Lake Watershed, or that will impact a riparian buffer on land outside the Jordan Lake Watershed.
  - (b) *Major Riparian Buffer Variance.* A request pertaining to activities that will impact any portion of Zone One or any portion of both Zone One and Zone Two of a riparian buffer on land inside the Jordan Lake Watershed.
4. *Procedure.*<sup>535</sup>

<sup>532</sup> This revises the current decision standards at Section 507(B)(2) of the WPO for consistency with state regulations. Instead of duplicating the hardship findings that are used in the standard variance procedure, this section incorporates those decision standards by reference.

<sup>533</sup> This carries forward the variance procedures at Section 507(B) of the WPO as they apply to variances from the riparian buffer standards, with changes as noted below. Application requirements have been taken out of the regulations (Section 507(B)(1)) and will be maintained in accordance with Chapter 18: Submittal Requirements.

<sup>534</sup> This incorporates the distinction between minor variances and major variances from 15 NCAC 02B .0267((12), updating the definition of riparian buffer variances to distinguish between variances within the Jordan Lake Watershed subject to state regulatory oversight, for which “major” variances must be reviewed and decided upon by the EMC, and “minor” variances which may be decided by local governments. Since the EMC does not oversee the County’s buffer, all requests for variances regarding land outside the Jordan Lake watershed are deemed to be “minor” variances.

<sup>535</sup> This generally carries forward the procedure in Section 507(B)(3)-(6) of the current WPO, with the changes noted below. In addition, the sections of the WPO that establish criteria for the EMC in making its decision are removed, as local ordinances do not regulate the EMC’s actions.

- (a) Applications shall be submitted in accordance with the requirements in Chapter 18: *Submittal Requirements*. The Watershed Review Board shall refuse to hear an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the application.
  - (b) After receipt of an application, the Watershed Administrator shall provide public notice in accordance with Section 12.19.5: *Notice* and schedule an evidentiary hearing on the application.<sup>536</sup>
  - (c) The Watershed Review Board shall hold a quasi-judicial evidentiary hearing on the application and, after its review, make a decision on the application.
  - (d) If the application is for a Minor Riparian Buffer Variance, the Watershed Review Board shall make a decision based on the standards in 8.8.2D.5: *Riparian Buffer Variance Review Standards*, below. The Watershed Review Board's decision shall be to approve the application as submitted; approve the application subject to conditions of approval; or deny the application.
  - (e) If the application is for a Major Riparian Buffer Variance, the Watershed Review Board shall prepare preliminary findings based on the standards in 8.8.2D.5: *Riparian Buffer Variance Review Standards*, below. The preliminary finding shall be transmitted to the EMC for its review and decision.
5. *Riparian Buffer Variance Review Standards*. The Watershed Review Board shall approve a Minor Riparian Buffer Variance, or prepare preliminary findings in favor of granting a Major Riparian Buffer Variance, on finding that the applicant demonstrates all of the following:<sup>537</sup>
- (a) That there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:
    - (1) If the applicant complies with the provisions of this Rule, the applicant can secure no reasonable return from, nor make reasonable use of, the property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the

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<sup>536</sup> The provision providing other local governments notice of and an opportunity to comment on requests for a variance is only included in the model watershed ordinance and not in the state regulations regarding riparian buffers. Therefore, it has not been included in the riparian buffer variance procedure.

<sup>537</sup> These review standards are new and incorporate the standards that apply to the Jordan Lake watershed buffers in 15 NCAC 02B .0267(12)(a), with revisions to accommodate differences between the state Jordan Lake buffer standards and the County's local buffers.

Watershed Review Board shall consider whether the variance is the minimum possible deviation from the terms of this Chapter that shall make reasonable use of the property possible;

- (2) The hardship results from application of this Chapter to the property rather than from other factors such as deed restrictions or other hardship;
  - (3) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this rule would not allow reasonable use of the property;
  - (4) The applicant did not cause the hardship by knowingly or unknowingly violating this Chapter;
  - (5) For land within the Jordan Lake Watershed, the applicant did not purchase the property after August 11, 2009, and then request a variance from the state regulations that apply to riparian buffers within the Jordan Lake Watershed; or, for land anywhere in the County, the applicant did not purchase the property after January 1, 1994, and then request a variance from the County regulations that apply to riparian buffers within the County, and
  - (6) The hardship is rare or unique to the applicant's property.
- (b) The variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and this Ordinance and preserves their spirit; and
  - (c) In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

**E. Density Averaging Certificate.**

1. *Purpose.* The purpose of this Paragraph 8.8.2D is to establish the procedures and standards for issuance of a Density Averaging Certificate (DAC).
2. *Applicability.* This Paragraph may be used to implement the density averaging option in 8.4.1B.3: *Density Averaging*.
3. *Procedure.*
  - (a) An application for density averaging shall be submitted by the owner(s) of the paired lots in accordance with the requirements in Chapter 18: *Submittal Requirements*. The application shall include a site plan that includes the information required by the Watershed Administrator to demonstrate that the paired lots will comply with the density averaging provisions of 9.4.1.C: *Density Averaging*, and shall clearly identify the built-upon area and the protected area.
  - (b) After receipt of an application for a Density Averaging Certificate, the Watershed Administrator shall provide public notice in accordance



with Section 12.19.5: *Notice* and schedule an evidentiary hearing on the application.

- (c) The Watershed Review Board shall review the application for a DAC and hold a quasi-judicial evidentiary hearing on the application and, after its review, shall approve, approve with conditions, or deny the application based on the standards in 8.4.1C: *Density Averaging*. The Watershed Review Board shall issue written findings regarding the application's compliance with the standards of this Subsection.
- (d) If the application is approved, the development shall be consistent with the site plan. No change in the approved plan shall be made unless the Watershed Review Board approves an amendment to the DAC.

4. *Post-Decision Provisions.*

- (a) The Watershed Administrator shall maintain an index of lots for which DACs are awarded and shall track density averaging among parcels in the County.
- (b) Violation of the conditions of a DAC shall be a violation of this Ordinance and may be enforced in accordance with Chapter 15: *Enforcement*.

F. **Authorization Certificate.**<sup>538</sup>

1. *Purpose.* The purpose of this Paragraph 8.8.2F is to establish the procedures and standards for issuance of an Authorization Certificate to authorize certain uses within the riparian buffers established in this Chapter.
2. *Applicability.* This Paragraph authorizes applicants who wish to undertake uses designated as "allowed" in 8.6.3B: *Allowed Uses and Structures*, above, or as "allowed" or "allowable with mitigation" in Table 8.6.5-1: *Allowed Uses and Structures in Jordan Lake Watershed*, to submit a request for a "no practical alternatives" determination by the Watershed Review Board that authorizes issuance of an Authorization Certificate.
3. *Procedure.*
  - (a) The applicant shall submit an application in accordance with the requirements in Chapter 18: *Submittal Requirements*. The application shall include sufficient information to demonstrate that the criteria in Paragraph 4, below, are met, as well as the following information in support of the claim of "no practical alternative":
    - (1) The name, address, and phone number of the applicant;

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<sup>538</sup> This carries forward the procedure for a "determination of no practical alternatives" in Section 304(l) of the WPO. It is renamed as an "Authorization Certificate" to clarify its purpose, but it maintains the requirement that the applicant demonstrate the existence of no practical alternatives. It has been reorganized for clarity and consistency with the other procedures in this Section.

- (2) The nature of the activity to be conducted by the applicant;
  - (3) The location of the activity, including all applicable jurisdictions;
  - (4) A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;
  - (5) An explanation of why this plan for the activity cannot be practically accomplished, reduced, or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat, and protect water quality; and
  - (6) Plans for any Best Management Practices proposed to be used to control the impacts associated with the activity.
- (b) After receipt of an application for an Authorization Certificate, the Watershed Administrator shall provide public notice in accordance with Section 12.19.5: *Notice* and schedule an evidentiary hearing on the application.
- (c) Within 90 days of a request for a use designated as “allowed” in accordance with 8.6.3B: *Allowed Uses and Structures*, above, or within 60 days of a request for a use designated as “allowed” or “allowable with mitigation” in accordance with Table 8.6.5-1: *Allowed Uses and Structures in Jordan Lake Watershed*, the Watershed Review Board shall review the application and hold a quasi-judicial evidentiary hearing on the application and, after its review, shall approve, approve with conditions, or deny the application based on the standards in Paragraph 4, below. The failure of the Watershed Review Board to act within the applicable timeframe shall be construed as a finding that there is “no practical alternative” which authorizes the issuance of an Authorization Certificate, unless one of the following occurs:
- (1) The applicant agrees, in writing, to a longer period;
  - (2) The Watershed Review Board determines that the applicant has failed to furnish requested information necessary to its decision;
  - (3) The final decision is to be made pursuant to a public hearing; or
  - (4) The applicant refuses access to its records or premises for the purpose of gathering information necessary to the Watershed Review Board’s decision.
- (d) The Watershed Review Board may attach conditions to the Authorization Certificate that support the purpose, spirit, and intent of this Ordinance.
4. Authorization Certificate Review Standards. The Watershed Review Board shall issue an Authorization Certificate on finding that the applicant demonstrates all of the following:

- (a) The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;
- (b) The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality; and
- (c) Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.

**G. Appeals from Decision of the Watershed Administrator.<sup>539</sup>**

1. *Applicability.* Any order, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.
2. *Procedure.*
  - (a) An appeal from a decision of the Watershed Administrator shall be submitted to the Watershed Review Board within 30 calendar days from the date the order, interpretation, decision, or determination is issued. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Watershed Review Board all papers constituting the record upon which the action appealed from was taken.
  - (b) A notice of violation or other enforcement order appealed in accordance with this Section shall be stayed in accordance with the procedures in [N.C.G.S. § 160D-405\(f\)](#).
  - (c) All appeals shall follow the procedures for appeals of administrative decisions in [N.C.G.S. § 160D-405](#).

**H. Appeals from Decision of Watershed Review Board.<sup>540</sup>**

1. Appeals from decisions regarding Minor Riparian Buffer Variances in accordance with 8.8.2D: Riparian Buffer Variance Procedure, or decisions regarding Authorization Certificates in accordance with 8.8.2F: *Authorization Certificate*, shall be made in writing to the Director of the Division of Water Resources c/o the 401 Oversight Express Permitting Unit, or its successor. The

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<sup>539</sup> This carries forward Section 502 of the WPO. However, provisions regarding stays on appeal have been updated. These standards are similar to similar regulations that are applied generally to all appeals of administrative decisions in N.C.G.S. § 160D-1402, which is specifically referenced in the [2023 Model Water Supply Watershed Protection Ordinance](#).

<sup>540</sup> Updates the existing appeal regulations in Section 508 of the WPO with reference to state law and consolidates appeal procedure for riparian buffer variance and authorization certificates, which involve administrative review.

Director's decision is subject to review as provided in N.C.G.S. Ch. 150B, Arts. 3 and 4.

2. All other decisions by the Watershed Review Board may be appealed in accordance with N.C.G.S. § 160D-1402.

## 8.9 ENFORCEMENT<sup>541</sup>

### 8.9.1 GENERAL

This Chapter may be enforced in accordance with this Section and Chapter 15: *Enforcement*.

### 8.9.2 CIVIL PENALTIES

#### A. Generally.

1. Civil penalties may be imposed as provided in this Section.
2. Any person who violates any of the provisions of this Chapter is subject to a civil penalty.
3. The EMC may assess civil penalties for violations of this Chapter, in addition to any penalties assessed by the County, in accordance with N.C.G.S. § 143-215.6A.<sup>542</sup>

B. **Each Day is a Separate Offense.** Each day of a continuing violation constitutes a separate violation. Additional fees may be charged for remedies and enforcement of this Chapter.

#### C. Notice of Violation Required.<sup>543</sup>

1. No person shall be assessed a penalty until that person has been notified in writing of the violation by:
  - (a) Registered or certified mail, return receipt requested;
  - (b) Personal delivery by the Watershed Administrator; or
  - (c) Any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure
2. The notice shall:
  - (a) Describe the violation with reasonable particularity;

<sup>541</sup> This carries forward the substance of Sections 105 and 106 of the WPO with updates for clarity and to match the format of the enforcement provisions in Chapter 9: Stormwater Management.

<sup>542</sup> This updates the existing reference in the WPO to N.C.G.S. § 143-215.6(a), which was recodified to § 143-215.6A.

<sup>543</sup> This provides additional clarity about the notice required before penalties can be incurred, to ensure persons receive appropriate due process.

- (b) Specify a reasonable time period within which the violation can be corrected; and
    - (c) Warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action.
  3. **Correction of Violation.** If the violation has not been corrected within the designated time period, a civil penalty may be assessed from the date the violation is detected or, if deemed by the County to be an emergency or an on-going threat to the environment or public health, safety or general welfare, the County may perform the corrective measures at the owner's expense.
- D. **Enforcement Actions.** The Watershed Administrator may implement the following enforcement actions until the applicant has taken the remedial measures set forth in the notice of violation and cured the violations described therein:
  1. Institute a civil penalty, in accordance with the following:
    - (a) For a first violation, a civil penalty in the amount of \$50 per day;
    - (b) For the same violation on the same property within six years after the initial violation is remedied, a civil penalty in the amount of \$100 per day;
    - (c) For the same violation on the same property within six years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200 per day;
    - (d) For the same violation on the same property within six years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500 per day;
  2. Issue a stop work order to the person(s) violating the requirements of this Chapter.
    - (a) The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein;
    - (b) The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations;
  3. Refuse to issue a certificate of occupancy or revoke a certificate of occupancy for any building or other improvements constructed or being constructed on the site;
  4. Institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of the requirements of this Chapter. Any person violating this Chapter shall be subject to the full range of equitable remedies provided in the General Statutes or at common law; and
  5. Take any other action available in law or equity in accordance with Chapter 15: *Enforcement*.

- E. **Appeal.** Any ruling of the Watershed Administrator relating to this Section may be appealed to the Watershed Review Board in accordance with 8.8.2G: Appeals from Decision of the Watershed Administrator.

### 8.9.3 CRIMINAL PENALTIES

- A. **Generally.** Any person violating any provision of this Chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with N.C.G.S. § 14-4. The maximum fine for each offense shall be \$500.
- B. **Each Day is a Separate Offense.** Each day of a continuing violation constitutes a separate offense.

# CHAPTER 9 STORMWATER MANAGEMENT<sup>544</sup>

## 9.1 AUTHORITY & PURPOSE

### 9.1.1 STATUTORY AUTHORITY<sup>545</sup>

Chatham County is authorized to adopt the requirements of this Article pursuant to North Carolina law including North Carolina General Statutes (N.C.G.S.) §§ [143-214.7: Stormwater runoff rules and programs](#), [153A-121: General ordinance-making power](#), [153A-454: Stormwater control](#), and [Session Law 2006-246](#). [See 9.1.4E: *Future Statutory Amendments*]

### 9.1.2 FINDINGS OF FACT<sup>546</sup>

- A. Development and redevelopment alters the hydrologic response of local watersheds and increases stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, non-point and point source pollution, and sediment transport and deposition, as well as reduces groundwater recharge.
- B. These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment.
- C. These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.
- D. Furthermore, the Federal Water Pollution Control Act of 1972 (Clean Water Act) and Federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission (EMC) promulgated in response to Federal Phase II requirements, compel adoption of certain stormwater controls included in this Chapter.

### 9.1.3 STATEMENT OF PURPOSE<sup>547</sup>

- A. The purpose of this Chapter is to protect public health, safety, and general welfare and enhance the environmental quality of the community by establishing minimum requirements and procedures to control the adverse effects of increased stormwater runoff and non-point and point source pollution associated with existing and new

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<sup>544</sup> Changes include substantive changes proposed by staff and to implement State law and minor edits proposed by the consultant team, as well as updates to internal cross-references; replacement of “this Ordinance” with “this Chapter;” addition of external hyperlinks (e.g., to N.C.G.S.); replacement of commas or periods in ordered lists with semicolons; some formatting edits (e.g., lettering or numbering a paragraph); and capitalization or un-capitalization of terms, where appropriate.

<sup>545</sup> Carries forward SO Section 100 *Statutory Authority*.

<sup>546</sup> Carries forward SO Section 101 *Findings of Fact*.

<sup>547</sup> Carries forward SO Section 102 *Statement of Purpose*.

developments and redevelopments, as well as illicit discharges into any conveyance or any waters of the State.

- B. Chatham County has determined that proper management of construction-related and post-development stormwater runoff will:
1. Minimize damage to public and private property and infrastructure;
  2. Safeguard public health, safety, and general welfare; and
  3. Protect water and aquatic resources.
- C. This Chapter establishes stormwater management requirements and controls to prevent surface water quality degradation to the maximum extent practicable in the streams and lakes within the jurisdiction of Chatham County. This Chapter seeks to meet this purpose by fulfilling the following objectives:
1. Minimize the stormwater runoff from developed areas to the maximum extent practicable for the applicable design storm in order to reduce flooding, siltation, stream bank erosion, and increases in stream temperature and to maintain the integrity of stream channels and aquatic habitats;
  2. Minimize non-point and point source pollution caused by stormwater runoff from developed areas that would otherwise degrade local water quality;
  3. Minimize the total volume of surface water runoff that flows from any specific site during and following development in order to replicate natural hydrology to the maximum extent practicable through the use of stormwater control measures and nonstructural stormwater management Best Management Practices (BMPs);
  4. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
  5. Establish design and review criteria for the construction, function, and use of stormwater control measures that may be used to meet the current post-development stormwater management standards;
  6. Ensure that stormwater control measures and nonstructural stormwater BMPs are properly maintained, functioning as designed, and pose no threat to public health or safety; and
  7. Establish provisions for the long-term responsibility for and maintenance of stormwater control measures and nonstructural stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety.



### 9.1.4 APPLICABILITY & JURISDICTION<sup>548</sup>

#### A. **Applicability.**

1. This Chapter applies to:
  - (a) All of Chatham County except those areas located within incorporated municipalities and their extraterritorial jurisdiction; and
  - (b) All development and redevelopment creating more than 20,000 square feet of land disturbing activity, unless exempt pursuant to 9.1.4B: *Exemptions to Applicability*.
2. No building, structure, or land shall be used, occupied, or altered and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless in conformity with all applicable provisions of this Chapter and all other applicable regulations.

#### B. **Exemptions to Applicability.** Development or redevelopment that fits into one or more of the following categories is exempt from this Chapter:

1. Any non-residential development or redevelopment that cumulatively disturbs 20,000 square feet or less and is not part of a larger common plan of development or sale that cumulatively disturbs more than 20,000 square feet;
2. Any residential development or redevelopment that cumulatively disturbs 20,000 square feet or less and is not part of a larger common plan of development or sale that cumulatively disturbs more than 20,000 square feet;
3. Agricultural land, forestland, and horticultural land activities pursuant to N.C.G.S. [§ 105-277.2](#) [See 9.1.4E: *Future Statutory Amendments*];
4. Emergency operations essential to protect public health, safety, and welfare; and
5. Any project for which the County has issued one or more of the following valid certificates or approvals prior to the effective date of this Chapter-~~09.2.89.2.8~~:
  - (a) Building Permit;
  - (b) Land Disturbing Permit;
  - (c) Special Use Permit;
  - (d) Sketch Plan, Preliminary Plat, or Final Plat.

#### C. **Compliance and Approval.** No development or redevelopment subject to this Chapter shall occur except in compliance with the requirements of this Chapter and the provisions, conditions and limitations of the stormwater approval as set forth in 9.3.3: *As-Built and Final Plat Approval*.

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<sup>548</sup> Carries forward SO Section 103 *Applicability and Jurisdiction*.

**D. Conflict of Laws.**

1. This Chapter is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Chapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law.
2. Where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall prevail except where State or federal law preempts the local regulation.

**E. Future Statutory Amendments.** This Chapter includes references to the North Carolina General Statutes. These references are to the sections, subsections, and/or paragraphs applicable at the time of writing. If the Legislature subsequently amends the applicable statute such that the section, subsection, or paragraph number changes, this Chapter shall be construed to reference the new location.

**9.1.5 EFFECTIVE DATE**

The effective date of Chatham County's stormwater program authority is November 24, 2008. The County amended its stormwater regulations on August 15, 2016 and on the effective date of this UDO (see Section 1.10: *Effective Date*).

**9.1.6 OTHER APPLICABLE REGULATIONS<sup>549</sup>**

- A. **Riparian Buffer Requirements.** All activities subject to the requirements of this Chapter must also comply with Section 8.6: *Riparian Buffer Standards*.
- B. **Floodplain Requirements.** All activities subject to the requirements of this Chapter must also comply with Chapter 11: *Flood Damage Prevention* where applicable.

**9.2 STORMWATER DESIGN STANDARDS<sup>550</sup>****9.2.1 PURPOSE**

- A. The design standards in this Section are established for the purpose of promoting sound development practices with respect to minimizing impacts from developed areas. They are not intended to prohibit the use of innovative and alternative techniques that demonstrate the ability to successfully achieve the objectives of this Chapter.

<sup>549</sup> Carries forward SO Sections 402 *Riparian Buffer Requirements* and 406 *Floodplain Requirements*.

<sup>550</sup> Carries forward SO Sections 400 *Stormwater Design Standards* and 401 *Design Manuals* and SO Appendix C *Single Family Residential Lot Guidelines for Stormwater Management*.

- B. Land development activities shall be performed in such a manner as to minimize the degradation of the receiving waters and protect existing developments.

### 9.2.2 DESIGN MANUALS

- A. Chatham County uses the latest edition of the [Stormwater Design Manual](#) published by the North Carolina Department of Environmental Quality, as may be amended from time to time. The stormwater management facilities and practices proposed in a Stormwater Management Plan shall meet the requirements of this Design Manual and all other requirements of this Chapter.
- B. Stormwater management practices that are designed, constructed, or maintained in accordance with the Stormwater Design Manual are presumed to comply with this Chapter. However, the Chatham County has the right to add, delete, or modify design manuals and/or consult with engineers and duly qualified professionals and to impose any reasonable conditions or require any reasonable modifications deemed necessary to meet the purpose, intent, and requirements of this Chapter.

### 9.2.3 REDEVELOPMENT<sup>551</sup>

- A. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls are only required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment, irrespective of whether the impervious surface that existed before the redevelopment is to be demolished or relocated during the development activity.
- B. A property owner may elect to treat the stormwater resulting from the net increase in built-upon area above the preexisting development for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in N.C.G.S. [§ 143-214.5\(d3\)](#). [See 9.1.4E: Future Statutory Amendments]

### 9.2.4 GENERAL DESIGN STANDARDS

- A. All activities subject to this Chapter shall adhere to the provisions in this Section for managing stormwater runoff. Section 9.2.8: Alternative Design Standards sets forth alternative design standards for certain types of development or redevelopment, including Minor Subdivisions or other project applications deemed appropriate by the Stormwater Administrator, that can be met in lieu of the stormwater quality and/or quantity requirements in 9.2.5 and 9.2.6.
- B. The required Stormwater Management Plan (see 9.3: Stormwater ) shall be based on full build-out conditions for the proposed development or redevelopment.

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<sup>551</sup> This new section is added pursuant to N.C.G.S. [§ 143-214.7\(b3\)](#), which requires inclusion of these provisions.

- C. Hydrologic analysis shall be performed in a manner using generally accepted engineering methods for analyzing rainfall to runoff responses by employing appropriate models and calculations.
1. Appropriate methods include the Soil Conservation Service Curve Number and the Rational Method for total drainage areas of less than 10 acres and Soil Conservation Service Curve Number for total drainage areas of 10 acres or more. Allowable sheet flow length using Soil Conservation Service Curve Number shall be limited to 100 feet.
  2. Other models and methods should produce results reproducible by the Stormwater Administrator and should receive prior verbal or written approval from the Stormwater Administrator before they are employed.
- D. The rainfall data for Chatham County shall be the latest information from the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation Frequency Data Server (PFDS). [See <http://hdsc.nws.noaa.gov/hdsc/pfds/index.html>]
1. This information is continuously updated and will note the precipitation depths and intensities at any location in the County.
  2. Applicants shall download the latest information from NOAA and include copies with their stormwater calculations.
- E. Hydraulic analysis shall be performed in a manner using generally accepted engineering methods for analyzing peak discharge rates in open channel and closed conduit conditions by employing appropriate models and calculations.
1. Appropriate methods include Manning's Equation for free flowing systems and Energy Equation for pressurized systems.
  2. Other models and methods should produce results reproducible by the Stormwater Administrator and should receive prior verbal or written approval from the Stormwater Administrator before they are employed.
- F. Emergency overflow devices for water quantity detention SCMs are required and must be designed to safely convey the 50-year, 24-hour peak discharge while maintaining 12 inches of freeboard in the basin.
- G. Stormwater SCMs shall be located and designed to receive runoff from a drainage area of three acres or less, unless the SCM type selected requires a larger drainage basin for its proper function per County design guidelines. The total drainage area for SCMs used in series and for different treatment purposes may also exceed this three-acre maximum.
- H. [N.C.G.S. §§ 143-215.23 et seq.](#) (the Dam Safety Law of 1967) and any subsequent revisions shall be adhered to when applicable. [See 9.1.4E: Future Statutory Amendments]
- I. Where practicable, stormwater management system design and location shall be landscaped and integrated into the development and the surrounding community and serve as a community or development amenity. Fencing of SCMs for public health and safety purposes is allowed.

- J. Temporary sediment and erosion control facilities used during construction may be converted to permanent stormwater management systems after construction is completed and the project is sufficiently stabilized pursuant to Chapter 10: *Soil Erosion & Sedimentation Control*.

### 9.2.5 STORMWATER QUALITY SYSTEMS

- A. Stormwater quality control measures shall, at a minimum:
1. Effectively and efficiently capture, and treat the runoff volume produced from the 1-year, 1-hour storm event (see 9.10: Chatham County Rainfall Data); and
  2. Remove 85% of the average annual Total Suspended Solids (TSS) from the development-produced runoff.
- B. Where any stormwater quality control measure utilizes a temporary water quality storage pool as a part of its designed treatment system, the drawdown time shall be as close to 72 hours as reasonably possible; however, it shall not be less than 48 hours nor more than 120 hours.

### 9.2.6 STORMWATER QUANTITY SYSTEMS

- A. The post development peak flow discharge rates shall not exceed the pre-development peak discharge rates for all storms up to and including the 25-year, 24-hour event. Analysis of the 1-, 2-, 5-, 10-, and 25-year, 24-hour storm events shall be submitted to confirm this requirement.
- B. Additional peak discharge rate reduction may be required by the Stormwater Administrator where the capacity of the receiving system is limited and/or documented downstream flooding would be exacerbated by the minimum requirements.

### 9.2.7 STORMWATER CONVEYANCE SYSTEMS

- A. Stormwater conveyance systems, both public and private, including culverts, pipes, inlets, junctions, ditches, and swales shall be designed to, at a minimum, either the 10-year, 24-hour storm event or meet the criteria set forth in the [Stormwater Design Manual](#), whichever is more stringent.
- B. Discharge velocities shall be non-erosive velocity flow from a structure, channel, outlet, or other control measure for the 25-year, 24-hour design storm, or as required by the [Stormwater Design Manual](#) if the Stormwater Design Manual is more stringent in a particular circumstance.
- C. New stormwater conveyance systems shall be sized to accommodate all the runoff that would flow to the structure including , the following:
1. The runoff produced from all development and redevelopment activities within the site;
  2. The runoff produced from all new and existing roads within the site; and
  3. The runoff produced off-site that cannot be diverted around the site.

- D. New stormwater conveyance systems shall be checked by model or calculation to ensure all existing and proposed structures (e.g., houses, buildings) on the property and adjacent to the property will be protected from flooding during the 50-year, 24-hour storm event and due to the proposed development.

### 9.2.8 ALTERNATIVE DESIGN STANDARDS

A. **Generally.**

1. If it can be shown by detailed engineering calculations and analysis and approved by the Stormwater Administrator that a project meets one or more of the criteria in this Section, then the project shall be deemed to comply with the stormwater quality and/or quantity requirements in 9.2.5: Stormwater Quality Systems and 9.2.6: Stormwater Quantity Systems, as specified below.
2. The requirements for stormwater conveyance systems in 9.2.7: Stormwater Conveyance Systems still applies to any project that meets the stormwater quality and/or quantity requirements pursuant to an alternative design standard set forth in this Section.

B. **Alternative Design Criteria.**

1. Unless otherwise provided in 9.2.2, redevelopment projects may meet the stormwater quality and quantity requirements of this Chapter by implementing one of the following options:
  - (a) Provide a 20% reduction in built-upon area; or
  - (b) Provide water quality measures for 30% of the total built-upon area; or
  - (c) Provide a combination of built-upon area reduction and water quality measures equivalent to a 25% reduction in built-upon area.
2. In lieu of the requirements in 9.2.5: Stormwater Quality Systems, development and redevelopment projects utilizing Low Impact Development (LID) may meet stormwater quality requirements if the LID feature(s) cumulatively captures and treats the runoff volume from, at a minimum, the 1-year, 1-hour storm event and by substantially preventing it from exiting the development site via surface flow.
3. In lieu of the requirements in 9.2.6: Stormwater Quantity Systems, development and redevelopment projects may meet stormwater quantity requirements by providing a detailed hydrological and hydraulic analysis of the watershed, including existing, proposed, and future conditions, that demonstrates through validated scientific analysis that there is sufficient existing capacity in the receiving stream or drainage systems (no overtopping, surcharge, backwater, etc.). The recognized “10% rule” shall be used in this analysis. [See 9.12: Guidelines for the 10% Rule]
4. Development or redevelopment of a Minor Subdivision or an individual residential lot cumulatively exceeding 20,000 square feet of land disturbance shall demonstrate compliance with this Chapter by either:

- (a) Meeting the water quality requirements of 9.2.5: Stormwater Quality Systems; or
    - (b) Ensuring the standards in 9.2.9: Single-Family Residential Lot Standards for Stormwater Management will be implemented at each individual lot. In this case, a standard note provided by the County must be placed on the Minor Subdivision recorded plat, noting which standard will be used
  5. Development or redevelopment of a residential Minor Subdivision plat that includes an access easement or road and cumulatively disturbs more than 20,000 square feet of land shall demonstrate compliance with this Chapter by ensuring that post development (from gross planned development areas) peak flow discharge rates do not exceed the pre-development peak discharge rates for the 2-year, 24-hour storm event by more than 10%, rounded up to the nearest whole number. If 10% is exceeded, 9.2.4: General, 9.2.5: Stormwater Quality Systems, 9.2.6: Stormwater Quantity Systems, and 9.2.7: Stormwater Conveyance Systems apply. If it is less than 10%, 9.2.8B.4, above, applies
  6. Development or redevelopment of a residential plat, excluding major and minor subdivisions that includes an access easement or road and cumulatively disturbs more than 20,000 square feet of land shall demonstrate compliance with this Chapter by ensuring that post development (from gross planned development areas) peak flow discharge rates do not exceed the pre-development peak discharge rates for the 2-year, 24-hour storm event by more than 10%, rounded up to the nearest whole number. If 10% is exceeded, 9.2.4: General, 9.2.5: Stormwater Quality Systems, 9.2.6: Stormwater Quantity Systems, and 9.2.7: Stormwater Conveyance Systems apply. If it is less than 10%, 9.2.8B.4, above, applies
  7. Multiple residential building permits that cumulatively disturb more than 20,000 square feet of land or individual residential lots cumulatively shall demonstrate compliance with this Chapter by ensuring that post development (from gross planned development areas) peak flow discharge rates do not exceed the pre-development peak discharge rates for the 2-year, 24-hour storm event by more than 10%, rounded up to the nearest whole number. If 10% is exceeded, 9.2.4: General, 9.2.5: Stormwater Quality Systems, 9.2.6: Stormwater Quantity Systems, and 9.2.7: Stormwater Conveyance Systems apply. If it is less than 10%, 9.2.8B.4, above, applies.
  8. A combination of the above or other stormwater management methods that meets or exceeds the performance standards of this Chapter and is approved by the Stormwater Administrator.
- C. **Approval Process.**
1. Approval of one of the alternative design standards specified above to demonstrate compliance with stormwater quality and/or quantity requirements shall only be granted after the applicant submits a written request to the Stormwater Administrator containing descriptions, drawings, engineering calculations, model input and output data, and any other

information necessary to sufficiently evaluate the proposed development or redevelopment.

2. A separate written request is required if there are subsequent additions, extensions, or modifications that would alter the approved stormwater runoff characteristics of the development or redevelopment.

### 9.2.9 SINGLE-FAMILY RESIDENTIAL LOT STANDARDS FOR STORMWATER MANAGEMENT

- A. **Purpose.** Chatham County requires the use of one or more of these practices to reduce total runoff quantity and quality from a detached single-family residential lot. These practices also serve to limit negative impacts to downstream or off-site property in terms of scour, sedimentation, flooding, and other potential damages.
- B. **Design Standards.** At least one of the following design standards shall be utilized in the development or redevelopment of an individual lot for a detached single-family residence:
  1. All roof downspouts shall discharge onto the surface of the natural ground at least 25 feet from the property boundary and in accordance with all applicable Building Codes;
  2. Collect the first one-half inch equivalent runoff volume from at least half of the total roof area by connecting downspouts to operating rain barrels or cisterns; and
  3. Driveways, walkways, and patios shall drain into well-maintained landscaped beds using native vegetation and amended soils.

## 9.3 STORMWATER APPROVAL, PLAN, & PERMIT<sup>552</sup>

### 9.3.1 STORMWATER APPROVAL

- A. A person shall not initiate any development or redevelopment activity that is subject to the requirements of this Chapter (other than activity subject to 9.2.9: Single-Family Residential Lot Standards for Stormwater Management) without first being issued a written Stormwater Management Plan approval by the Stormwater Administrator.
- B. All other required applications must be received and permits must be obtained prior to the start of the work. These may include the following:
  1. Soil Erosion and Sedimentation Control;
  2. Flood Damage Prevention;
  3. Subdivision, Building Permits, and Inspections, other local regulations;

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<sup>552</sup> Carries forward SO Sections 403 Stormwater Permit, Plan Submittal and Review and 405 As-Built and Final Plat Requirements.



4. N.C. Department of Transportation;
  5. N.C. Division of Water Quality;
  6. U.S. Army Corps of Engineers; and
  7. N.C. DEMLR-Dam Safety.
- C. A Stormwater Management Plan approval governs the design, installation, construction, and maintenance of stormwater management and control practices on the site including SCMs, stormwater conveyance systems and elements of site design for stormwater management other than SCMs.

### 9.3.2 STORMWATER MANAGEMENT PLAN

#### A. **Plan Pre-Submittal Meeting.**

1. A pre-submittal meeting is encouraged, but not required, prior to the submittal of the Stormwater Management Plan.
2. The purpose of this meeting is to discuss the post construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities, and potential approaches to stormwater management designs before commencement of formal site design and engineering.
3. In preparation for the meeting and the plan submittal, the applicant should provide the following information to the Stormwater Administrator at least two weeks in advance of a scheduled meeting:
  - (a) Existing conditions / proposed site plans and grading plans;
  - (b) Basins, sub-basins, and drainage networks, both existing and proposed;
  - (c) Environmental conditions such as natural resource areas, including soils, land cover, wetlands, floodplains, steep slopes, identified wildlife habitat areas, etc.; and
  - (d) Proposed stormwater management systems and SCM features for the proposed development.

#### B. **Content.**

1. The Stormwater Administrator shall establish requirements, which shall be amended and updated from time to time, for the content and form of all Stormwater Management Plans, and shall establish a submittal checklist.
2. At a minimum, the Stormwater Management Plan shall include a bound document and plan sheets describing in detailed narrative:
  - (a) How post development stormwater runoff will be controlled and managed;
  - (b) The assumptions, site conditions, and the design of all stormwater BMP facilities and practices; and
  - (c) How the proposed project will meet the requirements of this Chapter.

3. The Stormwater Management Plan shall be supported by the appropriate stormwater permit application, calculations, plan sheets, drainage area maps, grading plans, planting plans, and details and specifications.
4. Stormwater Permit Application:
  - (a) The stormwater permit application shall include a certification of design and ownership signed by the appropriate parties.
  - (b) The mailing and street address of the principal place of business of the owner or developer must be provided – a P.O. box is not acceptable.
  - (c) If the landowner is not a resident of the state, a North Carolina Registered Agent must be designated in the application for the purpose of receiving notice of compliance or noncompliance with the plan, this Chapter, or rules or orders adopted or issued pursuant to this Chapter.
  - (d) A complete list of partners, managing members and registered agents shall be included if the responsible entity or landowner is a group of individuals.
5. The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator and a completed Operation and Maintenance Agreement.

**C. Preparer.**

1. The Stormwater Management Plan shall be prepared and sealed by a qualified registered North Carolina professional engineer or landscape architect, and the professional shall perform services only in their area of competence.
2. The professional shall verify that the:
  - (a) Design of all stormwater management facilities and practices meets the submittal requirements for complete applications;
  - (b) Designs and plans are sufficient to comply with applicable standards and policies; and
  - (c) Designs and plans ensure compliance with the requirements of this Chapter.

**D. Review Fees.**

1. The County Board of Commissioners may adopt stormwater management plan review fees as well as policies regarding refund of any fees upon withdrawal of a stormwater management plan, and may amend and update the fees and policies from time to time.
2. Additional fees may be required for reviews that are contracted to another local government or private entity.

**E. Schedule.**

1. The Stormwater Administrator shall establish a submission and review schedule for applications.
2. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications and that the various stages in the review process are accommodated.

F. **Submittal.**

1. The Stormwater Management Plan shall be submitted to the Stormwater Administrator pursuant to the policies of the County for development application submittals.
2. The Stormwater Management Plan shall be considered as submitted only when it contains all elements of a complete application pursuant to this Chapter, along with the appropriate fee, if applicable.
3. If the Stormwater Administrator finds that a Stormwater Management Plan is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete Stormwater Management Plan. However, the submittal of an incomplete Stormwater Management Plan shall not suffice to meet a deadline contained in the submission schedule established by the Stormwater Administrator.

G. **Review.** The Stormwater Administrator shall review the Stormwater Management Plan for completeness and determine whether the Stormwater Management Plan complies with the requirements of this Chapter.

1. *Approval.*
  - (a) If the Stormwater Administrator finds that the Stormwater Management Plan complies with this Chapter, the Stormwater Administrator shall approve the Stormwater Management Plan.
  - (b) The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this Chapter and other County ordinances. The conditions shall be included as part of the approval.
2. *Failure to Comply.*
  - (a) If the Stormwater Administrator finds that the Stormwater Management Plan fails to comply with this Chapter, the Stormwater Administrator shall notify the applicant in writing of the disapproval and shall indicate how the Stormwater Management Plan fails to comply.
  - (b) The applicant may submit a revised Stormwater Management Plan.
3. *Plan Revision and Subsequent Review.*
  - (a) A complete revised Stormwater Management Plan shall be reviewed by the Stormwater Administrator after its re-submittal and shall be approved, approved with conditions, or disapproved.

- (b) If a revised Stormwater Management Plan is not re-submitted within 90 calendar days from the date the applicant was notified by disapproval letter, the Stormwater Management Plan shall be considered withdrawn and a new submittal for the same or substantially the same project shall be required along with a fee (if applicable) for a new plan submittal.

### 9.3.3 AS-BUILT AND FINAL PLAT APPROVAL

#### A. **As-Built Requirements.**

1. Upon completion of a project, and before a certificate of completion/occupancy is granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs and shall submit actual “as-built” plans for all stormwater management systems after final construction is completed. [The “as-built” submittal shall meet the requirements of the Chatham County Stormwater As-built Submission form.](#)
2. The “as-built” plans shall show the final (field located by survey) design location for all stormwater management systems and practices including the field location, size, depth, elevations, and planted vegetation of all measures, controls, and devices, as installed.
3. A qualified registered North Carolina professional engineer or professional land surveyor shall certify, under seal, that the constructed stormwater measures, controls, and devices are substantially located in accordance with the approved stormwater management plan.
4. A final inspection and approval by the Stormwater Administrator may occur.

#### B. **Final Plat Requirements.**

1. The exact boundary of all stormwater management systems shall be shown on final plats prepared by a professional land surveyor.
2. These plats shall contain the following statement: “This plat contains a stormwater management system that must be maintained in accordance with the recorded covenant or operations and maintenance agreement.” These plats shall also include the deed book and page number for the recorded operations and maintenance agreement.
3. Final plat shall meet all requirements of the [Final Plat Checklist](#).

#### C. **Stormwater Easements.**

1. Stormwater easements shall be noted on the appropriate final plan sheet(s) and on the final recorded plat.
2. Unless specifically designated as being “public,” the stormwater easement and the facilities they protect are considered to be private, with the sole responsibility of the owner to provide for all required maintenance and operations as approved by the Stormwater Administrator.

3. Any proposed County-owned public stormwater easements and stormwater management system must meet all requirements of this Ordinance and must be accepted by the County before being designated as being “public.”
  - (a) All infrastructure not located within a road right-of-way and used for the collection, conveyance, storage, and/or treatment of stormwater shall be placed in a “stormwater easement,” and shall be reserved from any development that would obstruct or constrict the effective conveyance and control of stormwater from or across the property, other than the approved design and operation functions.
  - (b) The stormwater easement shall allow access of equipment to the SCM and stormwater conveyances for maintenance and repairs from a public right of way. The minimum width of the stormwater easement shall be sufficient to encompass the stormwater conveyance system (including but not limited to stormwater swales and pipes) plus an additional 10 feet on both sides for a minimum total easement width of 20 feet plus the width of the stormwater conveyance. Additionally, a minimum 20 foot easement shall encompass the entire SCM and any associated stormwater conveyances and shall be measured from the toe of the outer most slope or the furthest extent of the outer most portion of the SCM.
4. Maintenance access to the SCM must have a minimum width of 20 feet, extend to the nearest public right-of-way and shall not include lateral or incline slopes that exceed 3:1 (horizontal to vertical). All information must be provided on the final plan and final plat.

#### 9.3.4 STORMWATER PERMITS

- A. All projects that require a stormwater management plan must apply for and obtain a stormwater permit.
- B. Stormwater permits shall be valid for a period of two years from the date of issuance. If the project is not complete within two years, from the date of issuance, the permit must be renewed.
- C. If, after two years, the permitted activity has not begun nor a valid building permit secured, this permit shall expire. In this case, the owner or applicant shall apply for and obtain a new stormwater permit.
- D. Upon written request from the owner or applicant, this permit may be renewed at the discretion of Chatham County for an additional two-year period.

### 9.3.5 STORMWATER PERMIT TRANSFER

- A. Chatham County shall transfer a stormwater permit upon request by a permittee in accordance with N.C.G.S. [§ 143-214.7\(c2\)](#).<sup>553</sup> [See 9.1.4E: Future Statutory Amendments]
- B. Chatham County may transfer a stormwater permit issued pursuant to this Chapter without the consent of the permit holder or of a successor-owner of the property on which the permitted activity is occurring or will occur as provided in N.C.G.S. [§ 143-214.7\(c5\)](#). [See 9.1.4E: Future Statutory Amendments]

### 9.3.6 STORMWATER PERMIT CLOSURE

- A. **Generally.** The stormwater permit is intended to provide a mechanism for the review, approval, and inspection of the approach/stormwater management system to be used for the management and control of stormwater for the development or redevelopment of the site/project, therefore, the permit does not continue indefinitely (after the Certificate of Completion is issued) as post construction compliance is assured by 9.3.7 ~~Section 9.4: Post-Construction Stormwater Permit~~ *Maintenance and Inspections*.
- B. **Certificate of Completion.**
  - 1. A certificate of completion is a document issued by the Chatham County Watershed Protection Department after all construction activities and installation of stormwater management systems have been completed which states that all conditions of an issued Stormwater Permit have been met and that a project has been completed in compliance with the conditions set forth in the Stormwater Permit.
  - 2. The Watershed Protection Department may issue a certificate of completion once the applicant has:
    - (a) Completed all conditions of the issued Stormwater Permit;
    - (b) Completed all conditions set forth in As-Built requirements;
    - (c) Completed all conditions set forth in Final Plat requirements;
    - (d) Completed all conditions set forth in Stormwater Easement requirements;
    - (e) Provided an **Engineer's Certification** for all stormwater conveyance systems including those permitted through Alternative Design Standards;
    - (f) Completed all conditions set forth in the Operation and Maintenance Agreement requirements; and
    - (g) Completed the [Stormwater Control Measure Responsible Party Contact Form](#).

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<sup>553</sup> This Paragraph implements a requirement established in [Session Law 2023-108](#).

### ~~9.3.7~~ POST-CONSTRUCTION STORMWATER PERMIT~~7~~

- ~~1.A.~~ A Post-Construction Stormwater Permit is required for all sites that have a Stormwater Management System. Other requirements may or may not apply when a site received a Stormwater Permit for Alternative Design Standards.
- ~~2.B.~~ Apply for a Post-Construction Stormwater Permit when a Certificate of Completion is issued.
- ~~3.C.~~ Post-Construction Stormwater Permit shall be renewed every 10 years.
- ~~4.D.~~ The Post-Construction Stormwater Permit shall in no case, confer an obligation on Chatham County to assume responsibility for the Stormwater Management System. Maintenance & Inspections

### 9.3.79.3.8 OPERATION & MAINTENANCE AGREEMENT<sup>554</sup>

#### A. Private Development.

1. Prior to the conveyance or transfer of any private lot or building site to be served by an SCM pursuant to this Chapter and prior to issuance of any permit for development or redevelopment requiring an SCM pursuant to this Chapter, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the SCM.
2. Until the transfer of all property, sites, or lots served by the SCM, the original owner or applicant has primary responsibility for carrying out the provisions of the operation and maintenance agreement.

#### B. Public Development.

1. SCMs constructed on public land within public rights-of-way and/or within public easements shall be maintained by the public body with ownership or jurisdiction of the subject property.
2. The appropriate encroachment permits, easements, and maintenance agreements shall be obtained prior to beginning construction.

#### C. Agreement Requirements.

1. The operation and maintenance agreement shall:
  - (a) Require the owner or owners to maintain, repair, and, if necessary, reconstruct the SCM;
  - (b) State the terms, conditions, and schedule of maintenance for the SCM; and
  - (c) Grant Chatham County a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the SCM.

<sup>554</sup> Carries forward SO Section 500 *Operation and Maintenance Agreement*.

However, in no case shall the right of entry, of itself, confer an obligation on Chatham County to assume responsibility for the SCM.

2. The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval.
- ~~2.3.~~ The operation and maintenance agreement and it shall be referenced on upon any instrument of title the final plat and recorded with the County Register of Deeds. For the purposes of this subsection, "instrument of title" means any recorded instrument that affects title or constitutes the chain of title to real property, including, but not limited to, all deeds, wills, estate documents evidencing transfer of title, plats, surveys, easements, rights-of-way, outstanding mortgages and deeds of trust, judicial orders or decrees, and documents evidencing intestate succession upon final plat approval so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. [See 9.3.3: As-Built and Final Plat Approval]
- ~~3.4.~~ If it is recorded, a copy of the recorded operations and maintenance agreement shall be given to the Stormwater Administrator following its recordation.

D. **Construction of Stormwater Management Systems and Drainage Infrastructure.**

1. Stormwater management systems and infrastructure shall be constructed in accordance with approved plans and maintained in proper working condition. The applicant/ property owner is responsible for ensuring that the construction of drainage structures and stormwater management measures are completed in accordance with the approved plan and specifications.
2. Inspections that may be performed by Chatham County during construction do not relieve the developer of the responsibility to install stormwater management and drainage facilities in accordance with the approved plan.
3. Revisions that affect the intent of the design or the capacity of the system require prior written approval by the Stormwater Administrator.

**9.3.89.3.9 INSPECTIONS**<sup>555</sup>

- A. **Function of SCM as Intended.** The owner of each SCM installed pursuant to this Chapter shall maintain and operate the SCM so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the SCM was designed.
- B. **Right of Entry for Inspection.**
  1. When any new SCM is installed on private property, the property owner shall grant to the Stormwater Administrator the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.

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<sup>555</sup> Carries forward SO Section 501 *Inspections*.



2. The Stormwater Administrator may conduct inspections on any reasonable basis including:
  - (a) Routine inspections of SCMs;
  - (b) Random inspections of SCMs or conveyance;
  - (c) Inspections based upon complaints or other notice of possible violations;
  - (d) Inspections of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants;
  - (e) Inspections of businesses or properties associated with the possible illicit discharge of contaminants or pollutants or that may cause violations of state or federal water quality standards; and
  - (f) Joint inspections with other agencies inspecting under environmental and safety laws.
3. Inspections may include:
  - (a) Reviewing maintenance and repair records;
  - (b) Sampling discharges, surface water, groundwater, soils, and/or material or water in SCMs; and
  - (c) Evaluating the condition of SCMs and stormwater management practices.

C. **Periodic Inspections.**

1. Inspections shall be conducted as prescribed by the operation and maintenance agreement.
2. The person responsible for maintenance of any SCM installed pursuant to this Chapter shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence:
  - (a) A qualified registered professional engineer, licensed in the State of North Carolina; or
  - (b) A registered landscape architect or a professional or technician certified by the North Carolina Cooperative Extension Service or the North Carolina Division of Water Quality for stormwater treatment practice inspection and maintenance.
3. The inspection report shall minimally contain the following:
  - (a) The name and address of the landowner;
  - (b) The recorded book and page number of the lot of each SCM;
  - (c) A statement that an inspection was made of all SCMs;
  - (d) The date the inspection was made;

- (e) A statement that all inspected SCMs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this Chapter; and
  - (f) Signature and seal of a registered engineer, landscape architect, or person certified by the North Carolina Cooperative Extension Service or North Carolina Department of Water Quality for stormwater treatment practice inspection and maintenance.
4. All inspection reports shall be provided to the Stormwater Administrator.
- (a) An initial inspection report shall be provided to the Stormwater Administrator with the as-built certification.
  - (b) In the first year, quarterly reports shall be submitted to ensure the SCM(s) are functioning properly.
  - (c) Thereafter, unless otherwise directed by the Stormwater Administrator or required by the operation and maintenance agreement, annual inspection reports shall be submitted within 30 days of the date on the as-built certification.
  - (d) A Stormwater Control Measure Responsible Party Contact form shall be submitted with the annual inspection report if the contact information has changed.

## 9.4 ILLICIT DISCHARGES<sup>556</sup>

### 9.4.1 PROHIBITED & ALLOWED DISCHARGES

#### A. **Prohibited Discharges.**

1. No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the State, of any liquid, solid, gas, or other substance, other than stormwater, unless permitted by an NPDES Permit.
2. Prohibited substances and discharges include, but are not limited to:
  - (a) Wastewater;
  - (b) Greywater (such as from washing machines);
  - (c) Food waste;
  - (d) Petrochemicals and petroleum products (such as oil, gasoline, and diesel fuel);

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<sup>556</sup> Carries forward SO Article 7 *Illicit Discharges*.

- (e) Grease;
- (f) Household, industrial, and chemical waste;
- (g) Anti-freeze;
- (h) Animal waste;
- (i) Paints;
- (j) Paint wash water;
- (k) Discharges from commercial car washes;
- (l) Garbage;
- (m) Litter;
- (n) Chlorinated swimming pool discharges;
- (o) Leaves;
- (p) Grass clippings;
- (q) Dead plants; and
- (r) Sediment/soil.

B. **Allowable Discharges.** Non-stormwater discharges associated with the following activities are allowed if they do not significantly impact water quality:

1. Drinking water line flushing;
2. Discharge from emergency firefighting activities;
3. Irrigation water;
4. Diverted stream flows;
5. Uncontaminated ground water;
6. Uncontaminated pumped ground water;
7. Residential foundation/footing drains;
8. Air conditioning condensation;
9. Uncontaminated springs;
10. Water from crawl space pumps;
11. Discharges from individual, non-commercial car washing operations;
12. Flows from riparian habitats and wetlands;
13. Street wash water;
14. Swimming pool discharges that have been through a de-chlorination process; and
15. Other non-stormwater discharges for which a valid NPDES discharge permit has been authorized and issued by the U.S. Environmental Protection Agency or by the State of North Carolina.

### 9.4.2 ILLICIT CONNECTIONS

- A. Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in this Chapter, are unlawful. Prohibited connections include, but are not limited to:
1. Industrial/commercial floor drains;
  2. Wastewater or sanitary sewers;
  3. Wash water from commercial vehicle washing operations or steam cleaning operations; and
  4. Wastewater from septic systems.
- B. Where such connections exist in violation of this Chapter and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this Chapter.
1. However, the one-year grace period does not apply to connections that may result in the discharge of hazardous materials or other discharges that pose an immediate threat to health and safety or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.
  2. The one-year grace period also does not apply to connections made in violation of any applicable regulation or code other than this Chapter.
- C. The Stormwater Administrator shall designate the time period within which the connection shall be removed. In setting the time limit for compliance, the Stormwater Administrator shall take into consideration the:
1. Quantity and complexity of the work;
  2. Consequences of delay;
  3. Potential harm to the environment, public health, and public and private property; and
  4. Cost of remedying the damage.

### 9.4.3 SPILLS & ACCIDENTAL DISCHARGES

- A. In the case of accidental discharges, the responsible party shall immediately begin to collect and remove the discharge and restore all affected areas to their original condition unless the material is considered to be hazardous.
- B. If considered as hazardous, the responsible party shall immediately notify Chatham County Watershed Protection Department of the accidental discharge including:
1. The location of the discharge;
  2. Type of pollutant;
  3. Volume or quantity discharged;
  4. Time of discharge; and

5. The corrective actions taken.
- C. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability that may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

## 9.5 STORMWATER UTILITY SERVICE FEE<sup>557</sup>

### 9.5.1 AUTHORITY

Pursuant to N.C.G.S. Chapter 153A, [Article 15: Public Enterprises](#), Chatham County is authorized to create a stormwater services utility and enterprise fund and, in so doing, establish a schedule of rents, rates, fees, charges, and penalties for the use of or the services furnished by such public enterprise. [See 9.1.4E: Future Statutory Amendments]

### 9.5.2 PURPOSE

- A. A stormwater services utility is an identified fiscal and accounting fund for the purpose of comprehensively addressing the stormwater management needs of Chatham County through programs designed to protect and manage water quality and quantity by controlling the level of pollutants, stormwater runoff, and the quantity and rate of stormwater received and conveyed by structural and natural stormwater and drainage systems of all types. It provides a schedule of rents, rates, fees, charges, and penalties necessary to assure that all aspects of the stormwater program are managed in accordance with federal, state, and local laws, rules, and regulations.
- B. The County Board of Commissioners may, by adopting a schedule of rents, rates, fees, charges, and penalties for the use of or the services furnished by a public enterprise, establish a stormwater service utility at any point in the future.

### 9.5.3 JURISDICTION

The boundaries and jurisdiction of the stormwater services utility shall extend to the jurisdiction of Chatham County, including all areas hereafter annexed thereto.

## 9.6 ADMINISTRATION<sup>558</sup>

- A. Chatham County will administer this Chapter.
- B. In addition to the powers and duties that may be conferred, the Stormwater Administrator has the following powers and duties under this Chapter:

<sup>557</sup> Carries forward SO Article 8 *Stormwater Utility Service Fee*.

<sup>558</sup> Carries forward SO Article 3 *Administration and Procedures*.

1. Review and approve or disapprove applications for approval of plans pursuant to the requirements of this Chapter;
2. Make determinations and render interpretations of the requirements of this Chapter;
3. Establish application requirements and schedules for submittal and review of applications and appeals and to review and act on applications;
4. Enforce the provisions of this Chapter in accordance with its enforcement provisions;
5. Make records, maps, and official materials in relation to the adoption, amendment, enforcement, or administration of this Chapter;
6. Provide expertise and technical assistance to Chatham County;
7. Carry out the technical duties outlined in this Chapter (the Stormwater Administrator may contract such services to another local government or private entity);
8. Designate other person(s) who shall carry out the powers and duties of the Stormwater Administrator, as appropriate and/or necessary; and
9. Take necessary actions to administer the provisions of this Chapter.

## 9.7 VARIANCES & APPEALS<sup>559</sup>

### 9.7.1 VARIANCES

- A. Any person may petition the Chatham County Board of Adjustment for a variance granting permission to use the person's land in a manner otherwise prohibited by this Chapter.
- B. To qualify for a variance, the petitioner must demonstrate all of the following:
  1. Unnecessary hardships would result from strict application of the requirements of this Chapter;
  2. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property;
  3. The hardships did not result from actions taken by the petitioner; and
  4. The requested variance is consistent with the spirit, purpose, and intent of this Chapter; will secure public safety and welfare; and will preserve substantial justice.

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<sup>559</sup> Carries forward SO Sections 404 *Variances* and 602 *Appeals*. Although these provisions are the same as those specified in Chapter 12: *Procedures*, they are carried forward here since the regulations pertaining to variances and appeals from this Chapter may change singularly over time (either through action by Chatham County or a change mandated by the State).

- C. The Board of Adjustment may impose reasonable and appropriate conditions and safeguards upon any variance it grants.
- D. Additional fees may be required for the technical evaluation of variances that are contracted to another local government or private entity.
- E. If the variance request constitutes a major variance and the Board of Adjustment decides in favor of granting the variance, the Board of Adjustment shall then prepare a preliminary record of the hearing and submit it to the North Carolina Environmental Management Commission (“Commission”) for review and approval.
  - 1. If the Commission approves the variance or approves with conditions or stipulations added, then the Commission shall prepare a Commission decision that authorizes Chatham County to issue a final decision that would include any conditions or stipulations added by the Commission.
  - 2. If the Commission denies the variance, then the Commission shall prepare a decision to be sent to Chatham County. Chatham County shall prepare a final decision denying the variance.
- F. Appeals from the local government decision on a variance request are made on certiorari to the local Superior Court.
- G. Appeals from the Commission decision on a major variance request are made on judicial review to Superior Court.

### 9.7.2 APPEALS

- A. Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this Chapter made by the Stormwater Administrator may file an appeal to the Chatham County Board of Adjustment within 30 days.
- B. Variance requests shall be made as provided in 12.2: Appeals of Administrative Decisions.
- C. In the case of requests for review of proposed civil penalties for violations of this Chapter, the Chatham County Board of Adjustment shall make a final decision on the request for review within 90 days of receipt of the date the request for review is filed.

## 9.8 VIOLATIONS & ENFORCEMENT

### 9.8.1 GENERALLY<sup>560</sup>

The Stormwater Administrator shall enforce the requirements of this Chapter.

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<sup>560</sup> Carries forward SO Section 600 *General*.

### 9.8.2 CIVIL PENALTIES<sup>561</sup>

#### A. **Generally.**

1. Civil penalties may be imposed as provided in this Section.
2. Any person who violates any of the provisions of this Chapter, or rules and orders adopted or issued pursuant to this Chapter, or who initiates or continues development or redevelopment for which a Stormwater Management Plan is required except in accordance with the terms, conditions, and provisions of an approved plan is subject to a civil penalty.
3. Civil penalties may be assessed up to the full amount allowed by law.

#### B. **Each Day is a Separate Offense.** Each day of a continuing violation constitutes a separate violation. Additional fees may be charged for remedies and enforcement of this Chapter.

#### C. **Notice of Violation Required.**

1. No person shall be assessed a penalty until that person has been notified in writing of the violation by:
  - (a) Registered or certified mail, return receipt requested;
  - (b) Personal delivery by the Stormwater Administrator; or
  - (c) Any means authorized for the service of documents by [Rule 4 of the North Carolina Rules of Civil Procedure](#).
2. The notice shall:
  - (a) Describe the violation with reasonable particularity;
  - (b) Specify a reasonable time period within which the violation can be corrected; and
  - (c) Warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action.
3. Refusal to accept the notice or failure to notify the Stormwater Administrator of a change of address shall not relieve the violator's obligation to pay such a penalty.

#### D. **Correction of Violation.** If the violation has not been corrected within the designated time period, a civil penalty may be assessed from the date the violation is detected or, if deemed by the County to be an emergency or an on-going threat to the environment or public health, safety or general welfare, the County may perform the corrective measures at the owner's expense.

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<sup>561</sup> Carries forward SO Section 601 *Civil Penalties*.



- E. **Enforcement Actions.** The Stormwater Administrator may implement the following enforcement actions until the applicant has taken the remedial measures set forth in the notice of violation and cured the violations described therein:
1. Issue a stop work order to the person(s) violating the requirements of this Chapter.
    - (a) The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein;
    - (b) The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations;
  2. Refuse to issue a certificate of occupancy for any building or other improvement constructed or being constructed on the site and served by the stormwater practices;
  3. Disapprove or withhold subsequent permits and development applications; and
  4. Institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of the requirements of this Chapter. Any person violating this Chapter shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.
- F. It is unlawful for a property owner to fail to meet the requirements of the operation and maintenance agreement required by 9.3.8: Operation & Maintenance Agreement. Any person, including but not limited to any homeowners' association or similar entity, that fails to meet the requirements of the operation and maintenance agreement is subject to a civil penalty assessed by Chatham County up to the full amount of penalty allowed by law.

## 9.9 DEFINITIONS<sup>562</sup>

When this Section does not define a term used in this Chapter, refer to Chapter 8: *Watershed & Riparian Buffer Protection*, Chapter 10: *Soil Erosion & Sedimentation Control*, or Chapter 17: *Definitions & Acronyms*.

**Best Management Practices (BMPs)** are schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. Stormwater BMPs can be classified as "structural" or "non-structural."

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<sup>562</sup> Carries forward SO Article 2 *Definitions*.

**Structural BMPs** are a physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Structural BMPs include physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Structural BMP" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this Chapter. It is a broad term that may include practices that do not require design by a professionally licensed engineer.

**Built-Upon Area.** Built-upon area means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle (except as exempted by State law).

**Development** is any land disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.

**Land Disturbing Activity** is any use of the land by any person for a residential purpose; a non-residential purpose, such as industrial, educational, institutional, or commercial development; or highway and road construction and maintenance that results in a change in the natural or existing ground cover or topography and that may cause or contribute to sedimentation.

**Larger Common Plan of Development or Sale** is any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

**Low Impact Development (LID)** practice is an innovative stormwater management approach with a basic principle to mimic natural hydrologic conditions by managing rainfall runoff close to the source, minimizing development impacts and disturbance, using existing site characteristics and conditions and decentralized drainage and treatment systems. LID also incorporates design techniques that infiltrate, filter, store, reuse, evaporate, and/or detain runoff close to its source. LID practices generally reduce infrastructure costs and incorporate open space/natural space preservation, limited site disturbance, limited impervious surfaces, and landscapes that also treat stormwater runoff. LID may be applied to new development, redevelopment, and retrofits to existing

development. Acceptable LID practices may be used in accordance with the applicable design manuals and guidelines referenced by Chatham County.

**Major Modification** means a change of a state stormwater permit that is not a “minor modification as that term is defined below.

**Minor Modification** means a change of a state stormwater permit that does not increase the net built-upon area within the project or does not increase the overall size of the stormwater control measures that have been approved for the project.

**Non-Residential Use** includes all uses other than single-family residential use, including apartments, institutional, commercial, industrial, schools, and parking lots.

**Permeable Pavement** means paving material that absorbs water or allows water to infiltrate through the paving material. "Permeable pavement" materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, porous asphalt, and any other material with similar characteristics. See NCDEQ Stormwater Design Manual [Section C-5](#).

**Redevelopment** is any land-disturbing activity that does not result in a net increase in built-upon area and that provides greater or equal stormwater control to that of the previous development.<sup>563</sup>

**Stormwater Administrator** is the County Manager, their staff designee, or any authorized agent of Chatham County. Their duties include the administration of the stormwater management program and overseeing the review and approval of stormwater management application submittals, performing site visits, providing technical assistance to the general public, developers and county staff and elected officials, and other duties as specified in 9.6: Administration.

**Stormwater Control Measure (SCM)** is a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

**Stormwater Conveyance Systems** consist of, both public and private, culverts, pipes, inlets, junctions, ditches and swales shall be designed to, at a minimum, either the 10yr, 24-hour storm event or meet the criteria set forth in the Stormwater Design Manual, whichever is more stringent.

**Stormwater Management System (SCM)** consists of all conveyances and structures that are constructed on a development site for the purposes of managing stormwater runoff by collecting, conveying, controlling, storing, detaining, retaining, infiltrating, filtering, and otherwise mitigating the negative impacts that stormwater has on the natural environment.

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<sup>563</sup> Revised to use the definition of *redevelopment* in N.C.G.S. [§ 143-214.7\(a1\)\(2\)](#).

**9.10 CHATHAM COUNTY RAINFALL DATA<sup>564</sup>**

- A. Chatham County has determined that the rainfall totals and intensities for Pittsboro, NC, are suitable for the entire County and shall be used as the rainfall data for Chatham County.
- B. This information is from the current NOAA Atlas 14 National Weather Service Precipitation Frequency Data Server (PFDS) for Pittsboro, NC (latitude 35.71, longitude -79.18).
- C. This table can also be found at [http://hdsc.nws.noaa.gov/hdsc/pfds/orb/nc\\_pfds.html](http://hdsc.nws.noaa.gov/hdsc/pfds/orb/nc_pfds.html).

**Table 9.10-1: Chatham County Precipitation (inches)**

Duration		5 min	10 min	15 min	30 min	1 hr	2 hr	3 hr	6 hr	12 hr	24 hr
<b>Frequency</b>	1-yr	0.42	0.67	0.84	1.15	1.43	1.69	1.80	2.15	2.55	2.96
	2-yr	0.50	0.79	1.00	1.38	1.73	2.05	2.18	2.60	3.08	3.57
	5-yr	0.57	0.92	1.16	1.65	2.12	2.54	2.71	3.24	3.85	4.47
	10-yr	0.63	1.01	1.27	1.85	2.40	2.90	3.12	3.74	4.48	5.18
	25-yr	0.69	1.10	1.40	2.07	2.76	3.37	3.65	4.41	5.33	6.13
	50-yr	0.73	1.17	1.48	2.23	3.02	3.73	4.07	4.94	6.01	6.89
	100-yr	0.77	1.23	1.55	2.37	3.27	4.08	4.49	5.48	6.72	7.67
	200-yr	0.80	1.27	1.61	2.50	3.51	4.42	4.92	6.04	7.47	8.46
	500-yr	0.84	1.33	1.67	2.66	3.81	4.87	5.49	6.79	8.50	9.56
	1,000-yr	0.86	1.36	1.71	2.77	4.04	5.21	5.93	7.39	9.34	10.43

**Key:** min = minutes | hr = hours | yr = year

**Table 9.10-2: Chatham Rainfall Intensities (inches per hour)**

Duration		5 min	10 min	15 min	30 min	1 hr	2 hr	3 hr	6 hr	12 hr	24 hr
<b>Frequency</b>	1-yr	5.04	4.02	3.36	2.30	1.43	0.85	0.60	0.36	0.21	0.12
	2-yr	6.00	4.74	4.00	2.76	1.73	1.03	0.73	0.43	0.26	0.15
	5-yr	6.84	5.52	4.64	3.30	2.12	1.27	0.90	0.54	0.32	0.19
	10-yr	7.56	6.06	5.08	3.70	2.40	1.45	1.04	0.62	0.37	0.22
	25-yr	8.28	6.60	5.60	4.14	2.76	1.69	1.22	0.74	0.44	0.26
	50-yr	8.76	7.02	5.92	4.46	3.02	1.87	1.36	0.82	0.50	0.29
	100-yr	9.24	7.38	6.20	4.74	3.27	2.04	1.50	0.91	0.56	0.32
	200-yr	9.60	7.62	6.44	5.00	3.51	2.21	1.64	1.01	0.62	0.35
	500-yr	10.08	7.98	6.68	5.32	3.81	2.44	1.83	1.13	0.71	0.40

<sup>564</sup> Carries forward SO Appendix A *Chatham County Rainfall Data*.

Table 9.10-2: Chatham Rainfall Intensities (inches per hour)										
Duration	5 min	10 min	15 min	30 min	1 hr	2 hr	3 hr	6 hr	12 hr	24 hr
1,000-yr	10.32	8.16	6.84	5.54	4.04	2.61	1.98	1.23	0.78	0.43

Key: min = minutes | hr = hours | yr = year

### 9.11 CURVE NUMBERS<sup>565</sup>

Table 9.11-1 specifies the accepted values for Curve Numbers (CN) in Chatham County for Hydrological Analysis. Other CN Tables may be used as deemed appropriate by the Stormwater Administrator.

Table 9.11-1: Curve Numbers for Various Hydrological Conditions <sup>1</sup>					
	Average Impervious Area (%)	Hydrologic Soil Group			
		A	B	C	D
<b>Pervious Areas</b>					
Parks, Golf Courses, Lawns, Cemeteries, etc.					
Poor condition (grass cover <50%)		68	79	86	89
Fair condition (grass cover 50% to 75%)		49	69	79	84
Good condition (grass cover 75% to 95%)		39	61	74	80
Very good condition (grass cover >95%)		30	55	70	77
Woods and Grass Combination (parks, orchards, and tree farms)					
Poor condition (ground cover sparse)		57	73	82	86
Fair condition (ground cover moderate)		43	65	76	82
Good condition (ground cover good)		32	58	72	79
Very good condition (ground cover excellent)		28	53	69	76
National/State Forest					
Poor condition (ground cover sparse; <50%)		45	66	77	83
Fair condition (ground cover moderate; 50% to 75%)		36	60	73	79
Good condition (ground cover good; 75% to 95%)		30	55	70	77
Very good condition (ground cover excellent; >95%)		25	50	68	75
<b>Impervious Areas</b>					
Paved Parking Lots, Roofs, Driveways, etc.		98	98	98	98

<sup>565</sup> Carries forward SO Appendix B Curve Numbers.

<b>Table 9.11-1: Curve Numbers for Various Hydrological Conditions<sup>1</sup></b>					
	<b>Average Impervious Area (%)</b>	<b>Hydrologic Soil Group</b>			
		<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
<b>Streets and Roads</b>					
Paved; curbs and storm sewers (excluding ROW)		98	98	98	98
Paved; curbs, storm sewers, sidewalks, and grass plot (including ROW)		86	91	93	95
Paved; curbs, storm sewers, sidewalks, and tree plot (including ROW)		82	88	91	92
Paved; open ditches (including ROW)		83	89	92	93
Gravel (including ROW)		76	85	89	91
Dirt (including ROW)		72	82	87	89
<b>Urban Districts</b>					
Commercial and Business	85	89	92	94	95
Industrial	72	81	88	91	93
<b>Residential Districts By Average Lot Size</b>					
1/8 acre or less (townhouse)	65	77	85	90	92
1/4 acre	38	61	75	83	87
1/3 acre	30	57	72	81	86
1/2 acre	25	54	70	80	85
1 acre	20	51	68	79	84
2 acres	12	46	65	77	82
<b>Developing Urban Areas</b>					
Newly Graded Areas (pervious areas only)					
Poor condition (no vegetation, bare soil)		77	86	91	94
Fair condition (sparse vegetation, some ground cover)		76	85	90	93
Good condition (established vegetation, ground cover good)		74	83	88	91
Very good condition (ground cover excellent, Hydroseed, Flexterra)		68	79	85	88

[1] Some curve numbers are interpolated based on similar hydrological conditions and engineering judgement.

## 9.12 GUIDELINES FOR THE 10% RULE<sup>566</sup>

### 9.13 Calculating Downstream Impacts (the Ten Percent Rule)

- A. In the Chatham County Stormwater Management Manual, the “10% Rule” has been adopted as the approach for ensuring that stormwater quantity detention ponds maintain pre-development peak flows through the downstream conveyance system.
- B. The 10% Rule recognizes the fact that a structural control providing detention has a “zone of influence” downstream where its effectiveness can be observed. Beyond this zone of influence the structural control becomes relatively small and insignificant compared to the runoff from the total drainage area at that point.
- C. Based on studies and master planning results for a large number of sites, that zone of influence is considered to be the point where the drainage area controlled by the detention or storage facility comprises 10% of the total drainage area. For example, if the structural control drains 10 acres, the zone of influence ends at the point where the total drainage area is 100 acres or greater.
- D. Typical steps in the application of the 10% Rule are:
  1. Using a topographic map determine the lower limit of the “zone of influence” (i.e., the 10% point), and determine all 10% rule comparison points (at the outlet of the site and at all downstream tributary junctions).
  2. Using a hydrologic model determine the pre-development peak discharges (pre-Qp2, pre-Qp10, pre-Qp25, and pre-Qp100) and timing of those peaks at each tributary junction beginning at the pond outlet and ending at the next tributary junction beyond the 10% point.
  3. Change the site land use to post-development conditions and determine the post-development peak discharges (post-Qp2, post-Qp10, post-Qp25, and post-Qp100). Design the structural control facility such that the post-development peak discharges from the site for all storm events do not increase the pre-development peak discharges at the outlet of the site and at each downstream tributary junction and each public or major private downstream stormwater conveyance structure located within the zone of influence.
  4. If post-development conditions do increase the peak flow within the zone of influence, the structural control facility must be redesigned or one of the following options must be chosen:
    - (a) Control of the Qp2, Qp10, Qp25, and/or Qp100 may be waived by the Director of Engineering and the Director of Public Works if adequate over bank flood protection and/or extreme flood protection is suitably provided by a downstream or shared off-site stormwater facility, or if

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<sup>566</sup> Carries forward SO Appendix D *The 10% Rule*.

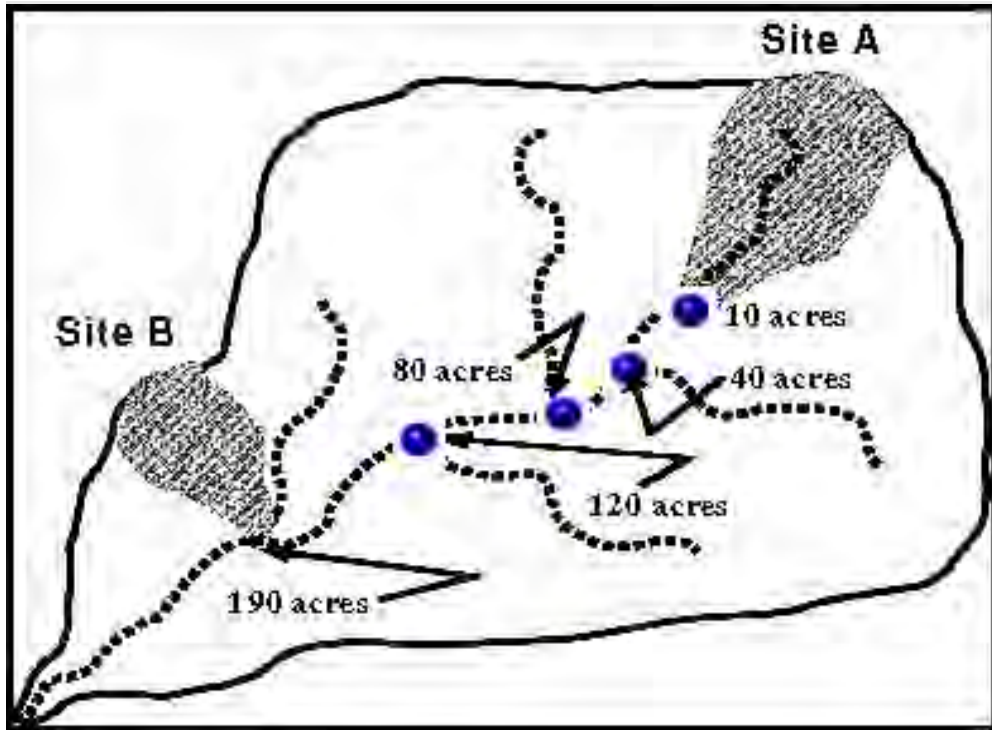
engineering studies determine that installing the required stormwater facilities would not be in the best interest of Chatham County. However, a waiver of such controls does not eliminate the requirement to comply with the water quality and channel protection standards defined in this Chapter and in the Stormwater Management Manual.

- (b) The developer can coordinate with Chatham County Engineering (and other state/federal agencies as appropriate) to determine other acceptable approaches to reduce the peak discharges (and, therefore, the flow elevation) through the channel (e.g., conveyance improvements) for all design storm events.
  - (c) The property owner can obtain a flow easement from downstream property owners through the zone of influence where the post-development peak discharges are higher than pre-development peak discharges.
- E. Figure 9.12-1: 10% Rule Example illustrates the concept of the 10% Rule for two sites in a watershed.
1. Site A is a development of 10 acres, all draining to a wet ED stormwater pond. The over bank flooding and extreme flood portions of the design are going to incorporate the 10% Rule. Looking downstream at each tributary in turn, it is determined that the analysis should end at the tributary marked "80 acres."
    - (a) The 100-acre (10%) point is in between the 80-acre and 120-acre tributary junction points.
    - (b) The assumption is that if there is no peak flow increase at the 80 acre point, then there will be no increase through the next stream reach downstream through the 10% point (100 acres) to the 120-acre point.
    - (c) The designer constructs a simple HEC-1 (HEC-HMS) model of the 80-acre are as using single existing condition sub-watersheds for each tributary.
    - (d) Key detention structures existing in other tributaries must be modeled.
    - (e) An approximate curve number is used since the actual peak flow is not the key for initial analysis; only the increase or decrease is important. The accuracy in curve number determination is not as significant as an accurate estimate of the time of concentration.
    - (f) Since flooding is an issue downstream, the pond is designed (through several iterations) until the peak flow does not increase at junction points downstream to the 80-acre point
  2. Site B is located downstream at the point where the total drainage area is 190 acres. The site itself is only 6 acres.
    - (a) The first tributary junction downstream from the 10% point is the junction of the site outlet with the stream.



- (b) The total 190 acres is modeled as one basin with care taken to estimate the time of concentration for input into the TR-20 model of the watershed.
- (c) The model shows that a detention facility, in this case, will actually increase the peak flow in the stream.

**Figure 9.12-1: 10% Rule Example**



# CHAPTER 10 SOIL EROSION & SEDIMENTATION CONTROL<sup>567</sup>

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## 10.1 GENERAL PROVISIONS

### 10.1.1 TITLE<sup>568</sup>

This Chapter may be cited as the Chatham County Soil Erosion and Sedimentation Control Chapter.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008)

### 10.1.2 PURPOSE<sup>569</sup>

This Chapter is adopted for the purposes of:

- A. Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation, and to otherwise protect the public health, safety, and general welfare; and
- B. Establishing procedures through which these purposes can be fulfilled.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008)

### 10.1.3 SCOPE & EXCLUSIONS<sup>570</sup>

- A. **Jurisdictional Scope.** This Chapter applies to land-disturbing activity within the territorial jurisdiction of the County and within the extraterritorial jurisdiction of the County as allowed by agreement between local governments, the extent of annexation, or other appropriate legal instrument or law.
- B. **Exclusions.** Notwithstanding the general applicability of this Chapter to all land-disturbing activity, this Chapter does not apply to the following types of land-disturbing activity:
  1. *Agriculture.*

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<sup>567</sup> This Chapter carries forward the current Soil Erosion and Sedimentation Control Ordinance (SESCO), incorporates revisions proposed by staff, and includes minor (non-substantive) edits to formatting for consistency with the rest of the UDO and minor grammatical edits. The draft also includes updated cross-references to reflect the inclusion of this ordinance in the UDO and hyperlinks to other regulations and documents.

<sup>568</sup> Carries forward SESCO Section 164.1 Title.

<sup>569</sup> Carries forward SESCO Section 164.2 Purpose.

<sup>570</sup> Carries forward SESCO Section 164.4 Scope and Exclusions.

- (a) An activity, including breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to people, including, but not limited to:
  - (1) Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts;
  - (2) Dairy animals and dairy products;
  - (3) Poultry and poultry products;
  - (4) Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats;
  - (5) Bees and apiary products;
  - (6) Fur-producing animals;
  - (7) Horticultural and nursery operations; and
  - (8) Mulch, ornamental plants, and other horticultural products. For purposes of this Section, “mulch” means substances composed primarily of plant remains or mixtures of such substances.
- (b) In order for a land-disturbing activity to be eligible for an agricultural exemption, it must be reasonably demonstrated to the County that the land on which the disturbance is taking place is intended for continuous agricultural use. Reasonable demonstration may be documented by any of the following:
  - (1) A farm plan registered with the County Soil and Water Conservation District for ongoing uses;
  - (2) A farm number obtained from the state cooperative extension;
  - (3) Documentation of revenue of not less than \$1,000/year resulting from an agricultural activity; or
  - (4) Documentation from the County Tax Office of agricultural status.
- (c) The County may require preparation and approval of an erosion and sedimentation control plan for land-disturbing activities applying for an application for exemption where sediment control measures are needed to protect against off-site damages due to sediment from the land-disturbing activity as documented by the County staff.
- (d) A land-disturbing activity for agricultural purposes is not considered exempt until an application for exemption has been made and a letter of exemption has been issued by the County.

## 2. *Silviculture.*

- (a) An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in [\*Forest Practice Guidelines Related to Water Quality\*](#), as adopted by the Department. If land-disturbing activity undertaken on forestland for the production and harvesting of

timber and timber products is not conducted in accordance with [Forest Practice Guidelines Related to Water Quality](#), the provisions of this Chapter shall apply to that activity and any related land-disturbing activity on the tract.

- (b) If land-disturbing activity undertaken on forest land for the production and harvesting of timber or timber products is being conducted in preparation of a site development that is in any phase of the approval process with any County department, the provisions of this Chapter apply.
  - (c) In order for a land-disturbing activity to be eligible for a forestry exemption, it must be reasonably demonstrated to the County that the land on which the disturbance is taking place is intended exclusively for forestry management. Reasonable demonstration may be documented by any of the following:
    - (1) A timber management plan registered with the State Division of Forest Resources;
    - (2) Compliance with the [Forest Practice Guidelines Related to Water Quality](#) and the [Forestry Best Management Practices Manual](#);
    - (3) Documentation of revenue of not less than \$1,000/year resulting from forestry activity; or
    - (4) Documentation from the County Tax Office of forestry status.
  - (d) The County may require preparation and approval of an erosion and sedimentation control plan for land-disturbing activities applying for an application for exemption where sediment control measures are needed to protect against off-site damages due to sediment from the land-disturbing activity as documented by the County staff.
  - (e) A land-disturbing activity for forestry purposes is not considered exempt until an application for exemption has been made and a letter of exemption has been issued by the County.
3. *Mining*. An activity for which a permit is required under the Mining Act of 1971, ([N.C.G.S. Chapter 74, Article 7](#)).
  4. *State Authority*. A land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in [N.C.G.S. § 113A-56\(a\)](#).
  5. *Emergency Operations*. An activity which is essential to protect human life or property during an emergency.
  6. *Wetlands Mitigation*. Activities undertaken to restore the wetlands functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act ([33 USC 1344: Permits for dredged or fill material](#)).
  7. *Restoration of Wetlands Function*. Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of

converted wetlands as defined in Title 7 Code of Federal Regulations [§ 12.2: Definitions](#)).

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed 9-24-2018; Ord. passed xx-xx-xxxx)

#### 10.1.4 ADDITIONAL MEASURES<sup>571</sup>

Whenever the County determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the Person conducting the land-disturbing activity will be required to and shall take additional protective action.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed xx-xx-xxxx)

#### 10.1.5 SEVERABILITY

If any section or sections of this Chapter is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

(Ord. passed xx-xx-xxxx)

#### 10.1.6 EFFECTIVE DATE<sup>572</sup>

This Chapter became effective on January 1, 2006. This Chapter has been revised on December 2, 2008, July 15, 2013, September 24, 2018, and xx-xx-xxxx.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed 7-15-2013; Ord. passed 9-24-2018; Ord. passed xx-xx-xxxx)

## 10.2 BORROW & WASTE AREAS<sup>573</sup>

- A. When the Person conducting the land-disturbing activity is also the Person conducting the borrow or waste disposal activity, the borrow or waste disposal site shall be considered as part of the land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971 ([N.C.G.S. Chapter 74, Article 7](#)), or is a landfill regulated by the Division of Waste Management.
- B. When the Person conducting the land-disturbing activity is not the Person obtaining borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.
- C. It is the responsibility of the financially responsible Person(s) to inform the County Erosion and Sedimentation Control Program of the location and ownership of all off-site borrow and waste sites when required.

<sup>571</sup> Carries forward SESCO Section 164.17 Additional Measures.

<sup>572</sup> Carries forward SESCO Section 164.23 Effective Date.

<sup>573</sup> Carries forward SESCO Section 164.7 Borrow and Waste Areas.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed XX-XX-XXXX)

### 10.3 OPERATION IN SURFACE WATERS<sup>574</sup>

- A. Any land-disturbing activity in connection with construction in, on, over, or under any surface water, regardless of the area uncovered, shall minimize the extent and duration of the disturbance. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.
- B. Devices and methods proposed to minimize the impact and disruption to the surface water must be detailed on the erosion and sedimentation control plan and clearly described in the construction sequence.
- C. These activities must be properly permitted by and conducted in accordance with all the regulations of Chapter 8: *Watershed & Riparian Buffer Protection*, the Department's Division of Water Quality, and the United States Army Corps of Engineers.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed XX-XX-2024)

### 10.4 EXISTING UNCOVERED AREAS<sup>575</sup>

- ~~A. **Required Action.** All uncovered areas existing on the effective date of this Chapter that resulted from land-disturbing activity exceeding 20,000 square feet, that are subject to continued accelerated erosion, and that are causing off-site damage from sedimentation shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.~~
- ~~B. **Notification.**~~
  - ~~1. The County may serve upon the landowner or other Person in possession or control of the land a written notice to comply with the Act, this Chapter, or a rule or order adopted or issued pursuant to the Act by the Commission or by the County. The notice to comply may be sent by registered or certified mail, return receipt requested, or by any other means provided in N.C.G.S. § 1A-1, Rule 4.~~
  - ~~2. The notice will set forth the measures needed to comply and will state the time within which the measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology and~~

<sup>574</sup> Carries forward SESCO Section 164.8 Operation in Surface Waters.

~~<sup>575</sup> Carries forward SESCO Section 164.9 Existing Uncovered Areas.~~

~~quantity of work required, and shall set reasonable and attainable time limits of compliance.~~

~~C. **Plan Preparation.** The County reserves the right to require preparation and approval of a plan in any instance where extensive control measures are required.~~

~~D. **Exceptions.** This Section does not require ground cover on cleared land forming the future basin of a planned reservoir or other areas that are temporarily uncovered, if the areas comply with all other applicable sediment and erosion control requirements.~~

~~{Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed xx-xx-xxxx}~~

**10.510.4 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY<sup>576</sup>**

All land-disturbing activity subject to this Chapter shall be conducted in accordance with the following mandatory standards:

- A. **Protection of Property.** Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by the activity.
- B. **Riparian Buffers.** Land-disturbing activity conducted in proximity to any surface water is also subject to, and must provide a riparian buffer in accordance with the riparian buffer requirements set forth in the Chapter 8: *Watershed & Riparian Buffer Protection*. Under no circumstance shall a riparian buffer be less than 30 feet.
- C. **Graded Slopes and Fills.**
  - 1. The angle for graded slopes and fills shall be no greater than two horizontal to one vertical (2:1). In any event, all slopes will be planted or otherwise provided with ground cover, devices, or structures sufficient to control erosion within 14 calendar days of completion of any phase of grading or any period of inactivity, unless a shorter timeframe is applicable pursuant to 10.5: Slope Standards.
  - 2. Erosion control matting, of sufficient design, shall be used for stabilization on all fill slopes and slopes greater than three horizontal to one vertical (3:1).
  - 3. All graded slopes must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without structural restraints or devices.
- D. **Fill Material.**
  - 1. Unless the site is permitted by the Department’s Division of Waste Management to operate as a landfill, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete, and brick in sizes

<sup>576</sup> Carries forward SESCO Section 164.5 Mandatory Standards.

exceeding three inches, and any materials that would cause the site to be regulated as a landfill by the state.

2. Acceptable fill materials shall be consistent with those described in [15A NCAC 13B .0562](#). Not all materials described in Section .0562 may be suitable to meet geotechnical considerations of the fill activity and should be evaluated accordingly.

**E. Sediment in Roads.**

1. It is a violation of this Chapter for any land-disturbing activity to leave sediment of any form on existing roads, sidewalks, greenways, or any other travel way. It is the responsibility of the financially responsible Person(s) or entity to have this material removed by the end of each work day.
2. If, at any time, the County finds that accumulated material resulting from a land-disturbing activity is causing a hazard of any kind, the County will have the material removed and charge the financially responsible Person(s) or entity a minimum of \$300 per hour for the first hour or part of hour and \$200 per hour or part of hour there after until the work is completed as specified by the County Erosion and Sedimentation Control staff.

**F. Stormwater Outlet Protection.**

1. Intent. Stream banks and channels downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity and quantity of runoff from the land-disturbing activity.
2. Performance Standard. Any land-disturbing activity shall be conducted so that the post construction runoff is controlled and released in accordance with the design and performance standards specified in Chapter 9: *Stormwater Management*.
3. Erosion and Sedimentation Control Plans.
  - (a) All erosion and sedimentation control plans shall include, or have attached, a plan showing and documenting the size and location of all permanent stormwater control devices.
  - (b) The plan must have a detailed construction sequence that describes the conversion of temporary devices or existing conditions into the permanent stormwater control device.
  - (c) If, at any time during construction, the stormwater management devices result in off-site erosion, the County may require submittal of a revised plan and remediation of the off-site impacts.
  - (d) Land-disturbing activities that require County, state, or federal permits for impacts to any water body shall submit a copy of the approval for those permits and a copy of the plans associated with those permits to the County Erosion and Sedimentation Control Office.

- G. Prior Plan Approval.** No Person shall initiate any land-disturbing activity on a tract if more than 20,000 square feet, or 25,000 square feet for single-family dwellings, is to



be uncovered unless a plan for the activity is filed with the County 30 or more days prior to initiating the activity, and the plan is approved and a land-disturbing permit is granted by the County in accordance with 10.9: Land-Disturbing Permits.

- H. **More Restrictive Rules Shall Apply.** Whenever conflicts exist between these mandatory standards or any other standards in this Chapter and other applicable federal, state, or local laws, ordinance or rules, the more restrictive provision shall apply.
- I. **Ground Cover.** The financially responsible Person for a land-disturbing activity must plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of any phase of construction or development. Except when a shorter timeframe is applicable pursuant to 10.5: Slope Standards or 10.6.A.3: Stabilization, provisions for a ground cover sufficient to restrain erosion must be accomplished within 14 calendar days following completion of any phase of grading or any period of inactivity, regardless of weather conditions, weekends, holidays, equipment malfunction, and/or any extenuating circumstance.
- J. **Erosion and Sedimentation Control Devices.** The financially responsible Person for a land-disturbing activity must install erosion and sedimentation control devices and practices that are sufficient to retain sediment, generated by the land-disturbing activity, within the boundaries of the site.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed 9-24-2018; Ord. passed **xx-xx-xxxx**)

## 10.610.5 SLOPE STANDARDS<sup>577</sup>

- A. The County's GIS data shall be used to determine and indicate where steep, moderate, and gradual slopes exist on a slopes map. Where the accuracy of these data is in question by the applicant, an on-site topographic survey may be provided to the County by a state registered land surveyor or a professional engineer licensed by the state to demonstrate compliance with this Section. The County GIS map (<http://www.chathamgis.com/>) or on-site topographic survey must be submitted with the initial erosion and sedimentation control plan or prior to obtaining a residential lot disturbance permit pursuant to 10.10: Residential Lot Disturbance Permits.
- B. All land-disturbing activity for which an erosion and sedimentation control plan has not been approved prior to December 2, 2008 that requires a plan or a residential lot disturbance permit must meet the following slope standards.
1. *Steep Slopes.*
    - (a) No land-disturbing activity in excess of 5,000 square feet shall occur on any steep slope, except to the extent it is necessary and otherwise

<sup>577</sup> Carries forward SESCO Section 164.6 Slope Standards.

permitted by state law to be used for septic system needs, or for roadway crossings or utilities, where no practicable alternative exists; provided, however, that this limitation shall not apply to subdivision lots which have sketch, preliminary, or final approval prior to December 2, 2008.

- (b) All land-disturbing activity that will be permitted within areas of steep slopes as defined by this Chapter and identified on the County GIS map (<http://www.chathamgis.com/>) must include the following standards on the erosion and sedimentation control plan and all site work must conform to these standards.
  - (1) *Erosion and Sedimentation Control Devices.* The Person conducting the land-disturbing activity shall provide erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land-disturbing activity within the limits of disturbance during construction. All devices and practices must be designed in accordance with this Chapter.
  - (2) *Ground Cover.* The Person conducting the land-disturbing activity shall provide temporary or permanent ground cover sufficient to restrain erosion within seven calendar days following completion of any phase of grading or any period of inactivity. The provisions for ground cover must be provided regardless of weather conditions, weekends, holidays, equipment malfunction, and/or any extenuating circumstance.
  - (3) *Phasing.* Land-disturbing activities must be phased so that no more than one acre of land will be disturbed on steep slopes at any time.
  - (4) *Scale and Contours.* The scale of the erosion and sedimentation control plan must not exceed one inch equals 30 feet and must produce a legible document. Existing and proposed grades shall be depicted at contour intervals of two feet.
  - (5) *Inspections.* All land-disturbing activity conducted on steep slopes must be visually inspected by the financially-responsible Person as specified in 10.9.I: Self-Inspection & Monitoring. Copies of the inspections must be provided to the County Erosion and Sedimentation Control staff. Any erosion observed during these inspections must be immediately repaired and stabilized with temporary or permanent stabilization.
2. *Moderate Slopes.* All land-disturbing activity that will be conducted within areas of moderate slopes as defined by this Chapter and identified on the County GIS map (<http://www.chathamgis.com/>) must include the following standards on the erosion and sedimentation control plan, and all site work must conform to these standards.
  - (a) *Erosion and Sedimentation Control Devices.* The Person conducting the land-disturbing activity shall provide erosion and sedimentation

- control devices and practices that are sufficient to retain the sediment generated by the land-disturbing activity within the limits of disturbance during construction. All devices and practices must be designed in accordance with this Chapter.
- (b) *Ground Cover.* The Person conducting the land-disturbing activity shall provide temporary or permanent ground cover sufficient to restrain erosion within 10 calendar days following completion of any phase of grading or any period of inactivity. The provisions for ground cover must be provided regardless of weather conditions, weekends, holidays, equipment malfunction, and/or any extenuating circumstance.
  - (c) *Phasing.* Land-disturbing activities must be phased so that no more than 10 acres of land will be disturbed on moderate slopes at any time.
  - (d) *Scale and Contours.* The scale of the erosion and sedimentation control plan must not exceed one inch equals 50 feet and must produce a legible document. Existing and proposed grades shall be depicted at contour intervals of two feet.
  - (e) *Inspections.* All land-disturbing activity conducted on gradual slopes must be visually inspected by the financially-responsible Person as specified in 10.9.I: Self-Inspection & Monitoring. Copies of the inspections must be provided to the County Erosion and Sedimentation Control staff. Any erosion observed during these inspections must be immediately repaired and stabilized with temporary or permanent stabilization.
3. *Gradual Slopes.* All land-disturbing activity that will be conducted within areas of gradual slopes as defined by this Chapter and identified on the County GIS map must include the following standards on the erosion and sedimentation control plan, and all site work must conform to these standards.
- (a) *Erosion and Sedimentation Control Devices.* The Person conducting the land-disturbing activity shall provide erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land-disturbing activity within the limits of disturbance during construction. All devices and practices must be designed in accordance with this Chapter.
  - (b) *Ground Cover.* The Person conducting the land-disturbing activity shall provide temporary or permanent ground cover sufficient to restrain erosion within 14 calendar days following completion of any phase of grading or any period of inactivity. The provisions for ground cover must be provided regardless of weather conditions, weekends, holidays, equipment malfunction, and/or any extenuating circumstance.
  - (c) *Phasing.* Land-disturbing activities must be phased so that no more than 15 acres of land will be disturbed on gradual slopes at any time.

- (d) *Scale and Contours.* The scale of the erosion and sedimentation control plan must not exceed one-inch equals 50 feet and must produce a legible document. Existing and proposed grades shall be depicted at contour intervals of two feet.
  - (e) *Inspections.* All land-disturbing activity conducted on gradual slopes must be visually inspected by the financially-responsible Person as specified in 10.9I: Self-Inspection and Monitoring. Copies of the inspections must be provided to the County erosion and sedimentation control staff. Any erosion observed during these inspections must be immediately repaired and stabilized with temporary or permanent stabilization.
4. *Steep Slopes Variance.*
- (a) A property owner may apply to the Board of Commissioners for a variance from the requirements of 10.5.B.1: Steep Slopes.
  - (b) In order for the Board of Commissioners to grant the variance the applicant has the burden of proving the following:
    - (1) The proposed land-disturbing activity on the steep slopes will not result in:
      - i. Significantly increased velocity of flow, deposit of sediment or erosion;
      - ii. Significant threats to water quality;
      - iii. The removal of significant wildlife or plant habitat; or
      - iv. A public nuisance.
    - (2) The provisions of this Section’s steep slope requirements leave the owner no legally reasonable use of the property; and
    - (3) A failure to grant the variance would result in hardship.
  - (c) If the Board of Commissioners grants a variance to the steep slopes requirements of this Chapter, the Board may attach reasonable conditions to the grant of the variance as it deems necessary to achieve the purposes of this Section.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed xx-xx-xxxx)

## 10.710.6 DESIGN & PERFORMANCE STANDARDS FOR EROSION & SEDIMENTATION CONTROL DEVICES

All erosion and sedimentation control devices implemented in connection with a land-disturbing activity must comply with the following design and performance standards:

- A. **Temporary Erosion & Sedimentation Control Devices.** All temporary devices must be designed using the following standards or the [\*North Carolina Erosion and Sediment Control Planning and Design Manual\*](#), whichever is more restrictive.

1. *Drainage Areas.* The maximum drainage area for any temporary erosion and sedimentation control device is 10 acres.
2. *Slopes.* The maximum allowable slopes to be constructed in any temporary erosion and sedimentation control device is two to one (2:1).
3. *Stabilization.* All applicable temporary devices shall be stabilized within seven calendar days.
4. *Runoff.* Runoff for all temporary devices must be calculated using the following parameters:
  - (a) A minimum of a 0.5 rational C value (or comparable for alternative calculation procedures);
  - (b) The most conservative rainfall intensity/time of concentration possible (i.e., highest intensity/shortest time of concentration); and
  - (c) The peak rate of runoff from the 25-year frequency storm.
5. *Volume.* All temporary devices, that require volume calculations, used to trap or settle sediment shall be designed using a value of 3,600 cubic feet per disturbed acre.
6. *Surface Area.* All temporary devices, that require surface area calculations, used to trap or settle sediment must be designed using a minimum of 435 square feet per cubic foot per second of inflow from the design storm.
7. *Baffles.* All temporary devices used to trap or settle sediment will utilize one row of baffles per 10 feet of basin/trap design length. Under no circumstance shall any basin or trap use less than three baffles. Baffles must be constructed of porous material (no silt fence) and arranged so that all runoff entering the device passes through all baffles prior to dewatering.
8. *Swales & Ditches.* All temporary and permanent swales or ditches will be designed to convey runoff from the two- and 10-year, 24-hour storms in a stable manner. Calculations must be provided to document velocity and flow rate of a vegetated and bare soil condition. Velocity in any channel must not exceed the rates specified in Table 10.6-1: Maximum Permissible Velocities for Stormwater Discharges.

**Table 10.6-1: Maximum Permissible Velocities for Stormwater Discharges**

<b>Material</b>	<b>F.P.S.</b>	<b>M.P.S.</b>
Alluvial silts (colloidal)	5.0	1.5
Alluvial silts (non-colloidal)	3.5	1.1
Coarse gravel (non-colloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Fine gravel	5.0	1.5
Fine sand (non-colloidal)	2.5	0.8
Graded, loam to cobbles (non-colloidal)	5.0	1.5

**Table 10.6-1: Maximum Permissible Velocities for Stormwater Discharges**

<b>Material</b>	<b>F.P.S.</b>	<b>M.P.S.</b>
Graded, silt to cobbles (colloidal)	5.5	1.7
Ordinary firm loam	3.5	1.1
Sandy loam (non-colloidal)	2.5	0.8
Shales and hard pans	6.0	1.8
Silt loam (non-colloidal)	3.0	0.9
Stiff clay (very colloidal)	5.0	1.5

**Key:** F.P.S. = feet per second | M.P.S. = meters per second

**Source:** This table has been adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowance velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

- B. **Cut and Fill Limitations.** The County Erosion and Sedimentation Control staff may impose limits on the amount of cut or fill of earth allowed per acre for a land-disturbing activity. The limits will be based on an evaluation of the proposed site development and existing conditions performed by the County staff. A cut-and-fill analysis may be required prior to any plan approval.
- C. **HQW Zones.** The design and performance standards specified in this Section shall also apply as the minimum standards for land-disturbing activity in designated high-quality water zones.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed 9-24-2018; Ord. passed xx-xx-xxxx)

**10.810.7 RESPONSIBILITY FOR MAINTENANCE<sup>578</sup>**

- A. During the development of a site, the Person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this Chapter, the Act, or any order adopted pursuant to this Chapter or the Act. After site development, the landowner or Person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.
- B. The financially responsible Person(s) will be responsible for the installation, maintenance, removal and restoration of all erosion and sedimentation control devices and the establishment of permanent stabilization until a certificate of

<sup>578</sup> Carries forward SESCO Section 164.18 Responsibility for Maintenance.

completion is issued by the County. If any portion of a site, including building lots, is transferred, sold, or otherwise conveyed to another party prior to issuance of a certificate of completion, the financially responsible Person must notify the County of this within 30 days of transfer.

- C. Items that will require ongoing maintenance until a certificate of completion is issued will include, but not be limited to:
1. Restoration of all temporary or permanent erosion control devices to ensure proper function;
  2. Removal of sediment from all temporary or permanent devices prior to accumulation becoming 50% of the design capacity; and
  3. Maintenance of ground cover including mowing, fertilizing, and over-seeding.
- D. Where individual building lot construction begins before a certificate of completion is issued for a land-disturbing activity, the financially responsible Person(s) for the overall site will remain responsible for site maintenance, with the exception of those land-disturbing activities subject to [N.C.G.S. 113A-54.1\(f\)](#). If an agreement is created between the financially responsible Person(s) for the site and the individual lot regarding maintenance of the erosion and sedimentation control measures, a copy of the agreement may be required by the County.
- E. If, after a certificate of completion is issued for the overall site, it is determined by the County that the land-disturbing activity associated with an individual lot that is subject to the control of this Chapter is creating an erosion or sedimentation impact offsite or on the overall site, then the responsibility for maintenance or remediation will be with the individual lot owner or Person in possession or control of that lot where the land-disturbing activity is occurring.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed xx-xx-xxxx)

## 10.910.8 EROSION & SEDIMENTATION CONTROL PLANS<sup>579</sup>

### 10.9.110.8.1 PLAN REQUIRED

- A. **Plan Thresholds.** An erosion and sedimentation control plan shall be prepared and submitted to the County for approval for any land-disturbing activity subject to this Chapter that will uncover an area greater than 20,000 square feet, or 25,000 square feet for single family dwellings.
1. A land-disturbing activity that exceeds 20,000 square feet, or 25,000 square feet for single family dwellings, and that is conducted to convert any land from an existing condition into an exempt activity may require an erosion and sedimentation control plan for the transitional stage of its development, as determined by the Watershed Protection Department.

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<sup>579</sup> Carries forward SESCO Section 164.10 Erosion and Sedimentation Control Plans.

2. A land-disturbing activity of less than 20,000 square feet or 25,000 square feet for single family dwellings that is conducted in or near any surface water, as documented by the County, may require an erosion and sedimentation control plan, as determined by the Watershed Protection Department.
- B. **Access & Haul Roads and Tree Removal.** The following activities are considered a land-disturbing activity, regardless of whether they are contiguous with an existing or proposed land-disturbing activity. These areas will be considered for purposes of determining whether an erosion and sedimentation control plan shall be required.
1. Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity;
  2. Any privately owned land clearing and inert debris (LCID) landfill;
  3. Any tree removal and associated land disturbances, as determined by the erosion control officer on a land in anticipation of any land-disturbing activity in any phase or permitting with the County; and
  4. Any area cleared for use as waste water treatment/disposal or any associated easements.
- C. **Plan Submission.** A plan shall be filed with the County and a copy shall be simultaneously submitted to the County Soil and Water Conservation District at least 30 days prior to the commencement of the proposed activity. The County shall forward to the Director of the Division of Water Quality a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of dewatering or lowering the water table of the tract.
- D. **Financial Responsibility and Ownership.**
1. Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and documentation of property ownership. This statement shall be signed by the Person financially responsible for the land-disturbing activity or their attorney-in-fact. The statement shall include or be accompanied by the following:
    - (a) The mailing and street address of the principal place of business for the Person/entity financially responsible (a P.O. box is not acceptable);
    - (b) The mailing and street address of the principal place of business for the landowner(s) or their North Carolina Registered Agents (a P.O. box is not acceptable);
    - (c) A complete list of partners, managing members and registered agents if the responsible entity or landowner is a group of individuals;
    - (d) A signed seal from a licensed state notary public; and
    - (e) A copy of the current deed for the property.
  2. If the financially responsible Person or landowner is not a resident of the state, a North Carolina Registered Agent must be designated in the statement for the purpose of receiving notice of compliance or noncompliance with the plan, the Act, this Chapter, or rules or orders adopted or issued pursuant to this Chapter.



3. If the financially responsible Person is different from the current landowner, an agreement signed by both parties must be provided allowing the financially responsible Person to conduct the land-disturbing activity on the property.
  4. If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.
- E. **Environmental Policy Act Document.** Any plan submitted for a land-disturbing activity for which an environmental document is required by the State Environmental Policy Act ([N.C.G.S. §§ 113A-1](#) et seq.) or by a County ordinance adopted pursuant to the State Environmental Policy Act shall be deemed incomplete until a complete environmental document is available for review. The County shall promptly notify the Person submitting the plan that the 30-day time limit for review of the plan pursuant to this Chapter shall not begin until a complete environmental document is available for review.
- F. **Content of Plan.**
1. The plan required by this Section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this Chapter. All plan submittals must also include the following content:
    - (a) A map with the location of all existing vegetation, soil classifications and rock outcrops, including a tabulation of these areas and occurrences that will be removed or disturbed as a result of the proposed land-disturbing activity;
    - (b) The location of all proposed utility improvements, including sanitary disposal systems;
    - (c) The location of all proposed dwellings, structures, and other buildings;
    - (d) Profiles and cross sections of all proposed roads and all proposed cut or fill activities;
    - (e) The location of proposed roads, structures, topography and erosion and sedimentation control devices and practices; and
    - (f) A separate map of all existing conditions, topography, structures, and roads for the parcel.
  2. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the County, on request.
  3. All plans submitted for approval must be sealed by a NC Registered Landscape Architect, NC Registered Land Surveyor or a Professional Engineer

licensed by the state of North Carolina, except those specified in [N.C.G.S. 113A-60\(b1\)](#) and 10.10: Residential Lot Disturbance Permits.

(Ord. passed 7-15-2013; Ord. passed **xx-xx-xxxx**)

G. **Soil and Water Conservation District Comments.** The District shall review the plan and submit any comments and recommendations to the County within 20 days after the District received the plan or within any shorter period of time as may be agreed upon by the District and the County. Failure of the District to submit its comments and recommendations within 20 days or within any agreed-upon shorter period of time shall not delay final action on the plan.

H. **Timeline for Decisions on Plans.**

1. The County will review each complete plan submitted to them within 30 days of receipt and will, in writing, notify the Person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to review a complete plan within 30 days of receipt shall be deemed approval.
2. The County will review each revised plan submitted to them within 15 days of receipt and will, in writing, notify the Person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to review a complete plan within 15 days of receipt shall be deemed approval.

I. **Approval and Expiration of Plans.**

1. The County shall only approve a plan upon determining that it complies with all applicable state and local regulations for erosion and sedimentation control. The County shall condition approval of plans upon the applicant's compliance with county, state and federal water quality laws, regulations, and rules.
2. All plan approvals will expire two years from the date on the approval letter unless a land-disturbing permit has been obtained within that initial two-year period and remains in effect as provided in 10.9.H: *Permit Expiration & Renewal*.

J. **Disapproval of Plans.** The County may disapprove a plan based on its content. A disapproval based upon a plans content must specifically state in writing the reasons for disapproval. ~~The County shall not deny a plan based solely on the applicant's need to obtain other development approvals (as that term is defined in N.C.G.S. § 160D 102(13)) for the project.~~<sup>589</sup>

K. **Disapproval Based on Riparian Buffers or Compliance Record.**

1. The County shall disapprove a plan or draft plan if, based upon the content of the plan, the County determines that implementation of the plan would result in a violation of the rules adopted by the Environmental Management

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<sup>589</sup> ~~The last sentence of this paragraph is added pursuant to [SL 2023 142](#).~~

Commission or the County to protect riparian buffers adjacent to surface waters.

2. The County may disapprove a plan or a transfer of a plan under 10.8.L: *Transfer of Plans* upon finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:
  - (a) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to the Act and has not complied with the notice within the time specified in the notice;
  - (b) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due;
  - (c) Has been convicted of a misdemeanor pursuant to [N.C.G.S. § 113A-64\(b\)](#) or any criminal provision of a local ordinance adopted pursuant to the Act; or
  - (d) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to the Act.
3. For purposes of this Paragraph K, an applicant's record shall be considered for only the two years prior to the application date.
4. In the event that a plan is disapproved or a transfer of a plan is disapproved pursuant to this division, the County shall so notify the Director within ~~ten~~ **10** days of the disapproval. The County shall advise the applicant and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding any other appeal provisions of this Chapter, the applicant may appeal the County's disapproval of a plan directly to the State Sedimentation Control Commission.

L. **Transfer of Plans.** The County ~~administering an erosion and sedimentation control program~~ may transfer an erosion and sedimentation control plan approved pursuant to this Section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this Section.

1. The County may transfer a plan if all of the following conditions are met:
  - (a) The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and documentation of property ownership.
  - (b) The County finds all of the following:
    - (1) The plan holder is one of the following:
      - i. A natural Person who is deceased;
      - ii. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved;

- iii. A Person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur; or
  - iv. A Person who has sold the property on which the permitted activity is occurring or will occur.
- (2) The successor-owner holds title to the property on which the permitted activity is occurring or will occur;
  - (3) The successor-owner is the sole claimant of the right to engage in the permitted activity; and
  - (4) There will be no substantial change in the permitted activity.
- 2. The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.
  - 3. The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
  - 4. Notwithstanding changes to law made after the original issuance of the plan, the County may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this Section shall prevent the County from requiring a revised plan pursuant to [N.C.G.S. § 113A-54.1\(b\)](#) or this Chapter.

~~M. **Activity Initiation.** Once the County approves an erosion and sedimentation control plan for land-disturbing activity at a site, the County shall allow the plan holder (as defined in 10.9.1L.1(b)(1) above) to begin land-disturbing activity in accordance with [N.C.G.S. § 160D-110.1\(h\)](#) and the approved plan, notwithstanding that other development approvals that may be required from the County for the project have not yet been obtained. In accordance with [N.C.G.S. § 160D-108\(e\)](#), where multiple local development permits are required to complete a development project, approval of an erosion and sedimentation control plan is not an initial development permit for purposes of the vesting protections of that subsection.<sup>561</sup>~~

N.M. **Notice of Activity Initiation.** No Person may initiate a land-disturbing activity before notifying the County of the date that land-disturbing activity will begin. This shall be satisfied by completing and submitting the construction notification card provided by the County with the land-disturbing permit.

O.N. **Display of Plan Approval.** A plan approval issued under this Section shall be prominently displayed until all construction is complete, all temporary measures have been removed, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.

P.O. **Required Revisions.**

<sup>561</sup> ~~This paragraph is added pursuant to [SL 2023-142](#).~~

1. After approving a plan, if the County, either upon review of the plan or inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the County shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved plan, the County determines that the plan is inadequate to meet the requirements of this Chapter, the County may require any revision of the plan that is necessary to comply with this Chapter.
2. The financially-responsible Person(s) is required to notify the County Erosion and Sedimentation Control staff, in writing, of any revision to the approved plan during the course of construction. The County staff will determine if revised plans must be submitted, reviewed, and approved.

**E.P. Amendment to a Plan.** Applications for amendment of a plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until a time as the amendment is approved by the County, the land-disturbing activity shall not proceed except in accordance with the plan as originally approved.

**R.Q. Failure to File a Plan.** Any Person engaged in land-disturbing activity, that exceeds 20,000 square feet, who fails to file a plan in accordance with this Chapter, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this Chapter.

**S.R. Deadlines for Response.** When the Person submitting the plan fails to respond to a disapproval letter from the Erosion Control Division staff with either revised plans or written correspondence within 90 days, the County will assume that the application for plan approval has been abandoned. The County will give warning in writing to the Person submitting the plan before terminating the review. Plan review fees are not refundable when an application is abandoned.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed 9-24-2018; Ord. passed xx-xx-xxxx)

### **10.9.210.8.2 BASIC CONTROL OBJECTIVES**

An erosion and sedimentation control plan may be disapproved if the plan fails to address the following control objectives or any of the requirements of this Chapter:

- A. **Identify Critical Areas.** On-site areas that are subject to severe erosion, and off-site areas that are especially vulnerable to damage from erosion and/or sedimentation must be identified and receive special attention;
- B. **Limit Time of Exposure.** All land-disturbing activities must be planned and conducted to limit exposure to the shortest time specified in N.C.G.S. 113A-57, the rules of this Chapter, or as directed by the Approving Authority.
- C. **Limit Exposed Areas.** All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time;

- D. **Control Surface Water.** Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure;
- E. **Control Sedimentation.** All land-disturbing activity is to be planned and conducted to prevent off-site sedimentation damage; and
- F. **Manage Stormwater Runoff.** When the increase in the velocity and quantity of stormwater runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, the sedimentation and erosion control plan is to include measures to mitigate the increases to minimize accelerated erosion of the site and increased sedimentation/accelerated erosion of the receiving channel.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed xx-xx-xxxx)

## 10.1010.9 LAND-DISTURBING PERMITS

- A. **Issuance.** It shall be unlawful to conduct any land-disturbing activity for which an erosion and sedimentation control plan is required without first obtaining a land-disturbing permit from the County. Permits may be obtained by approval of an erosion and sedimentation control plan, completion of the land-disturbing permit application and by submitting the appropriate fees. No permit shall be issued until a time as the County is assured that the proposed land-disturbing activity will be carried out in accordance with the proposed soil erosion and sedimentation control plan.
- B. **Major Subdivisions.** A land-disturbing permit for a Tier 1 or Tier 2 major subdivision will not be issued until the Subdivision Administrator has approved the construction plan. The applicant must provide documentation of the approval to the County Erosion and Sedimentation Control Office.
- C. **Additional Permits.** Land-disturbing permits for projects that require approval from the United States Army Corps of Engineers or the Department's Division of Water Quality will not be issued until the County is provided documentation of the approvals or that the project is exempt from obtaining these approvals. Other required state or federal permits may be considered in the same manner for the issuance of a land-disturbing permit.
- D. **Preconstruction Meeting.** When deemed necessary by the Approving Authority, a preconstruction meeting with County Erosion and Sedimentation Control staff may be required prior to the issuance of any land-disturbing permit, and the preconstruction meeting noted on the approved plan
- E. **Additional Documentation.** The County may require copies of the bid documents for the site construction after the bids have been awarded.
- F. **Limitations.** The County may deny issuance of a land-disturbing permit upon finding that an applicant, or a parent, subsidiary or other affiliate of the applicant has, since approval of the plan, engaged in any of the compliance-related conduct

specified in 10.8.K: *Disapproval Based on Riparian Buffers or Compliance Record* for which the County may also disapprove a plan.

- G. **Exceptions.** No permit shall be required for a land-disturbing activity that does not require erosion and sedimentation control plan, except as provided in 10.10: *Residential Lot Disturbance Permits*.
- H. **Permit Expiration and Renewal.**
1. The land-disturbing permit shall be valid for two years from the date on the permit. If no substantial land-disturbing activity has begun within that initial two-year period, the permit becomes null and void.
  2. If the land-disturbing activity has substantially begun, but a certificate of completion has not been issued per 10.11: *Certificates of Compliance & Completion* within two years of the date on the permit, the permit must be renewed in order for land-disturbing activity to continue.
  3. A permit may be renewed by submitting a renewal application 30 days prior to the expiration date and the appropriate land disturbance permit renewal fee.
  4. Failure to renew the land-disturbing permit, in accordance with this Section, is the same as failure to submit an erosion and sedimentation control plan in accordance with the Chapter.
  5. Long term land-disturbing activities that require a permit under this Chapter such as LCID sites, stockpiles, storage yards, borrow areas and the like will be required to renew the land-disturbing permit as described above until all areas are completed as per the plan and restored and stabilized as determined by the Erosion and Sedimentation Control Officer.
- I. **Self-Inspection and Monitoring.** All sites receiving a land-disturbing permit from the County must be inspected by the financially responsible Person(s), or an agent thereof, at a minimum of once a week and within 24 hours of any rainfall of one inch or greater and in accordance with [15A NCAC 04B .0131](#). Copies of all self-inspection reports must be provided to the County Erosion and Sedimentation Control Office within 15 days of the inspection. Self-inspection reports may be submitted in paper or electronic form. Self-inspections must be performed until a certificate of completion has been issued by the County. Except as may be required under federal law, rule or regulation, no periodic self-inspections or rain gauge installation is required on individual residential lots where less than one acre is being disturbed on each lot.
- J. **Completion.** All site improvements, as shown on the approved plan, shall be completed by the expiration date of the permit and a certificate of completion obtained from the County.
- K. **Revocation of Permit.**
1. Whenever a Person conducting a land-disturbing activity is not complying with the provisions of this Chapter, the land-disturbing permit, the approved erosion and sedimentation control plan or any amendments to the plan, the

Erosion and Sedimentation Control Officer may revoke the land-disturbing permit for the site.

2. Notice of revocation may be sent to the Person conducting the land-disturbing activity by registered or certified mail, return receipt requested, or by any other means provided in [N.C.G.S. § 1A-1, Rule 4](#).
3. Upon receipt of the revocation notice, the financially-responsible Person(s) must immediately order all land-disturbing activities to stop except those which are specifically directed towards bringing the site into compliance. Once the site has been inspected and remedial work approved by the Erosion Control staff, the responsible party may reapply for a land-disturbing permit and pay the appropriate fee.
4. Resumption of land-disturbing activities other than those necessary to bring the site back into compliance before the re-issuance of the land-disturbing permit will constitute a violation of this Chapter.
5. The Person conducting the land-disturbing activity may appeal the revocation of a permit following procedures set out in 10.13: Plan Appeals.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord passed xx-xx-xxxx)

## 10.11 10.10 RESIDENTIAL LOT DISTURBANCE PERMITS<sup>582</sup>

- A. Any land-disturbing activity associated with the construction or placement of a single-family or multi-family residence that will uncover 25,000 square feet or less requires a residential lot disturbance permit. The permit will be issued upon compliance with the following requirements:
  1. Compliance with a typical lot erosion and sedimentation control plan specifying a set of standard erosion and sedimentation control device details as specified in the *Erosion & Sediment Control Planning & Design Manual*;
  2. Submission of a lot survey showing the proposed home, septic, driveway, and clearing limit location;
  3. Submission of the GIS map identifying the type of slopes on the site as required by 10.5: *Slope Standards*; and
  4. Payment of the fee for a residential lot disturbance permit, which is a fixed amount and not calculated per acre.
- B. All land-disturbing activity associated with a residential lot disturbance permit is subject to inspections, maintenance, and other applicable sections of this Chapter. The County may require the installation of additional controls as the land-disturbing activity commences to address localized site conditions.

<sup>582</sup> Carries forward SESCO Section 164.13 Residential Lot Disturbance Permits.



- C. Erosion or sedimentation damage that occurs as a result of the actions subject to a residential lot disturbance permit will be subject to the enforcement actions of this Chapter.
- D. Land-disturbing activity associated with a residential lot disturbance permit is subject to the applicable requirements of 10.5: *Slope Standards*.
- E. If a land-disturbing activity associated with a residential lot disturbance permit is conducted in or near any surface water, as documented by the County, a plan may be required as specified in 10.9: *Land-Disturbing Permits*.
- F. A certificate of completion will be issued as specified in 10.11: *Certificates of Compliance & Completion* when the land-disturbing activity is complete and all areas associated with the disturbance are stabilized in accordance with the typical lot erosion and sedimentation control plan and this Chapter. The certificate of completion is necessary to obtain a certificate of occupancy from the County.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed 9-24-2018; Ord. passed xx-xx-xxxx)

## ~~10.12~~10.11 CERTIFICATES OF COMPLIANCE & COMPLETION<sup>583</sup>

### A. **Certificate of Compliance.**

1. No land alterations, clear-cutting of trees, grading, cutting, or filling associated with a land-disturbing permit shall commence until erosion and sedimentation control measures have been installed and a certificate of compliance has been issued by the County.
2. Land disturbance shall be limited to only those areas necessary to install erosion and sedimentation control devices prior to the issuance of the certificate of compliance.

### B. **Certificate of Completion.**

1. Upon completion of all land-disturbing activities and the restoration and stabilization of all areas pursuant to a land-disturbing permit or a residential lot disturbance permit, the County will issue a certificate of completion. The following requirements must also be met to be eligible for the certificate of completion:
  - (a) A minimum of 90% cover of vegetation established for two growing seasons (applicable only to land-disturbing permit);
  - (b) All proposed structures on the approved plan must be complete and in place (applicable only to land-disturbing permit);

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<sup>583</sup> Carries forward SESCO Section 164.25 Certificates of Compliance and Completion.

- (c) A stable conveyance of post-construction runoff into receiving channels or waters with no visible erosion; and
  - (d) All outstanding violations, corrective actions and/or civil penalties assessed by the County must be settled.
2. All temporary erosion and sedimentation control devices must be removed and the areas restored with vegetation or other acceptable ground cover.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008)

### ~~10.13~~10.12 FEES<sup>584</sup>

- A. The County may establish a fee schedule for the review and approval of plans, the issuance of land-disturbing permits and residential lot disturbance permits, the renewal of permits, and other actions associated with the application of this Chapter.
- B. In establishing the fee schedule, the County shall consider the administrative and personnel costs incurred for reviewing the plans and for related compliance activities.
- C. All fees submitted to the County for plan reviews and permits are non-refundable and non-transferable.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008)

### ~~10.14~~10.13 PLAN APPEALS

- A. **Appeals.** Except as provided in 10.13.B: Alternative Appeals, the disapproval or modification by the County of any proposed plan or a land-disturbing permit shall entitle the Person submitting the plan or permit to a public hearing, to appeal the decision, if the Person submits written demand for a hearing within 15 days after receipt of written notice of the disapproval or modification.
  - 1. A public hearing held pursuant to this Section shall be conducted by the County Board of Commissioners within 30 days after the date of the request for a hearing pursuant to procedures adopted by the County.
  - 2. The County Board of Commissioners will render its final decision on any plan or land-disturbing permit within 30 days of the public hearing.
  - 3. If the County upholds the disapproval or modification of a plan or land-disturbing permit following the public hearing, the Person submitting the plan or permit is entitled to appeal the County's decision to the State Sedimentation Control Commission as provided in [N.C.G.S. § 113A-61\(c\)](#) and [15A NCAC 4B .0118\(d\)](#).

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<sup>584</sup> Carries forward SESCO Section 164.14 Fees.

- B. **Alternative Appeals.** In the event that a plan is disapproved pursuant to 10.8.K: Disapproval Based on Riparian Buffers or Compliance Record or a land-disturbing permit denied pursuant to 10.9.F: Limitations, the applicant may appeal the County's disapproval of the plan directly to the State Sedimentation Control Commission.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed xx-xx-xxxx)

## 10.1510.14 INSPECTIONS & INVESTIGATIONS<sup>585</sup>

- A. **Inspection.** Agents, officials, or other qualified Persons authorized by the County, will periodically inspect land-disturbing activities to ensure compliance with the approved erosion and sedimentation control plan, the Act, this Chapter, or rules or orders adopted or issued pursuant to this Chapter, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the letter of approval of each plan.
- B. **Willful Resistance, Delay, or Obstruction.** No Person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the County while that Person is inspecting or attempting to inspect a land-disturbing activity under this Section.
- C. **Investigation.** The County has the power to conduct an investigation as it may reasonably deem necessary to carry out its duties as prescribed in this Chapter, and who presents appropriate credentials for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.
- D. **Statements and Reports.** The County shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.
- E. **Additional Measures.** If, through inspections, the County determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of all protective practices required by the approved soil erosion and sedimentation control plan, the Person conducting the land-disturbing activity will be required to take additional protective action.
- F. **Notice of Violation.**
1. If the County determines that a Person engaged in land-disturbing activity has failed to comply with the Act, this Chapter, or rules or orders adopted or issued pursuant to this Chapter, a notice of violation shall be served upon that Person. The notice may be served by registered or certified mail, return receipt requested, or by any other means provided in [N.C.G.S. § 1A-1, Rule 4](#). The notice shall specify a date by which the Person must comply with the Act, or this

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<sup>585</sup> Carries forward SESCO Section 164.20 Inspections and Investigations.

Chapter, or rules or orders adopted pursuant to this Chapter, and inform the Person of the corrective actions that need to be taken to comply with the Act, this Chapter or rules or orders adopted pursuant to this Chapter. Any Person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in [N.C.G.S. § 113A-64](#) and this Chapter.

2. If the Person engaged in the land-disturbing activity has not received a previous notice of violation under this Section, the County shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program on behalf of the Approving Authority, referral to a cooperative extension program, or by the provision of written materials such as Department guidance documents. The notice of violation may be served in the manner prescribed for service by [N.C.G.S. § 1A-1, Rule 4](#), and shall include information on how to obtain assistance in developing corrective measures.

G. **Continuing Notice of Violation.** If the County determines that a Person engaged in land-disturbing activity has failed to comply with the corrective actions required by a notice of violation, a continuing notice of violation shall be served upon that Person. The notice may be served by any means authorized under [N.C.G.S. § 1A-1, Rule 4](#). The notice shall specify a date by which the Person must comply with the Act, or this Chapter, or rules or orders adopted pursuant to this Chapter, and inform the Person of the corrective actions that need to be taken to comply with the Act, this Chapter, or rules or orders adopted pursuant to this Chapter. Any Person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in [N.C.G.S. § 113A-64](#) and this Chapter.

H. **Stop Work Order.**

1. The County may issue a stop work order if it finds that a land-disturbing activity is being conducted in violation of this Chapter or of any rule adopted or order issued pursuant to this Chapter, that the violation is knowing and willful, and that either:
  - (a) Off-site sedimentation has eliminated or severely degraded a use in a surface water or that degradation is imminent;
  - (b) Off-site sedimentation has caused severe damage to adjacent land or that damage is imminent; or
  - (c) The land-disturbing activity is being conducted without an approved plan.
2. The stop work order shall be in writing and shall state what work is to be stopped and what measures are required to abate the violation. The order shall include a statement of the findings made by the County pursuant to 10.14.A: Inspection, above, and shall list the conditions under which work that has been stopped by the order may be resumed. The delivery of equipment and materials that does not contribute to the violation may continue while the stop work order is in effect. A copy of this Section shall be attached to the order.

3. The stop work order shall be served by the County Sheriff or by some other Person duly authorized by law to serve process as provided by [N.C.G.S. § 1A-1, Rule 4](#), and shall be served on the Person at the site of the land-disturbing activity who is in operational control of the land-disturbing activity. The Sheriff or other Person duly authorized by law to serve process shall post a copy of the stop work order in a conspicuous place at the site of the land-disturbing activity. The County shall also deliver a copy of the stop work order to any Person that the County has reason to believe may be responsible for the violation.
4. The directives of a stop work order become effective upon service of the order. Thereafter, any Person notified of the stop work order who violates any of the directives set out in the order may be assessed a civil penalty as provided in this Chapter. A stop work order issued pursuant to this Section may be issued for a period not to exceed five days.
5. The County shall designate an employee to monitor compliance with the stop work order. The name of the employee so designated shall be included in the stop work order. The employee so designated, or the County, shall rescind the stop work order if all the violations for which the stop work order are issued are corrected, no other violations have occurred, and all measures necessary to abate the violations have been taken. The County shall rescind a stop work order that is issued in error.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed xx-xx-xxxx)

## 10.1610.15 INJUNCTIVE RELIEF<sup>586</sup>

- A. **Violation of Local Program.** Whenever the County has reasonable cause to believe that any Person is violating or threatening to violate any ordinance, rule, regulation, or order adopted or issued by the County, or any term, condition, or provision of an approved plan, it may, either before or after the institution of any other action or proceeding authorized by this Chapter, institute a civil action in the name of the County, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of the County in which the violation is occurring or is threatened.
- B. **Abatement of Violation.** Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this Section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this Chapter.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed xx-xx-xxxx)

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<sup>586</sup> Carries forward SESCO Section 164.21 Injunctive Relief.

**10.1710.16 PENALTY<sup>587</sup>****A. Civil Penalties.**

1. *Civil Penalty for a Violation.* Any Person who violates any of the provisions of this Chapter, or a rule or order (including, but not limited to, a stop work order) adopted or issued pursuant to this Chapter, or who initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty amount that the County may assess per violation is \$5,000. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the Person has not been assessed any civil penalty under this Section for any previous violation, and that Person has abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this Section for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is \$25,000.
2. *Civil Penalty Assessment Factors.* The County Manager or their designee shall determine the amount of the civil penalty based upon the following factors:
  - (a) The degree and extent of harm caused by the violation;
  - (b) The cost of rectifying the damage;
  - (c) The amount of money the violator saved by non-compliance;
  - (d) Whether the violation was committed willfully; and
  - (e) The prior record of the violator in complying or failing to comply with this Chapter.

(Ord. passed 7-15-2013; Ord. passed xx-xx-xxxx)

3. *Notice of Civil Penalty Assessment.*
  - (a) The County Manager or their designee shall provide notice of the civil penalty amount and basis for assessment to the Person assessed.
  - (b) The notice of assessment shall be served by any means authorized under [N.C.G.S. § 1A-1, Rule 4](#), and shall direct the violator to either pay the assessment or contest the assessment, within 30 days, by filing a petition for a hearing with the Chatham County Board of Commissioners or their designee, or for violations occurring within the corporate limits of the Town of Pittsboro and its extraterritorial area with the Pittsboro Board of Adjustment.

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<sup>587</sup> Carries forward SESCO Section 164.99 Penalty.

- (c) Violators have the option to request a remission of their civil penalty by the County within 30 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to [N.C.G.S. Chapter 150B](#) and a stipulation of the facts on which the assessment was based.
4. *Final Decision.* The final decision on contested assessments shall be made by the Chatham County Board of Commissioners or their designee in accordance with County ordinance, rules, and regulations that govern the erosion and sedimentation control program. The Pittsboro Board of Adjustment must consider the civil penalty assessment factors listed in 10.16.A.2, above, and any extenuating or mitigating circumstances in determining whether to uphold, reduce, or waive the civil penalty.
5. *Appeal of Final Decision.*
  - (a) Appeal of the final decision of the Chatham County Board of Commissioners shall be to the Superior Court of the County where the violation occurred. Such appeals must be made within 30 days of the final decision of the governing body of the County.
  - (b) The Town Board of Adjustment's decision is appealable to the Superior Court of Chatham County in the nature of certiorari pursuant to [N.C.G.S. Section 160D-1402](#). Such appeals must be filed with the Clerk of Superior Court by the later of 30 days after the Board of Adjustment's decision is filed with the Clerk to the Board of Adjustment or 30 days after a written copy of the decision is given to the responsible Person.
6. *Remission of Civil Penalties.*
  - (a) A request for remission of a civil penalty imposed under [N.C.G.S. § 113A-64](#) may be filed with the County within 30 days of receipt of the notice of assessment.
  - (b) A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to [N.C.G.S. Chapter 150B](#) and a stipulation of the facts on which the assessment was based.
  - (c) The following factors shall be considered in determining whether a civil penalty remission request will be approved:
    - (1) Whether one or more of the civil penalty assessment factors in [N.C.G.S. § 113A-64](#) (a)(3) were wrongly applied to the detriment of the petitioner;
    - (2) Whether the petitioner abated continuing environmental damage resulting from the violation;
    - (3) Whether the violation was inadvertent or a result of an accident;
    - (4) Whether the petitioner has been assessed civil penalties for any previous violations;

- (5) Whether payment of the civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship; and
- (6) The assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

7. *Collection.*

- (a) If a Person does not pay a civil penalty within 30 days after it is due, the County may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court of the County where the violation occurred, or the violator's residence or principal place of business is located.
- (b) A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested and a remission that is not requested is due when the violator is served with a notice of assessment. An assessment that is contested or a remission that is requested is due at the conclusion of the administrative and judicial review of the assessment.

8. *Credit of Civil Penalties.*

- (a) The clear proceeds of civil penalties collected by the County under this Section shall be remitted to the state's Civil Penalty and Forfeitures Fund in accordance with [N.C.G.S. § 115C-457.2](#).
- (b) Penalties collected by the County may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs by the County for the prior fiscal year.

9. *Criminal Penalties.* Any Person who knowingly or willfully violates any provision of this Chapter, or rule or order adopted or issued pursuant to this Chapter, or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000 as provided in [N.C.G.S. § 113A-64](#).

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed 9-24-2018; Ord. passed xx-xx-xxxx)



### 10.1810.17 RESTORATION AFTER NON-COMPLIANCE<sup>588</sup>

The County may require a Person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by this Chapter, to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this Chapter.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed xx-xx-xxxx)

### 10.1910.18 DEFINITIONS<sup>589</sup>

For the purposes of this Chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

**Accelerated Erosion:** Any increase over the rate of natural erosion as a result of land-disturbing activity.

**Act:** The North Carolina Sedimentation Pollution Control Act of 1973 ([N.C.G.S. Chapter 113A, Article 4](#)) and all rules and orders adopted pursuant to it.

**Adequate Erosion Control Measure, Structure or Device:** One that controls the soil material within the land area under responsible control of the Person conducting the land-disturbing activity.

**Affiliate:** A Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another Person.

**Applicant:** The financially responsible Person submitting a plan for approval or applying for a land-disturbing permit.

**Approving Authority:** The Division or other State or a local government agency that has been delegated erosion and sedimentation plan review responsibilities in accordance with the provisions of the Act.

**Being Conducted:** A land-disturbing activity that has been initiated and not deemed complete by the Approving Authority.

**Borrow:** Fill material that is required for on-site construction that is obtained from other locations.

**Borrow Area:** An area from which borrow is obtained and which is not regulated by the provisions of the Mining Act of 1971 ([N.C.G.S. Chapter 74, Article 7](#)).

**Coastal Counties:** The following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington.

<sup>588</sup> Carries forward SESCO Section 164.22 Restoration After Non-Compliance.

<sup>589</sup> Carries forward SESCO Section 164.3 Definitions.

**Commission:** The North Carolina Sedimentation Control Commission.

**Department:** The North Carolina Department of Environmental Quality.

**Diffuse Flow:** Non-concentrated, low velocity flow of stormwater runoff that is spread out over or distributed evenly along the same elevation. Diffuse flow prevents or reduces scour and erosion and provides for increased ground contact for infiltration and pollutant removal.

**Director:** The Director of the Division of Energy, Mineral, and Land Resources of the Department of Environmental Quality.

**Discharge Point or Point of Discharge:** The point where runoff leaves a tract of land where a land-disturbing activity has occurred or enters a lake or natural watercourse.

**District:** The Chatham County Soil and Water Conservation District created pursuant to [N.C.G.S. Chapter 139](#).

**Energy Dissipator:** A device used to reduce the energy of flowing water to prevent erosion.

**Erosion:** The wearing away of land surfaces by the action of wind, water, gravity, ice, other geologic agents, or any combination thereof.

**Financially Responsible Person:**

- A. The developer or other Person who has or holds themselves out as having financial or operation control over the land-disturbing activity; or
- B. The landowner or Person in possession or control of the land that has directly or indirectly allowed the land-disturbing activity, or benefitted from it or failed to comply with a duty imposed by any provision of this Chapter, the Act, or any order adopted pursuant to this Chapter or the Act.

**Gradual Slope:** Includes all areas that are not designated steep or moderate slope areas as provided on the [County GIS website](#).

**Ground Cover:** Also called stabilization or ground cover. Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

**High Quality Water (HQW) Zones:** Areas within 575 feet of high quality waters, for the coastal counties, and within one mile of and draining to high quality waters for the remainder of the state.

**High Quality Waters:** Surface water that is classified as such in [15A NCAC 02B .0224](#) which is incorporated herein by reference including subsequent amendments and additions.

**Lake or Natural Watercourse:** Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake, or pond.

**Land-Disturbing Activity:** Any use of the land by any Person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural or existing ground cover or topography and that may cause or contribute to sedimentation.

**Local Government:** Any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.

**Moderate Slope:** Includes all land on gradients of 15 to 24.9%, except for gradients of 20% or greater on soils with a RUSLE K-Factor of 0.49 or higher. Moderate Slope Areas are provided on the [County GIS website](#).

**Natural Erosion:** The wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by humans.

**Parent:** An affiliate that directly, or indirectly through one or more intermediaries, controls another Person.

**Person:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

**Person Conducting Land-Disturbing Activity:** Any Person who may be held responsible for violation unless expressly provided otherwise by this Chapter, the Act, or any order adopted pursuant to this Chapter or the Act.

**Person Who Violates or Violator:** As used in [N.C.G.S. § 113A-64](#), means: any landowner or other Person who has financial or operational control over the land-disturbing activity; or who has directly or indirectly allowed the activity, and who has failed to comply with any provision of the Act, the rules of this Chapter, or any order or local ordinance adopted pursuant to the Act as it imposes a duty upon that Person.

**Phase of Grading:** One of two types of grading: rough or fine.

**Plan:** An erosion and sedimentation control plan.

**Riparian Buffer:** A natural or vegetated area that provides a protective distance between any surface water or wetland, and an adjacent land area or land-disturbing activity. The **Riparian Buffer** shall be measured horizontally on a line perpendicular from the top of the bank or from the normal pool elevation of a perennial water body or wetland.

**Rusle-K Factor:** Revised Universal Soil Loss Equation K-Factor is a measure of a soil's potential to erode. **K-Factor** values for each soil in the County are provided in the [Chatham County Soil Survey](#), in the Physical Soil Properties table under the Erosion Factors column. **K-Factors** shall be those provided under Kf (fine earth fraction) within the upper six inches of the soil.

**Sediment:** Solid particulate matter, both mineral and organic, that has been or is being transported by wind, water, air, gravity, or ice from its site of origin.

**Sedimentation:** The process by which sediment, resulting from accelerated erosion, has been or is being transported off the site of the land-disturbing activity or into any surface water.

**Siltation:** Sediment resulting from accelerated erosion which may be settled or removed by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

**Site:** The area of a land-disturbing activity within the proposed or existing limits of disturbance.

**Steep Slope:** Includes all land on gradients of 25% or greater, or 20% or greater on soils with a RUSLE K-Factor of 0.49 or higher. Steep Slope Areas are provided on the [County GIS website](#).

**Storm Drainage Facilities:** The system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

**Stormwater Runoff:** The runoff of water resulting from precipitation in any form and occurring immediately after rainfall or melting.

**Subsidiary:** An affiliate that is directly, or indirectly through one or more intermediaries, controlled by another Person.

**Surface Water:** Any stream (perennial, intermittent or ephemeral), river, brook, swamp, wetland, sound, bay, creek, run, branch, canal, waterway, estuary, draw and any reservoir, lake, or pond, natural or impounded in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

**Ten-Year Storm:** A rainfall of an intensity that, based on historical data, is predicted by a method acceptable to the Approving Authority to be equaled or exceeded, on the average, once in 10 years, and of a duration that will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

**Tract:** All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

**Twenty-Five Year Storm:** A rainfall of an intensity that, based on historical data, is predicted by a method acceptable to the Approving Authority to be equaled or exceeded on the average, once in 25 years, and of a duration that will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

**Uncovered:** The removal of ground cover from, on or above the soil surface.

**Undertaken:** The initiating of any activity, or phase of activity, that results or will result in a change in the ground cover or topography of a tract of land.

**Velocity:** The speed of flow through a cross section perpendicular to the direction of the main channel at the peak flow of the storm of interest but not exceeding bank full flows. Overload flows are not to be included for the purpose of computing **Velocity** of flow.

**Waste:** Surplus earth materials resulting from on-site land-disturbing activities and being disposed of at other locations.

**Waste Area:** An area for waste other than landfills regulated by the Department's Division of Waste Management.

(Ord. passed 3-21-2005; Ord. passed 1-1-2006; Ord. passed 12-2-2008; Ord. passed xx-xx-xxxx)

# CHAPTER 11 FLOOD DAMAGE PREVENTION<sup>590</sup>

## 11.1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, & OBJECTIVES

### 11.1.1 STATUTORY AUTHORIZATION

- A. The Legislature of the State of North Carolina has in Chapter 143, Article 21, Part 6: Floodway Regulation; Chapter 153A, Article 6: Delegation and Exercise of the General Police Power; Chapter 160A, Article 8: Delegation and Exercise of the General Police Power; and Chapter 160D, Article 7: Zoning Regulation, Article 9: Regulation of Particular Uses and Areas, and Article 11: Building Code Enforcement of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.
- B. Therefore, the Board of County Commissioners of Chatham County, North Carolina does ordain the findings of fact, statement of purpose, and objectives specified below.

### 11.1.2 FINDINGS OF FACT

- A. The flood prone areas of Chatham County are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas by uses vulnerable to floods or other hazards.

### 11.1.3 STATEMENT OF PURPOSE

It is the purpose of this Chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights, or velocities;

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<sup>590</sup> This Chapter carries forward the current Flood Damage Prevention Ordinance with minor edits to formatting and grammar and to clarify the text. Proposed edits are shown in red text and include edits proposed by staff. Proposes to relocate the definitions to the end of the chapter. Updates internal cross-references (but does not show these in red text).

- B. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- E. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards to other lands.

#### **11.1.4 OBJECTIVES**

The objectives of this Chapter are to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business losses and interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges that are located in flood prone areas;
- F. Minimize damage to private and public property due to flooding;
- G. Make flood insurance available to the community through the National Flood Insurance Program;
- H. Maintain the natural and beneficial functions of floodplains;
- I. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- J. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

## **11.2 GENERAL PROVISIONS**

### **11.2.1 LANDS TO WHICH THIS CHAPTER APPLIES**

This Chapter applies to all Special Flood Hazard Areas (SFHAs) within the jurisdiction of Chatham County and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

### **11.2.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The SFHAs are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) dated July 19<sup>th</sup>, 2022, for Chatham County and

associated Digital Flood Insurance Rate Map (DFIRM) panels, including any digital data developed as part of the FIS, and any revision thereto, which are adopted by reference and declared a part of this Chapter and any revision thereto.

### **11.2.3 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT**

A Floodplain Development Permit is required in conformance with the provisions of this Chapter prior to the commencement of any development activities within SFHAs determined in accordance with 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard*.

### **11.2.4 COMPLIANCE**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Chapter and other applicable regulations.

### **11.2.5 ABROGATION & GREATER RESTRICTIONS**

This Chapter does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **11.2.6 INTERPRETATION**

In the interpretation and application of this Chapter all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under State statutes.

### **11.2.7 WARNING & DISCLAIMER OF LIABILITY**

- A. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by human-made or natural causes. This Chapter does not imply that land outside the SFHAs or uses permitted within such areas will be free from flooding or flood damages.
- B. This Chapter does not create liability on the part of Chatham County or by any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

### **11.2.8 PENALTIES FOR VIOLATION**

- A. Violation of the provisions of this Chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, constitutes a Class 1 misdemeanor pursuant to [N.C.G.S. § 143-215.58](#).

- B. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than 30 days, or both. Each day such violation continues is considered a separate offense.
- C. Nothing in this Chapter prevents Chatham County from taking such other lawful action as is necessary to prevent or remedy any violation.

## 11.3 ADMINISTRATION

### 11.3.1 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Chatham County Manager or their designee shall administer and implement this Chapter.

### 11.3.2 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT, & CERTIFICATION REQUIREMENTS

- A. **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within SFHAs. The following items shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit:
  - 1. A plot plan drawn to scale which shall include, at a minimum, the following specific details of the proposed floodplain development:
    - (a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
    - (b) The boundary of the SFHA as delineated on the Flood Insurance Rate Map (FIRM) or other flood map as determined in 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard*, or a statement that the entire lot is within the SFHA;
    - (c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard*;
    - (d) The boundary of the floodway(s) or non-encroachment area(s) as determined in 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard*;
    - (e) The Base Flood Elevation (BFE) where provided as set forth in 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard*, 11.4.1: *General Standards*, 11.4.2: *Specific Standards*, or 11.4.3: *Standards for Floodplains Without Established Base Flood Elevations*;
    - (f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and



- (g) Certification of the plot plan by a registered land surveyor or professional engineer;
2. Proposed elevation, and method thereof, of all development within a SFHA including, but not limited to:
  - (a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
  - (b) Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE, A or AO will be floodproofed; and
  - (c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;
3. If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, at a minimum, installation, exercise, and maintenance of floodproofing measures;
4. A Foundation Plan, drawn to scale, that includes details of the proposed foundation system to ensure all provisions of this Chapter are met. These details include but are not limited to:
  - (a) The proposed method of elevation, if applicable (e.g., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
  - (b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with 11.4.2E.4, when solid foundation perimeter walls are used in Zones A, AO, AE, and A1 -30;
5. Usage details of any enclosed areas below the Regulatory Flood Protection Elevation (RFPE);
6. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
7. Copies of all other Local, State, and Federal permits required prior to Floodplain Development Permit issuance (e.g., Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.);
8. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure compliance with 11.4.2G: *Recreational Vehicles* and 11.4.2H: *Temporary Non-Residential Structures*; and
9. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

B. **Permit Requirements.** The Floodplain Development Permit shall include, at a minimum:

1. A complete description of all the development to be permitted under the Floodplain Development Permit. (e.g., house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials);
2. The SFHA determination for the proposed development per available data specified in 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard*;
3. The regulatory flood protection elevation required for the reference level and all attendant utilities;
4. The regulatory flood protection elevation required for the protection of all public utilities;
5. All certification submittal requirements with timelines;
6. A statement that no fill material or other development shall encroach into the floodway or non- encroachment area of any watercourse unless the requirements of 11.4.5: *Floodways and Non-Encroachment Areas* have been met;
7. The flood openings requirements, if in Zones A, AO, AE, or A1-30; and
8. A statement, that all materials below BFE/RFPE must be flood resistant materials.

C. **Certification Requirements.**

1. *Elevation Certificates.*
  - (a) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction.
    - (1) It is the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level.
    - (2) The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction.
    - (3) Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit.
  - (b) A final as-built Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance.
    - (1) It is the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities.
    - (2) The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to

Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction.

- (3) Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

2. *Floodproofing Certificates.*

- (a) If non-residential floodproofing is used to meet the RFPE requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction.
  - (1) It is the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
  - (2) The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval.
  - (3) Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (b) A final Finished Construction Floodproofing Certificate (FEMA Form 086 -0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy.
  - (1) It is the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing Certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
  - (2) The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy.
  - (3) Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified

design shall be cause to deny a Certificate of Compliance/Occupancy.

3. *Manufactured Homes.* If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per 11.4.2D: *Manufactured Homes.*
4. *Watercourse Alteration or Relocation.* If a watercourse is to be altered or relocated, the permit applicant shall submit the following prior to issuance of a Floodplain Development Permit:
  - (a) A description of the extent of watercourse alteration or relocation;
  - (b) A professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and
  - (c) A map showing the location of the proposed watercourse alteration or relocation.
5. *Certification Exemptions.* The following structures, if located within Zone A, AO, AE, or A1 -30, are exempt from the elevation/floodproofing certification requirements specified in 11.3.2C.1: *Elevation Certificates* and 11.3.2C.2: *Floodproofing Certificates*:
  - (a) Recreational Vehicles meeting requirements of 11.4.2G.1: *Temporary Placement*;
  - (b) Temporary Structures meeting requirements of 11.4.2H: *Temporary Non-Residential Structures*; and
  - (c) Accessory Structures less than 150 square feet meeting requirements of 11.4.2I: *Accessory Structure*.

D. **Determinations for Existing Buildings and Structures.** For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the N.C. Building Code and this Chapter is required.

### 11.3.3 DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties of the Floodplain Administrator include, but are not limited to:

- A. Review all floodplain development applications and issue permits for all proposed development within SFHAs to assure that the requirements of this Chapter have been satisfied;
- B. Advise permittees that additional Federal or State permits may be required (e.g., Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining) and require that copies of such permits are provided and maintained on file with the Floodplain Development Permit;
- C. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
- D. Assure that maintenance is provided within an altered or relocated portion of a watercourse so that the flood-carrying capacity is not diminished;
- E. Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of 11.4.5: *Floodways and Non-Encroachment Areas* are met;
- F. Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with 11.3.2C: *Certification Requirements*;
- G. Obtain the actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures have been floodproofed, in accordance with 11.3.2C: *Certification Requirements*;
- H. Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with 11.3.2C: *Certification Requirements*;
- I. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with 11.3.2C: *Certification Requirements* and 11.4.2C: *Non-Residential Construction*;
- J. Where interpretation is needed as to the exact location of boundaries of the areas of SFHAs (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Chapter;
- K. When BFE data has not been provided in accordance with 11.2.2: *Hazard*, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-

- encroachment area data available from a Federal, State, or other source, including data developed pursuant to 11.4.3B.2, in order to administer this Chapter;
- L. When BFE data is provided but neither floodway nor non-encroachment area data has been provided in accordance with 11.2.2: *Hazard*, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer this Chapter;
  - M. When the lowest ground elevation of a parcel or structure in a SFHA is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the Floodplain Development Permit file;
  - N. Permanently maintain all records pertaining to the administration of this Chapter and make these records available for public inspection;
  - O. Make on-site inspections of work in progress. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure the work is being done according to the provisions of this Chapter and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of Chatham County at any reasonable hour for the purposes of inspection or other enforcement action;
  - P. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor;
  - Q. Revoke Floodplain Development Permits as required. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any Floodplain Development Permit mistakenly issued in violation of an applicable State or local law may also be revoked;
  - R. Make periodic inspections throughout all SFHAs within the jurisdiction of Chatham County. The Floodplain Administrator and each member of their inspections department have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action;
  - S. Follow through with corrective procedures of 11.3.4: *Corrective Procedures*;
  - T. Review, provide input, and make recommendations for variance requests;
  - U. Maintain a current map repository to include historical and effective FIS Report, historical and effective FIRM, and other official flood maps and studies adopted in

accordance with 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard*, including any revisions thereto including Letters of Map Change, issued by FEMA;

- V. Notify State and FEMA of mapping needs; and
- W. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

#### 11.3.4 CORRECTIVE PROCEDURES

- A. **Violations to be Corrected.** When the Floodplain Administrator finds violations of applicable State and local laws, it is their duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- B. **Actions in Event of Failure to Take Corrective Action.** If the owner of a building or property fails to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating that:
  1. The building or property is in violation of Chapter 11: *Flood Damage Prevention*;
  2. A hearing will be held before the Floodplain Administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
  3. Following the hearing, the Floodplain Administrator may issue such order to alter, vacate, or demolish the building, or to remove fill as appears appropriate.
- C. **Order to Take Corrective Action.** If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator finds that the building or development is in violation of this Chapter, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Administrator finds there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
- D. **Appeal.** Any owner who has received an order to take corrective action may appeal from the order to the Chatham County Board of Commissioners by giving notice of appeal in writing to the Floodplain Administrator and the Clerk to the Board of Commissioners within 10 days following issuance of the final order. In the absence of an appeal, the order of the Administrator shall be final. The Board of Commissioners shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- E. **Failure to Comply with Order.** If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been made or fails to comply with an order of the Board of Commissioners following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to N.C.G.S. [§ 143-215.58](#) and shall be punished in the discretion of the court.

### 11.3.5 VARIANCE PROCEDURES

- A. **Appeal Board.** The Chatham County Board of Adjustment, hereinafter referred to as the “appeal board,” shall hear and decide requests for variances from the requirements of this Chapter.
- B. **Who May Appeal.** Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Court, as provided in N.C.G.S. [Chapter 7A](#).
- C. **Variances.** The appeal board may issue variances for:
1. The repair or rehabilitation of historic structures, upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
  2. Functionally dependent facilities, if determined to meet the definition in 11.6: *Definitions*, provided provisions of 11.3.51.2, 11.3.51.3, and 11.3.51.5 (*Conditions for Variances*) have been satisfied, and such facilities are protected by methods that minimize flood damages; and
  3. Any other type of development if it meets the requirements in this Section.
- D. **Considerations.** In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Chapter, and the:
1. Danger that materials may be swept onto other lands to the injury of others;
  2. Danger to life and property due to flooding or erosion damage;
  3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. Importance of the services provided by the proposed facility to the community;
  5. Necessity to the facility of a waterfront location as defined under 11.6: *Definitions* as a functionally dependent facility, where applicable;
  6. Availability of alternative locations not subject to flooding or erosion damage for the proposed use;
  7. Compatibility of the proposed use with existing and anticipated development;
  8. Relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
  9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and



11. Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- E. **Written Report Required.** The applicant shall submit a written report addressing each of the above factors with the application for a variance.
- F. **Conditions of Approval.** Upon consideration of the factors listed above and the purposes of this Chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.
- G. **Written Notice to Applicant Required.** Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- H. **Recordkeeping.** The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to FEMA and the State of North Carolina upon request.
- I. **Conditions for Variances.**
  1. Variances shall not be issued when the variance will cause the structure to violate other Federal, State, or local laws, regulations, or ordinances;
  2. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge;
  3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
  4. Variances shall only be issued prior to development permit approval;
  5. Variances shall only be issued upon a:
    - (a) Showing of good and sufficient cause;
    - (b) Determination that failure to grant the variance would result in exceptional hardship; and
    - (c) Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisance; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances; and
  6. A variance shall not be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in SFHAs.

## 11.4 PROVISIONS FOR FLOOD HAZARD REDUCTION

### 11.4.1 GENERAL STANDARDS

In all Special Flood Hazard Areas, the following provisions are required:

- A. All new residential and non-residential construction and new structures shall be located outside the SFHA, except as otherwise provided in this Chapter;
- B. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure;
- C. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- D. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.
  1. Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
  2. Replacements that are for maintenance and not part of a substantial improvement may be installed at the original location, if the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  1. New water supply wells shall be located outside the SFHA unless circumstances warrant otherwise, except for new residential construction on non-conforming lots of record as provided in 11.4.2C: *Non-Residential Construction*.
  2. New and replacement water supply systems that need to be located in the floodplain must be reviewed and approved by the Floodplain Administrator.
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
  1. New surface sewage disposal systems and repair areas shall be located outside the SFHA unless circumstances warrant otherwise, except for new residential construction on non-conforming lots of record as provided in 11.4.2C: *Non-Residential Construction*.
  2. New and replacement sanitary sewer systems that need to be located in the floodplain must be reviewed and approved by the Floodplain Administrator.

- G. On-site waste disposal systems shall be located outside the SFHA unless circumstances warrant otherwise and constructed to avoid impairment to them or contamination from them during flooding. On-site waste disposal systems that need to be located in the floodplain must be reviewed and approved by the Floodplain Administrator.
- H. Nothing in this Chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Chapter (see 11.5.4: *Effective Date*) and located totally or partially within the floodway, non-encroachment area, or stream setback, if:
1. There is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback; and
  2. Such repair, reconstruction, or replacement meets all of the other requirements of this Chapter.
- I. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities are prohibited. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a SFHA only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to 11.3.2C: *Certification Requirements*.
- J. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- K. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- L. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- M. Public or private roads and bridges serving more than three subdivision lots shall have a travel way a minimum height of three feet above the BFE.
- N. When a structure is partially located in an SFHA, the entire structure shall meet requirements or new construction and substantial improvements.
- O. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE apply.
- P. Pedestrian bridges, boardwalks, greenway trails, walkways, and canoe and boat access points may be permitted according to 11.3.2: *Floodplain Development Application, Permit, & Certification Requirements* within SFHAs and shall comply with the applicable standards of 11.4.5: *Floodways and Non-Encroachment Areas*. Pedestrian bridges and boardwalks are prohibited across the Haw River, Rocky River, and Deep River.
- Q. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required

by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

- R. Fill material is only allowed in SFHAs when reasonably necessary for the elevation of structures in compliance with the standards of this Chapter or remediation of contaminated sites. The amount of fill material shall be the minimum necessary to meet the standards of this Chapter.

### 11.4.2 SPECIFIC STANDARDS

In all SFHAs where Base Flood Elevation data has been provided, as set forth in 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard* or 11.4.2: *Specific Standards*, the following provisions, in addition to 11.4.1: *General Standards*, are required:

- A. **Residential Construction.** New residential construction shall be located outside the SFHA, except as provided in 11.4.2B: *Residential Construction on Nonconforming Lots of Record*, below. Substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than regulatory flood protection elevation, as defined in 11.6: *Definitions*.
- B. **Residential Construction on Nonconforming Lots of Record.** Where the owner of a nonconforming lot of record does not own sufficient land to enable the owner to conform to the provisions of 11.4.2A: *Residential Construction*, above, such lot may be used as a building site. Any new residential construction on a nonconforming lot of record shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation (RFPE), as defined in 11.6: *Definitions*.
- C. **Non-Residential Construction.**
1. New non-residential construction shall be located outside of the SFHA.
  2. Substantial improvement of any existing commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the RFPE, as defined in 11.6: *Definitions*.
  3. Structures located in Zones A, AE, AH, AO, and A99 may be floodproofed to the RFPE in lieu of elevation, if all areas of the structure, together with attendant utility and sanitary facilities, below the RFPE are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
  4. For AO Zones, the floodproofing elevation shall be in accordance with 11.4.6B. A registered professional engineer or architect shall certify that the floodproofing standards of this Subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in 11.3.2C: *Certification Requirements*, along with the operational plan and the inspection and maintenance plan.
- D. **Manufactured Homes.**
1. New manufactured homes shall be placed outside the SFHA. Replacement manufactured homes for manufactured homes located within SFHAs shall be

elevated so that the reference level of the manufactured home is no lower than the RFPE, as defined in 11.6: *Definitions*.

2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS [§ 143-143.15](#).
  - (a) Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation.
  - (b) When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
3. All enclosures or skirting below the lowest floor shall meet the requirements of 11.4.2E: *Elevated Buildings*.
4. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

E. **Elevated Buildings.** Fully enclosed area of new construction and substantially improved structures that is below the lowest floor:

1. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises;
  - (a) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator);
  - (b) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
2. Shall not be temperature-controlled or conditioned;
3. Shall be constructed entirely of flood-resistant materials below the regulatory flood protection elevation;
4. Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
  - (a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
  - (b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

- (c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- (d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;
- (e) Flood openings may be equipped with screens, louvers, or other coverings or devices, if they permit the automatic flow of floodwaters in both directions; and
- (f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

**F. Additions/Improvements.**

1. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure;
  - (b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction, as defined in 11.6: *Definitions*.
2. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
3. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (a) Not a substantial improvement, then the addition and/or improvements only must comply with the standards for new construction, as defined in 11.6: *Definitions*; or
  - (b) A substantial improvement, then both the existing structure and the addition and/or improvements must comply with the standards for new construction, as defined in 11.6: *Definitions*.
4. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one year period, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started must comply with the standards for new construction.
  - (a) For each building or structure, the one year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this Chapter.

- (b) Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
    - (1) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the Building Official and that are the minimum necessary to assume safe living conditions; or
  - (c) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- G. **Recreational Vehicles.** Recreational vehicles shall be placed temporarily or permanently, in accordance with the following:
  - 1. *Temporary Placement.*
    - (a) Be on site for fewer than 180 consecutive days; or
    - (b) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions.)
  - 2. *Permanent Placement.* Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
- H. **Temporary Non-Residential Structures.** Prior to the issuance of a development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification. The applicant shall submit the following information in writing to the Floodplain Administrator for review and written approval:
  - 1. A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
  - 2. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
  - 3. The timeframe prior to the event at which a structure will be removed (e.g., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
  - 4. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
  - 5. Designation, accompanied by documentation, of a location outside the SFHA, to which the temporary structure will be moved.

I. **Accessory Structure.**

1. When accessory structures (e.g., sheds, detached garages) are to be placed within the SFHA, the following criteria shall be met:
  - (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas);
  - (b) Accessory structures shall not be temperature controlled;
  - (c) Accessory structures shall be designed to have low flood damage potential;
  - (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - (e) Accessory structures shall be firmly anchored in accordance with 11.4.1B;
  - (f) All service facilities such as electrical shall be installed in accordance with 11.4.1E; and
  - (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with 11.4.2E.3.
2. An accessory structure with a footprint of 150 square feet or less that satisfies the criteria in 11.4.2I.1, above does not require an elevation or floodproofing certificate.

J. **Tanks.** When gas and liquid storage tanks are to be placed within a SFHA, the following criteria shall be met:

1. *Underground Tanks.* Underground tanks in SFHAs shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
2. *Above-Ground Tanks, Elevated.* Above-ground tanks in SFHAs shall be elevated to or above the RPF on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable SFHA;
3. *Above-Ground Tanks, Not Elevated.* Above-ground tanks that do not meet the elevation requirements of 11.4.2J.2: Above-Ground Tanks, Elevated are allowed in SFHAs, if the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
4. *Tank Inlets and Vents.* Tank inlets, fill openings, outlets, and vents shall be:



- (a) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- (b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

**K. Other Development.**

1. *Fences in Regulated Floodways and Non-Encroachment Areas.* Fences in regulated floodways and non-encroachment areas (NEAs) that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of 11.4.5: *Floodways and Non-Encroachment Areas*.
2. *Retaining Walls, Sidewalks, and Driveways in Regulated Floodways and NEAs.* Retaining walls, sidewalks, and driveways that involve the placement of fill in regulated floodways shall meet the limitations of 11.4.5: *Floodways and Non-Encroachment Areas*.
3. *Roads and Watercourse Crossings in Regulated Floodways and NEAs.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of 11.4.5: *Floodways and Non-Encroachment Areas*.

### 11.4.3 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the SFHAs designated as Approximate Zone A and established in 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard*, where no BFE data has been provided by FEMA, the following provisions, in addition to 11.4.1: *General Standards* and 11.4.2: *Specific Standards*, apply:

- A. Encroachments, including fill, new construction, substantial improvements, or new development are prohibited within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. The BFE used in determining the RFPE shall be determined based on the following criteria:
  1. When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Chapter and shall be elevated or floodproofed in accordance with standards in 11.4.1: *General Standards* and 11.4.2: *Specific Standards*.
  2. When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within

floodway and non-encroachment areas shall also comply with the requirements of 11.4.2: *Specific Standards* and 11.4.5: *Floodways and Non-Encroachment Areas*.

3. All subdivision, manufactured home park, and other development proposals shall provide BFE data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard* and utilized in implementing this Chapter.
4. When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (non-residential) to or above the RFPE, as defined in 11.6: *Definitions*. All other applicable provisions of 11.4.2: *Specific Standards* also apply.

#### **11.4.4 STANDARDS FOR FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS**

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a SFHA on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- A. Standards outlined in 11.4.1: *General Standards* and 11.4.2: *Specific Standards*; and
- B. Until a regulatory floodway or non-encroachment area is designated, encroachments, including fill, new construction, substantial improvements, or other development, are prohibited unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

#### **11.4.5 FLOODWAYS AND NON-ENCROACHMENT AREAS**

- A. Areas designated as floodways or non-encroachment areas are located within the SFHAs established in 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard*. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The provisions in this Subsection, in addition to standards outlined in 11.4.1: *General Standards* and 11.4.2: *Specific Standards*, apply to all development within such areas.
- B. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless the applicant demonstrates:
  1. The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of Floodplain Development Permit; or

2. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.
- C. If 11.4.5B is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Chapter.
- D. Manufactured homes are prohibited, except replacement manufactured homes in an existing manufactured home park or subdivision, if the following provisions are met:
  1. The anchoring and the elevation standards of 11.4.2D: *Manufactured Homes*; and
  2. The no-encroachment standard of 11.4.5B.

#### 11.4.6 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)

Located within the SFHAs established in 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard*, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to 11.4.1: *General Standards*, all new construction and substantial improvements shall meet the following requirements:

- A. The reference level shall be elevated at least as high as the depth number specified on the FIRM, in feet, plus a freeboard of three feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade plus a freeboard of three feet if no depth number is specified;
- B. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in 11.4.6A so that the structure, together with attendant utility and sanitary facilities, below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per 11.3.2C: *Certification Requirements* and 11.4.2C: *Non-Residential Construction*; and
- C. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

#### 11.4.7 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH)

- A. Located within the SFHAs established in 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard*, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one to three feet. Base Flood Elevations derived from detailed hydraulic analyses are shown in this zone.
- B. In addition to 11.4.1: *General Standards* and 11.4.2: *Specific Standards*, all new construction and substantial improvements shall provide adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

## 11.5 LEGAL STATUS PROVISIONS

### 11.5.1 EFFECT ON RIGHTS AND LIABILITIES UNDER THE PREVIOUS FLOOD DAMAGE PREVENTION ORDINANCE

- A. This Chapter, in part, comes forward by reenactment of some of the provisions of the Flood Damage Prevention Ordinance enacted February 17, 1997, as amended. It is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced.
- B. The enactment of this Chapter does not affect any action, suit, or proceeding instituted or pending.
- C. All provisions of the Flood Damage Prevention Ordinance of Chatham County enacted on February 17, 1997, as amended, that are not reenacted herein, are repealed.

### 11.5.2 EFFECT UPON OUTSTANDING BUILDING PERMITS

Nothing in this Chapter requires any change in the plans, construction, size, or designated use of any building, structure, or part thereof for which a building permit has been granted by the Director of Building Inspections and Central Permitting or their authorized agents before the time of passage of this Chapter; provided, however, that when construction is not begun under such outstanding permit within a period of 60 days subsequent to passage of this Chapter, construction or use shall be in conformity with the provisions of this Chapter.

### 11.5.3 SEVERABILITY

If any section, clause, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Chapter.

### 11.5.4 EFFECTIVE DATE

This Chapter became effective upon its original adoption on February 17, 1997.

### 11.5.5 ADOPTION

This is a true and correct copy of the Flood Damage Prevention Ordinance, originally adopted on the 17th day of February 1997 and revised on October 7, 2002; December 18, 2006; October 16, 2017 (effective November 17, 2017); September 24, 2018; February 15, 2021; and June 21, 2022.

## 11.6 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.

**Accessory Structure (Appurtenant Structure):** A structure located on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common accessory structures. Pole barns, hay sheds, and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

**Addition (to an existing building):** An extension or increase in the floor area or height of a building or structure.

**Alteration of a Watercourse:** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification that may alter, impede, or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**Appeal:** A request from a review of the Floodplain Administrator's interpretation of any provision of this Chapter.

**Area of Shallow Flooding:** A designated AO Zone on a Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**Area of Special Flood Hazard:** See Special Flood Hazard Area (SFHA).

**Basement:** Any area of the building having its floor subgrade (below ground level) on all sides.

**Base Flood:** The flood having a 1% chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE):** A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a SFHA, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA-approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Regulatory Flood Protection Elevation.

**Best Available Data:** Information provided by the U.S. Army Corps of Engineers, other government agencies, or other competence sources such as a registered surveyor or engineer, that is prepared using standard accepted practices.

**Building:** See Structure.

**Chemical Storage Facility:** A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

**Design Flood:** See Regulatory Flood Protection Elevation.

**Development:** Any human-made change to improved or unimproved real estate, including, but not limited to, construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**Development Activity:** Any activity defined as Development that will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

**Digital Flood Insurance Rate Map (DFIRM):** The digital official map, issued by the Federal Emergency Management Agency (FEMA), that delineates both the SFHAs and the risk premium zones applicable to Chatham County.

**Disposal:** As defined in N.C.G.S. [§ 130A-290\(a\)\(6\)](#), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

**Elevated Building:** A non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**Encroachment:** The advance or infringement of uses, fill, excavation, buildings, permanent structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**Existing Building and Existing Structure:** Any building and/or structure for which the Start of Construction occurred before the effective date of this Chapter (see 11.5.4: *Effective Date*).

**Existing Manufactured Home Park or Manufactured Home Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of this Chapter (see 11.5.4: *Effective Date*).

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- C. The overflow of inland or tidal waters; or
- D. The unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Boundary and Floodway Map (FBFM):** An official map, issued by the Federal Emergency Management Agency, that delineates the SFHAs and the floodways. This official map is a supplement to and is used in conjunction with the Flood Insurance Rate Map (FIRM).

**Flood Hazard Boundary Map (FHBM):** An official map, issued by the Federal Emergency Management Agency, where the boundaries of the SFHAs are defined as Zone A.

**Flood Insurance:** The insurance coverage provided under the National Flood Insurance Program.

**Flood Insurance Rate Map (FIRM):** An official map, issued by the Federal Emergency Management Agency that delineates both the SFHA and the risk premium zones applicable to Chatham County (see *also* DFIRM).

**Flood Insurance Study:** An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

**Flood Prone Area:** See Floodplain.

**Floodplain:** Any land area susceptible to inundation by water from any source.

**Floodplain Administrator:** The individual appointed to administer and enforce this Chapter.

**Floodplain Development Permit:** Any type of permit required in conformance with this Chapter, prior to the commencement of any development activity.

**Floodplain Management:** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**Floodplain Management Regulations:** This Chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power that control development in flood-prone areas. This term includes federal, state, or local regulations, in any combination thereof, that provide standards for preventing and reducing flood loss and damage.

**Floodproofing:** Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

**Flood-Resistant Material:** Any building product (material, component or system) capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are unacceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to [Technical Bulletin 2](#), Flood Damage-Resistant Materials Requirements, available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

**Floodway:** The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Floodway Encroachment Analysis:** An engineering analysis of the impact a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The analysis is prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

**Flood Zone:** A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

**Freeboard:** The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings,

and the hydrological effect of urbanization on the watershed. The BFE plus the freeboard establishes the [Regulatory Flood Protection Elevation](#). In Special Flood Hazard Areas where BFEs have been determined, this elevation is the BFE plus three feet of freeboard. In SFHAs where a BFE has not been established, this elevation must be at least five feet above the highest adjacent grade.

**Functionally Dependent Facility:** A facility that cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

**Hazardous Waste Facility:** As defined in N.C.G.S. § 130A, [Article 9](#), a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**Highest Adjacent Grade (HAG):** The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

**Historic Structure:** Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program, or
- D. Certified as contributing to the historical significance of a historic district designated by a community with a CLG Program.

CLG Programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966, as amended in 1980.

**Letter of Map Change (LOMC):** An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

*Letter of Map Amendment (LOMA):* An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property was inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a SFHA.

*Letter of Map Revision (LOMR):* A revision based on technical data that may show changes to flood zones, flood elevations, SFHA boundaries and floodway delineations, and other planimetric features.



*Letter of Map Revision Based on Fill (LOMR-F):* A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the SFHA. In order to qualify for this determination, the fill must have been permitted and placed in accordance with Chatham County's floodplain management regulations.

*Conditional Letter of Map Revision (CLOMR):* A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of SFHAs. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, FEMA may issue a Letter of Map Revision to revise the effective FIRM.

**Light Duty Truck:** Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less that has a vehicular curb weight of 6,000 pounds or less and that has a basic vehicle frontal area of 45 square feet or less as defined in [40 CFR 86.082-2](#) and is:

- A. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or
- B. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- C. Available with special features enabling off-street or off-highway operation and use.

**Lowest Adjacent Grade (LAG):** The lowest elevation of the ground, sidewalk, or patio slab immediately next to the building, or deck support, after completion of the building.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor if such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.

**Manufactured Home:** A structure, transportable in one or more sections, that is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

**Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Map Repository:** The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carry the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical

flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.<sup>591</sup>

**Market Value:** The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal, replacement cost depreciated for age of building and quality of construction (Actual Cash Value), or adjusted tax assessed values.

**NAVD 1988:** North American Vertical Datum of 1988.

**New Construction:** Structures for which the Start of Construction commenced on or after the effective date of this Chapter (see 11.5.4: *Effective Date*) and includes any subsequent improvements to such structures.

**Non-Conversion Agreement:** A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is a violation of this Chapter and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

**Nonconforming Lot of Record:** A lot existing at the effective date of this (see 11.5.4: *Effective Date*) or any amendment to it (and not created for the purpose of evading the restrictions of this Chapter) that cannot meet the minimum requirements as prescribed herein.

**Non-Encroachment Area:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

**Post-FIRM:** Construction or other development for which the Start of Construction occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

**Pre-FIRM:** Construction or other development for which the Start of Construction occurred before the effective date of the initial Flood Insurance Rate Map for the area.

**Principally Above Ground:** At least 51% of the actual cash value of the structure is above ground.

**Public Safety and/or Nuisance:** Anything that is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Recreational Vehicle:** A vehicle that is:

- A. Built on a single chassis;

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<sup>591</sup> This definition is in the current Zoning Ordinance and was carried forward in UDO Chapter 17: Definitions & Acronyms. Since it relates only to the flood regulations, it is proposed for relocation here.

- B. 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck;
- D. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and
- E. Fully licensed and ready for highway use.

For the purpose of this Chapter, “Tiny Homes/Houses” and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

**Reference Level:** The top of the lowest floor for structures within SFHAs designated as Zones A, AE, AH, AO, or A99.

**Regulatory Flood Protection Elevation:** The Base Flood Elevation plus the Freeboard. In Special Flood Hazard Areas where Base Flood Elevations (BFEs) have been determined, this elevation is the BFE plus three feet of freeboard. In SFHAs where a BFE has not been established, this elevation must be at least five feet above the highest adjacent grade.

**Remedy a Violation:** To bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this Chapter or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**Riverine:** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Salvage Yard:** Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, including, but not limited to, vehicles, appliances, and related machinery.

**Solid Waste Disposal Facility:** As defined in [N.C.G.S. 130A-290\(a\)\(35\)](#), any facility involved in the disposal of solid waste.

**Solid Waste Disposal Site:** As defined in [N.C.G.S. 130A-290\(a\)\(36\)](#), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

**Special Flood Hazard Area (SFHA):** The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in 11.2.2: *Basis for Establishing the Areas of Special Flood Hazard* of this Chapter.

**Start of Construction:** Includes substantial improvement, and means the date the building permit was issued, if the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or improvement was within 180 days of the permit date. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings,

such as garages or sheds not occupied as dwelling units or not part of the main structure. For a Substantial Improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**Structure:** A walled and roofed building; a manufactured home; or a gas, liquid, or liquefied gas storage that is principally above ground.

**Substantial Damage:** Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See Substantial Improvement.

**Substantial Improvement:** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the Start of Construction of the improvement. This term includes structures that have incurred Substantial Damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any correction of existing violations of State or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a historic structure, if the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to 11.3.5: *Variance Procedures*.

**Technical Bulletin and Technical Fact Sheet:** A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at [Section 60.3](#). The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

**Temperature Controlled:** Having the temperature regulated by a heating and/or cooling system, built-in, or appliance.

**Variance:** A grant of relief to a person from the requirements of this Chapter.

**Violation:** The failure of a structure or other development to be fully compliant with this Chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 11.3: *Administration* and 11.4: *Provisions for Flood Hazard Reduction* is presumed to be in violation until such time as that documentation is provided.

**Water Surface Elevation (WSE):** The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of Riverine areas.

**Watercourse:** A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

# CHAPTER 12 PROCEDURES<sup>592</sup>

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## 12.1 GENERAL PROVISIONS

### 12.1.1 PURPOSE

The purposes of this Chapter are to:

- A. Consolidate the procedures and outline clear standards for filing and processing applications for zoning and land development approvals required by this UDO; and
- B. Allow applicants, County officials, and the public to quickly and efficiently ascertain the steps involved in obtaining zoning and land development approvals.

### 12.1.2 APPLICABILITY

- A. This Chapter establishes the procedures for the initiation, review, and decision for all zoning and land development permits or approvals required by this UDO, except those authorized under the following chapters:
  - 1. Chapter 8: *Watershed & Riparian Buffer Protection*;
  - 2. Chapter 9: *Stormwater Management*;
  - 3. Chapter 10: *Soil Erosion & Sedimentation Control*; and
  - 4. Chapter 11: *Flood Damage Prevention*.
- B. Each of the chapters listed in 12.1.2A, above, establishes its own procedures for the initiation, review, and decision or permits or approvals required under the particular chapter.

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<sup>592</sup> This Chapter consolidates most UDO procedures and maps each with a common workflow. As noted in 12.1.2: Applicability, some procedures, such as those related to Watershed Protection and Soil Erosion and Sedimentation Control, will remain with related provisions in their own chapters. See discussion of proposed changes in the [Audit Report](#) (pp. 83-94).

Pursuant to staff input, this Chapter proposes a significant procedural change—the elimination of the Special Use Permit (SUP) procedure. Proposed is to require any uses currently designated in the Use Tables as SUP to instead require rezoning to a parallel conditional zoning district.

This Chapter also proposes a significant change to the Major Subdivision approval process. Proposed is for the Sketch (Concept) Plan to require a public hearing and review by the Planning Board and Board of Commissioners. Preliminary (First) Plats, Construction Plans, and Final Plats would require staff review only, and the Board of Adjustment would hear appeals of staff decisions. These changes are proposed for consistency with N.C.G.S. [§ 160D-801](#), which states “[d]ecisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision or unified development ordinance.”



### 12.1.3 SUMMARY OF PROCEDURES

Table 12.1.3-1: *Summary of UDO Procedures* summarizes the procedures established in this Chapter.

Table 12.1.3-1: Summary of UDO Procedures										
Procedure	Type of Procedure	Reviewing, Decision-Making, & Appeal Bodies							Pre-Submittal Meeting Required	Community Meeting Required
		Staff	TRC	AC	ERAC	BOA	PB	BOC		
<a href="#"><u>Appeals of Administrative Decisions</u></a>	Quasi-judicial					<D>			No	No
<a href="#"><u>Comprehensive Plan Adoption</u></a>	Legislative						R	<D>	No	No
<a href="#"><u>Comprehensive Plan Amendments</u></a>	Legislative	R					R	<D>	No	No
<a href="#"><u>Exempt Subdivisions</u></a>	Administrative	D				<A>			No	No
<a href="#"><u>Minor Subdivisions</u></a>	Administrative	D	R			<A>			No	No
<a href="#"><u>Early Land-Disturbing Permits</u></a>	Administrative	D			R <sup>1</sup>	<A>			No	No
<b>Tier 1 Major Subdivisions</b>										
<a href="#"><u>Sketch Plan</u></a>	Administrative	D	R			<A>			Yes	No
<a href="#"><u>Preliminary Plat &amp; Construction Plan</u></a>	Administrative	D	R			<A>			No	No
<a href="#"><u>Final Plat</u></a>	Administrative	D	R			<A>			No	No
<b>Tier 2 Major Subdivisions</b>										
<a href="#"><u>Sketch Plan</u></a>	Legislative	R	R		R <sup>1</sup>		<R>	D	Yes	Yes
<a href="#"><u>Preliminary Plat &amp; Construction Plan</u></a>	Administrative	D	R			<A>			No	No
<a href="#"><u>Final Plat</u></a>	Administrative	D	R			<A>			No	No
<a href="#"><u>Rezoning (Conventional Districts)</u></a>	Legislative	R					R	<D>	No	No
<a href="#"><u>Rezoning (Conditional Districts)</u></a>	Legislative	R	R	R	R <sup>1</sup>		R	<D>	Yes	Yes



**Table 12.1.3-1: Summary of UDO Procedures**

Procedure	Type of Procedure	Reviewing, Decision-Making, & Appeal Bodies							Pre-Submittal Meeting Required	Community Meeting Required
		Staff	TRC	AC	ERAC	BOA	PB	BOC		
<u>Special Use Permit Amendments</u>	Quasi-judicial	R						<D>	Yes	No
<u>UDO Interpretations</u>	Administrative	D				<A>			No	No
<u>UDO Text Amendments</u>	Legislative	R					R	<D>	Yes, if not County-initiated	No
<u>Variances</u>	Quasi-judicial	R				<D>			Yes	No
<u>Zoning Compliance Permits</u>	Administrative	D		R <sup>2</sup>		<A>			Yes, for non-residential uses	No

**Key:** Staff = County staff | TRC = Technical Review Committee | AC = Appearance Commission | ERAC = Environmental Review Advisory Committee | BOA = Board of Adjustment | PB = Planning Board | BOC = Board of County Commissioners | R = Review Body | D = Decision-Making Body | A = Appeal Body | <> = Public Hearing Required

<sup>1</sup> If an Environmental Impact Assessment is required.

<sup>2</sup> For non-residential uses and apartment complexes only.

**12.1.4 GENERAL PROCEDURAL REQUIREMENTS & AUTHORITY**

- A. **Application Forms.** All applications shall be made on forms maintained for each permit or approval by the Planning Department, which are available online or in-person at the County’s offices.
- B. **Submittal Requirements.** Applications filed under this Chapter must include the information required by Chapter 18: *Submittal Requirements*, including all information required on the application checklist maintained by the Planning Department for the particular permit or approval.
- C. **Application Fees.** The applicant must pay all applicable fees at the time of the application unless otherwise specified for the particular application type. [See 18.1.6: *Fees*]
- D. **Conformance with Application.** Zoning Compliance Permits and other approvals issued on the basis of plans and applications approved under this Chapter authorize only the use, arrangement, and construction set forth in the approved plans and applications, and do not authorize any other use, arrangement, or construction.
- E. **Workflow Summary.** This Chapter sets up rules for procedures, such as pre-submittal meetings, community meetings, and notices. It then describes the process for specific land use decisions. The procedures generally share a common workflow and description, as specified in Table 12.1.4-1: *Procedure Workflows*.

**Table 12.1.4-1: Procedure Workflows**

<b>Element</b>	<b>Meaning</b>
Purpose	Explains the reasons for a particular procedure.
Applicability	Identifies the type of development or situation that is subject to the process.
Initiation	Describes how the applicant begins the process, including which department or official receives the application.
Completeness	Describes how the County determines whether the application has sufficient information to be processed.
Application Amendments	Indicates whether an applicant can amend or change an application following the determination of completeness.
Notice	Describes the type of notice required and how it is provided.
Decision-Making Process	States who approves the application and the type of proceeding that leads to the decision.
Review Criteria	Specifies the standards that apply to the application.
Scope of Approval	Identifies the activities the application authorizes. For example, some approvals send the applicant to the next step in the overall process, while others authorize construction or use.
Appeals	Provides a way to review an application that is denied or an approval that has conditions the applicant disagrees with.

**Table 12.1.4-1: Procedure Workflows**

Element	Meaning
Application Withdrawal & Reapplication	If an application is denied or withdrawn, some processes have a waiting period before that type of application can be re-filed for the property.
Recordkeeping	Some procedures have specific requirements for maintaining records of applications and actions, which are included in this Chapter. County record retention policies govern other recordkeeping requirements.

**12.1.5 PRE-SUBMITTAL MEETINGS**

**A. Applicability.**

1. Pre-submittal meetings are required for the following types of applications:
  - (a) Rezoning (Conditional Districts);
  - (b) Tier 1 Major Subdivision Sketch Plan;
  - (c) Tier 2 Major Subdivision Sketch Plan;
  - (d) Special Use Permit Amendments; and
  - (e) Zoning Compliance Permits for non-residential uses.
2. Pre-submittal meetings for all other procedures are voluntary. An applicant may request a pre-submittal meeting for any type of procedure established by this Chapter.
3. Planning Department staff may waive the pre-submittal meeting requirement upon finding the applicant has sufficient familiarity with the approval process that a pre-submittal meeting would not serve a valid purpose.

**B. Meeting Materials.** The applicant must submit to Planning Department staff a copy of plans and information relevant to the application at least five days prior to the scheduled pre-submittal meeting.

**C. Meeting Attendance.** The pre-submittal meeting is attended by the applicant and their team (such as engineers, surveyors, or architects), if desired by the applicant, and by the County’s Pre-Submittal Development Team, which includes staff from departments that will be involved in the review of the proposed development.

**D. Meeting Location.** Pre-submittal meetings may occur in-person or by remote meeting technology. Meeting location or platform is determined by staff.

**E. Topics for Meeting.**

1. The pre-submittal meeting is for informational purposes for the applicant and Pre-Submittal Development Team. Staff does not make a formal decision on the application.

2. The applicant must provide a brief overview of the project, including proposed location, uses, densities, project layout, design features, and other information relevant to the application.
  3. The Pre-Submittal Development Team will provide information and comments at the pre-submittal meeting but will not take formal action on the application. In addition to providing verbal information, the Pre-Submittal Development Team may provide a pre-submittal meeting checklist.
  4. The Pre-Submittal Development Team may waive a submittal checklist item as part of this review if determined to be unnecessary, already known, or needed at a future stage.
  5. The pre-submittal meeting may include the following topics:
    - (a) Discussion of the extent to which the proposed application conforms to this UDO and other applicable regulations;
    - (b) Discussion of technical studies, plans, and other information deemed relevant to the specific application request;
    - (c) Discussion regarding possible modifications to the application, if warranted;
    - (d) Discussion of the anticipated level of citizen interest;
    - (e) Identification of public hearing or meeting requirements, if applicable; and
    - (f) Discussion of the general project consistency with the Comprehensive Plan.
  6. The Pre-Submittal Development Team may request input on the proposed application from other County departments, state agencies, utility providers, and other reviewing agencies.
- F. **Documentation.** The Pre-Submittal Development Team may record in writing (paper or electronic) any pertinent information concerning the proposed application described by the applicant, as well as a brief record of written or verbal guidance provided by County staff or other reviewing agencies.

### 12.1.6 SUFFICIENCY REVIEW<sup>593</sup>

#### A. **When Applications Deemed Complete.**

1. The County will not process incomplete applications.
2. An application is not complete until the applicant submits all required items specified in this Chapter and in Chapter 18: *Submittal Requirements*.

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<sup>593</sup> Carries forward and augments the completeness determination process for conditional district rezoning applications. Expands the provisions to apply to all application types.

3. Planning Department staff will review applications and determine whether the application is complete.
  - (a) If staff determines the application is incomplete, they will transmit the determination to the applicant within 15 days of the application's filing date and will:
    - (1) Specify which parts of the application are incomplete; and
    - (2) Indicate how they can be made complete, including a list and description of the information needed to complete the application.
  - (b) If the application omits a major element that affects staff's ability to review the application (such as the general environmental documentation required by Section 18.3 and permits or approval from other County departments or state or local agencies), Planning Department staff may reject the application and require the applicant to resubmit.
  - (c) The County will take no further action on the application until the applicant submits the required information.
4. The applicant must submit the deficient pieces of their application to the Planning Department in accordance with the submittal timeframe required by the particular application type.
5. A determination that an application is complete as provided in this Subsection does not limit the ability of County staff, other County agencies, the relevant boards and commissions, or the Board of Commissioners to request additional information during the review process.
6. If the applicant fails to provide the required information within 45 days of the application filing date, then the application expires. The applicant may be required to refile an application, including repayment of any applicable fees, for any further consideration.
7. A time period required by this Chapter to process an application does not commence until Planning Department staff determines the application has been properly submitted and the applicant has corrected any deficiencies in the application. Review for completeness of application forms is solely to determine whether preliminary information required for submission with the application is sufficient to allow further processing. It does not constitute a decision as to whether an application complies with this UDO.
8. If the applicant elects not to pursue an application for any reason, the application expires 45 days after the application filing date. The applicant must refile the application for any further consideration.
9. The regulations in Section 3.8: *Wireless Telecommunications Facilities* modify the completeness review provisions of this Subsection.

**B. Application and Submission Deadlines.**

1. The Planning Department or the reviewing and decision-making bodies may provide submission deadlines for materials required in support of any application provided for in this Chapter.
2. Compliance with these submission deadlines must occur for the application to be placed on an agenda to be heard by the reviewing or decision-making body.

### 12.1.7 APPLICATION AMENDMENTS

Unless otherwise specified for a particular application type, an applicant may submit additional information or amend any application only:

- A. In response to communications from County staff that the application is incomplete, as provided in 12.1.6: *Sufficiency Review*; or
- B. At the request of a reviewing or decision-making body.

### 12.1.8 COMMUNITY MEETINGS<sup>594</sup>

#### A. **Purpose.**

1. A community meeting is intended to:
  - (a) Offer an open dialogue between an applicant and neighbors/community for better communication;
  - (b) Share goals of the development; and
  - (c) Gather information from neighbors regarding any concerns about the land, existing roads, and other nearby community elements.
2. The goals of the community meeting process are to:
  - (a) Receive input from the community about the proposed development;
  - (b) Identify potential ways to achieve a balance for the environment, neighborhood/ community, and applicant; and
  - (c) Create a better development plan that is, as much as possible, embraced by the community and County.
3. Addressing community concerns up front, prior to submittal of an application to Chatham County, saves the applicant from spending money on multiple plans, surveying, and engineering.

#### B. **Applicability.**

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<sup>594</sup> Carries forward and consolidates SR Section 5.2B(2)(d), which requires a community meeting for Major Subdivision Concept Plans, ZO Section 5.7A, which requires a community meeting for conditional district rezonings, and ZO Section 17.1, which requires a community meeting for Special Use Permits. Maintains the more expansive notice requirements for Major Subdivisions (signs and mailed notice to all property owners within 400 feet) and applies them to all application types that require a community meeting.

1. The following application types require a community meeting:
    - (a) Rezoning (Conventional Districts), when the proposed rezoning is from PP, AG, RA, R5, R2, NR, or R1 to RV, OI, NB, CB, RB, RHC, IL, or IH;
    - (b) Rezoning (Conditional Districts); and
    - (c) Major Subdivision Sketch Plan.
  2. Revisions to an existing Conditional Zoning District do not require a community meeting if the applicant does not propose to expand the physical boundaries of the district.
- C. **Notice.** The Planning Department and the applicant must provide public notice of a community meeting.<sup>595</sup>
1. *Applicant Responsibilities.*
    - (a) The applicant must post along every road frontage at least one “Development Input Meeting” sign. The signs must have the same dimensions and letter sizes as the County’s notification signs for other land use notification requirements. These dimensions are specified in the **Administrative Manual**.
    - (b) At least 20 days prior to the community meeting, the applicant must provide community notification letters and addressed, stamped envelopes to the Planning Department.
    - (c) The applicant must send a letter to the owner, as listed with the Chatham County Tax Department, of each property located within 400 feet of the property to be developed. Adjacent streets, railroads, public or private rights-of-way, and other transportation corridors do not count as part of the 400 feet.
    - (d) The applicant may provide notice to additional property owners and tenants and may provide additional types of notice, such as electronic notice.
  2. *Planning Department Responsibilities.*
    - (a) The Planning Department verifies the mailing list includes all properties within 400 feet of the subject property.
    - (b) At least 14 days prior to the community meeting, the Planning Department must mail the letters provided by the applicant by standard mail.

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<sup>595</sup> The notice provisions carry forward the more expansive distance (within 400 ft of the subject property) required for major subdivisions. In the current Zoning Ordinance, community meetings for conditional zoning districts and special use permits require notice only to “owners of abutting property” (though properties are considered abutting even if separated by a street, railroad, public or private right of way, or other transportation corridor).

- D. **Report.** The application must include a written report about the community meeting. The written report must include:
  1. A list of the people and organizations contacted about the meeting and the manner and date of contact;
  2. The time, date, and location of the meeting;
  3. A roster and number of the people in attendance at the meeting;
  4. A summary of issues discussed at the meeting; and
  5. A description of any changes to the application made by the applicant as a result of the meeting.
- E. **Adequacy of Meeting or Report.** The adequacy of the meeting held or report filed pursuant to this Subsection shall be considered by the Board of Commissioners but is not subject to judicial review.

**12.1.9 NOTICE PROVISIONS**

- A. **Generally.**
  1. This Section establishes various requirements for public notice of applications, hearings, and meetings. This Section does not apply to notice of community meetings. [See 12.1.8: *Community Meetings*]
  2. Table 12.1.9-1: *Type & Description of Notice* describes the various types of notice and their contents. Each procedural section contains notice requirements, if applicable, for the particular application type.

<b>Table 12.1.9-1: Type &amp; Description of Notice</b>	
<b>Type of Notice</b>	<b>Description</b>
Mail	The applicant provides the letters and addressed, stamped envelopes, and Planning Department staff mails the required notices. First-class mail is sufficient unless certified mail is required by a specific process or state law. Staff will mail notices to property owners listed in the County’s tax records.
Posted	Planning Department staff posts at least one notice sign in a prominent location on the subject lot or on an adjacent public street or highway right-of-way.
Publication	Planning Department staff places notice in a newspaper of general circulation in the County.

- B. **Posted Notice.**
  1. *Posting by County.*
    - (a) If posted notice is required, County staff posts at least one notice sign in a prominent location on the subject lot or on an adjacent public street or highway right-of-way.
    - (b) When multiple lots are the subject of an application that requires posted notice, the County does not have to post a notice sign on each



lot but the number of signs must sufficiently provide reasonable notice to interested persons.

2. *Maintenance by Applicant.* Once County staff posts notice on the subject lot(s), the property owner or applicant must maintain the sign(s) until the public hearing on the application.
- C. **Mailed Notice.** The Planning Department and the applicant must provide mailed notice where required by this Chapter for a particular application type.
1. *Applicant Responsibilities.*
    - (a) In conjunction with the application, the applicant must provide property owner notification letters and addressed, stamped envelopes to the Planning Department. If more than one mailed notice is required by a particular application type, the applicant must provide two sets of letters and addressed, stamped envelopes.
    - (b) The applicant must provide letters to the owner, as listed with the Chatham County Tax Department, of each property located within the specified distance of the property subject to the application. Adjacent streets, railroads, public or private rights-of-way, and other transportation corridors do not count as part of the specified distance.
    - (c) The applicant may provide notice to additional property owners and tenants and may provide additional types of notice, such as electronic notice.
  2. *Planning Department Responsibilities.*
    - (a) The Planning Department verifies the mailing list includes all properties within the specified distance of the subject property.
    - (b) The Planning Department mails the letters provided by the applicant by standard mail in the timeframe specified for the particular application type.

### 12.1.10 MODIFICATION OF APPROVED MAJOR SUBDIVISION APPLICATIONS

- A. **Applicability.** This Section applies to proposed changes to the following application types:
1. Tier 1 Major Subdivision Sketch Plan;
  2. Tier 1 Major Subdivision Preliminary Plat & Construction Plan;
  3. Tier 1 Major Subdivision Final Plat;
  4. Tier 2 Major Subdivision Sketch Plan;
  5. Tier 2 Major Subdivision Preliminary Plat & Construction Plan; and
  6. Tier 2 Major Subdivision Final Plat.
- B. **Major Changes.** Major changes to an approved application require review through the same decision-making process as the original application.
- C. **Minor Changes.**

1. The Subdivision Administrator may approve minor changes to an approved application.
2. Minor changes:<sup>596</sup>
  - (a) Do not decrease the overall square footage of required open space or tree save area;
  - (b) Increase the area, dimensions, and/or density of a transitional buffer;
  - (c) Do not increase the number of stream crossings;
  - (d) Do not increase the number of street lanes, except to provide for turning, acceleration, or deceleration lanes pursuant to a requirement by the NCDOT;
  - (e) Decrease the total number of lots or increase the total number of lots by less than 5%;
  - (f) Decrease the linear feet of proposed streets or increase the linear feet of proposed streets by less than 5%;
  - (g) Document the location of post-approval discoveries of historical or cultural resources and establish the location any required buffer (see 12.12.8E); or
  - (h) Involve minor adjustments to the location of lot lines, streets, open space, or tree save areas to accommodate changes to the subdivision layout required by another County department, such as the Watershed Protection Department, or another agency involved in approval of elements of the subdivision, such as the NCDOT.
3. Any change not described in 12.1.10C.2, above, is considered a major change.
4. The Subdivision Administrator may require additional changes to the approved application necessitated by the proposed minor change.
5. The Subdivision Administrator may decline to approve a proposed minor change and instead require review through the same procedure as the original application.

### 12.1.11 MORATORIA<sup>597</sup>

As provided in N.C.G.S. [§ 160D-107](#): Moratoria, the Board of Commissioners may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The Board must follow the procedure required by N.C.G.S. [§ 160D-107](#).

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<sup>596</sup> This list carries forward and expands on SR Section 5.2.D(2) Additional Permits [Construction Plan].

<sup>597</sup> This Section replaces the current Chatham County Moratorium Ordinance with a cross-reference to the provisions specified in [N.C.G.S. 160D-107](#). Cross-referencing the State statute, rather than restating it here, limits the need for a UDO text amendment if the statute changes.

**12.2 APPEALS OF ADMINISTRATIVE DECISIONS<sup>598</sup>**

**12.2.1 PURPOSE**

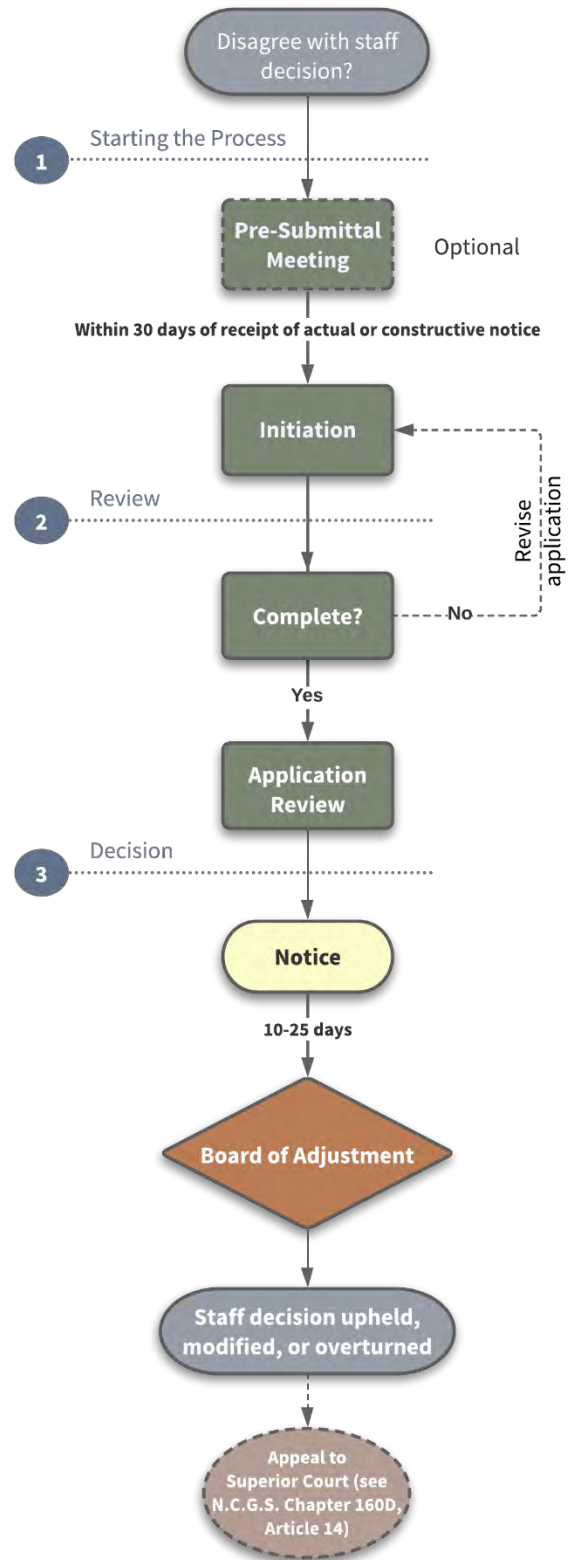
This Section provides a process for applicants to request the review and correction of decisions by administrative officials that they believe are in error.

**12.2.2 APPLICABILITY<sup>599</sup>**

- A. This Section applies to appeals of a decision made by the Zoning Administrator, Subdivision Administrator, or any other administrative official (Chatham County staff person) in the enforcement of this UDO.
- B. As used in this Section, the term “decision” includes any final and binding order, requirement, or determination.

**12.2.3 INITIATION**

- A. **Applicant Eligibility.** Any person who has standing under N.C.G.S. [§ 160D-1402\(c\)](#) or the County may appeal an administrative decision to the Board of Adjustment.<sup>600</sup>
- B. **Written Notice of Decision.**<sup>601</sup>
  - 1. If a person intends to appeal an administrative decision but has not received notice of the decision in writing, then they must request that the administrative official who made the determination provide written notice.
  - 2. The administrative official who made the determination must provide written notice to the owner of the property that is the subject of the determination and to the party who sought the decision, if different from the owner.



3. The written notice must be delivered by personal delivery, electronic mail, or by first-class mail.

**C. Application Requirements.**

1. *Application Filing.* An applicant files an Appeal of an Administrative Decision application with the Clerk to the Board of Commissioners.<sup>602</sup>
2. *Application Timing.*<sup>603</sup>
  - (a) An applicant must file an Appeal of an Administrative Decision application within 30 days of receipt of notice, as follows:
    - (1) The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal.
    - (2) Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice (see 12.2.3C.2(c), below) of the determination within which to file an appeal.
  - (b) In the absence of evidence to the contrary, notice given pursuant to N.C.G.S. [§ 160D-403\(b\)](#) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
  - (c) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words “Zoning Decision,” “Subdivision Decision,” or similar language for other determinations in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, if the sign remains on the property for at least 10 days.<sup>604</sup>
    - (1) Any such posting is the responsibility of the landowner or applicant and is not required following an administrative zoning or subdivision decision.

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<sup>598</sup> Carries forward and consolidates the procedures for appealing staff decisions to the Board of Adjustment.

<sup>599</sup> Carries forward the first two sentences of ZO Section 18.3 Powers and Duties of the Board of Adjustment.

<sup>600</sup> Carries forward a portion of ZO Section 18.4.1.

<sup>601</sup> Carries forward and clarifies ZO Section 18.4.2, which implements a portion of N.C.G.S. [§ 160D-403\(b\)](#).

<sup>602</sup> Carries forward a portion of ZO Section 18.4.1.

<sup>603</sup> Carries forward ZO Section 18.4.3. and 18.4.4. Paragraphs C.2(a) and (b) are from N.C.G.S. § 160D-405(d).

<sup>604</sup> Carries forward a portion of ZO Section 18.4.4. This Paragraph is from N.C.G.S. § 160D-403(b).

- (2) Verification of the posting shall be provided to the official who made the decision.
    - (3) Posting of signs is not the only form of constructive notice.
  3. *Application Contents.* An Appeal of an Administrative Decision application must be in writing and include, at a minimum:
    - (a) All materials required by the Appeal of an Administrative Decision application form;
    - (b) All materials required by Chapter 18: *Submittal Requirements*; and
    - (c) A description of the grounds for appeal.<sup>605</sup>
- D. **Stays.**<sup>606</sup>
  1. An appeal of a notice of violation or other enforcement order to the Board of Adjustment and any subsequent appeal in accordance with N.C.G.S. [§ 160D-1402](#) stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal or during the pendency of any civil proceeding authorized by law or related appeal.
  2. If, however, the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation, then enforcement proceedings are not stayed except by a restraining order, which may be granted by a court.
  3. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after the request is filed.
  4. Notwithstanding any other provision of this Section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property. In these situations, the applicant or local government may request, and the Board of Adjustment may grant, a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

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<sup>605</sup> Carries forward a portion of ZO Section 18.4.1.

<sup>606</sup> Carries forward ZO Section 18.4.6.

**12.2.4 COMPLETENESS**

Staff evaluates applications for completeness under the standards of 12.1.6: Sufficiency Review.

**12.2.5 NOTICE<sup>607</sup>**

A. **Generally.** The notice required by Table 0-1 applies to an Appeal of Administrative Decision application.

Table 0-1: Required Notice for Appeals of Administrative Decisions			
Type of Notice	Required?	To Whom	When Required
Mail	Yes	Applicant; owner(s) of property subject to the appeal, if applicable; and owners of property abutting the property subject to the appeal, if applicable <sup>1</sup>	Notice must be deposited in the mail at least 10 days but not more than 25 days prior to the BOA hearing <sup>2</sup>
Posted	Yes	General public	At least 10 days but not more than 25 days prior to the BOA hearing <sup>2</sup>
Publication	No	n/a	n/a

<sup>1</sup> For the purpose of this Section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor.

<sup>2</sup> The computation of this time period excludes the day of mailing or posting but includes the day of the hearing.

B. **Continuation of Hearings.**

1. The Board may continue an evidentiary hearing that has been convened without further advertisement.
2. If an evidentiary hearing is set for a given date and a quorum of the Board is not then present, the hearing shall be continued until the next regular Board meeting without further advertisement.

**12.2.6 DECISION-MAKING PROCESS<sup>608</sup>**

A. **Approval Authority.** The Board of Adjustment renders decisions on Appeal of Administrative Decision applications.

<sup>607</sup> Carries forward and consolidates a portion of ZO Section 17.10.B Notice of Hearing and ZO Section 18.2.B Hearing Notice.

<sup>608</sup> Carries forward and consolidates ZO Section 17.10 Quasi-Judicial Procedure, ZO Section 18.2.A. Oath, ZO Section 18.2.B. Subpoenas, ZO Section 18.3.C. Quasi-Judicial Decisions, ZO Section 18.4 Appeal Procedure, and portions of ZO Section 18.5 Vote Required - Judicial Appeal.

**B. Record of Decision.<sup>609</sup>**

1. Following receipt of a complete application, the staff person who made the appealed decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the decision appealed from is taken.
2. The staff person shall also provide a copy of the record to the applicant and to the owner of the property that is the subject of the appeal if the applicant is not the owner.

**C. Administrative Materials.**

1. The Zoning Administrator shall transmit to the Board of Adjustment all applications, reports, and written materials relevant to the Appeal application.
2. The Zoning Administrator may distribute the administrative materials to the members of the Board prior to the hearing if, at the same time they are distributed to the Board, the Zoning Administrator also provides a copy to the applicant and to the landowner if that person is not the applicant.
3. The Zoning Administrator may provide the administrative materials in written or electronic form.
4. The administrative materials become a part of the hearing record.
5. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the Board at the hearing.

**D. Presentation of Evidence.**

1. The applicant, the local government, and any person who has standing to appeal the decision under N.C.G.S. [§ 160D-1402\(c\)](#) has the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive, as allowed by the Board.
2. Objections regarding jurisdictional and evidentiary issues including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the Board.
  - (a) The Board chair shall rule on any objections, and the chair's rulings may be appealed to the full Board.
  - (b) These rulings are also subject to judicial review pursuant to N.C.G.S. [§ 160D-1402](#). Objections based on jurisdictional issues may be raised for the first time on judicial review.

**E. Administrative Official Must Attend Hearing.** The official who made the decision, or the person currently occupying that position if the decision maker is no longer

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<sup>609</sup> Carries forward ZO Section 18.4.5.

employed by Chatham County, must be present at the evidentiary hearing as a witness.<sup>610</sup>

**F. Appearance of Official New Issues.**<sup>611</sup>

1. The applicant is not limited at the hearing to matters stated in the Appeal application.
2. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the Appeal application, the Board shall continue the hearing.

**G. Oaths.**

1. The Board of Adjustment chair, the acting chair, and the clerk to the Board are authorized to administer oaths to witnesses in any matter considered by the Board.
2. Any person who, while under oath during a proceeding before the Board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor as specified in N.C.G.S. [§ 160D-406\(f\)](#).

**H. Subpoenas.**

1. The Board of Adjustment though the Chair or, in the Chair's absence, anyone acting as Chair may subpoena witnesses and compel the production of evidence.
2. To request issuance of a subpoena, the applicant, the local government, and any person with standing under N.C.G.S. [§ 160D-1402\(c\)](#) may make a written request to the Chair explaining why it is necessary to compel certain witnesses or evidence. The Chair shall issue requested subpoenas they determine to be relevant, reasonable in nature and scope, and not oppressive.
3. The Chair must rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chair may be immediately appealed to the full Board of Adjustment.
4. If a person fails or refuses to obey a subpoena issued pursuant to this Subsection, the Board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

**I. Voting.**

1. The affirmative vote of a majority of the Board members is required to determine an appeal of an administrative decision.

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<sup>610</sup> Carries forward portions of ZO Section 17.10.E and ZO Section 18.4.8.

<sup>611</sup> Carries forward portions of ZO Section 17.10.E and ZO Section 18.4.8.



2. For the purposes of this Subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter under N.C.G.S. [§ 160D-109\(d\)](#) are not considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

J. **Decisions.**

1. The Board shall determine contested facts and make its decision within a reasonable time.
2. When hearing an appeal, the Board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision.
3. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.

### 12.2.7 REVIEW CRITERIA

In considering an Appeal of an Administrative Decision, the Board shall apply the standards of this UDO, other applicable law, and previous interpretations of this UDO by the Board.

### 12.2.8 SCOPE OF APPROVAL

The Board of Adjustment's action on an Appeal of an Administrative Decision does not authorize development. Any development that occurs after the decision on the appeal is subject to all applicable requirements of this UDO, as amended by the Board's decision if applicable.

### 12.2.9 APPEALS<sup>612</sup>

- A. Every quasi-judicial decision is subject to review by the superior court by proceedings in the nature of certiorari pursuant to N.C.G.S. [§ 160D-1402](#).
- B. Appeals must be filed within the times specified in N.C.G.S. [§ 160D-1405\(d\)](#).

### 12.2.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Withdrawal of Application.** The applicant or the property owner, if the property owner is not the applicant, may withdraw an Appeal application:
  1. At any time by written notice to the Clerk to the Board of Commissioners and the Planning Department; or
  2. By appearing at the scheduled hearing and stating that they withdraw the application.

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<sup>612</sup> Carries forward ZO Section 17.10.K.

- B. **Reapplication After Application Withdrawal.** If an applicant withdraws their application prior to action by the Board, they may reapply at any time during the 30-day appeal window specified in 12.2.3C.2: Application Timing.

### 12.2.11 RECORDKEEPING<sup>613</sup>

- A. The Board of Adjustment must keep records of its hearings and any other official action. The Board's records must show the vote of each member upon every question or their absence or failure to vote.
- B. The Board of Adjustment's decision on an Appeal application shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards.
- C. The Chair or other duly authorized member of the Board must sign the written decision.
- D. The decision is effective upon filing the written decision with the Clerk to the Board of Commissioners.
- E. The decision of the Board must be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

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<sup>613</sup> Carries forward and consolidates ZO Section 18.3.C. Quasi-Judicial Decisions and a portion of the first paragraph of ZO Section 18.2 Meetings.

## 12.3 COMPREHENSIVE PLAN ADOPTION

### 12.3.1 PURPOSE

This Section describes how the County adopts a new comprehensive plan.

### 12.3.2 APPLICABILITY

This Section applies to the adoption of a new comprehensive plan. N.C.G.S. § 160D-501(a) requires local governments to adopt and reasonably maintain a comprehensive plan in order to adopt and apply zoning regulations.

### 12.3.3 INITIATION

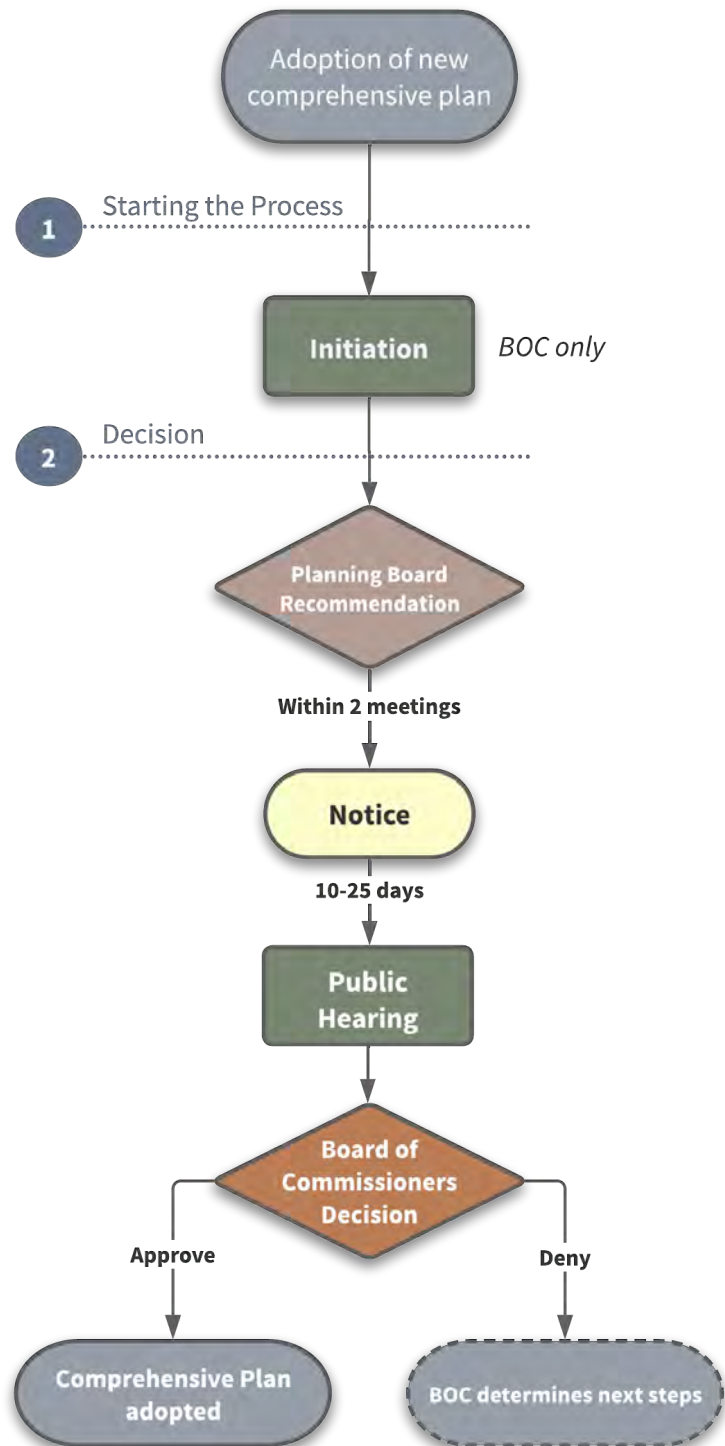
The Board of Commissioners may initiate the process to create a new Comprehensive Plan by adoption of a motion.

### 12.3.4 COMPLETENESS

Comprehensive Plan adoption does not require an application since only the Board of Commissioners can initiate the process.

### 12.3.5 NOTICE

The notice required by Table 12.3.5-1 applies to the adoption of a new comprehensive plan.



<b>Table 12.3.5-1: Required Notice for Rezoning (Conventional Districts)</b>			
<b>Type of Notice</b>	<b>Required?</b>	<b>To Whom</b>	<b>When Required</b>
Mail	No	n/a	n/a
Posted	No	n/a	n/a
Publication	Yes	General public	Once per week for two successive calendar weeks, with the first notice published at least 10 days but not more than 25 days prior to the BOC hearing <sup>1</sup>

<sup>1</sup> The computation of this time period excludes the day of publication but includes the day of the hearing.

**12.3.6 DECISION-MAKING PROCESS**

- A. **Approval Authority.** The Board of Commissioners renders decisions on adoption of a new comprehensive plan.
- B. **Planning Board Recommendation on the Comprehensive Plan.**
  - 1. The Planning Board provides a recommendation to the Board of Commissioners for approval, approval with modifications, or denial of the comprehensive plan.
  - 2. The Planning Board provides a written recommendation to the Board of Commissioners.
  - 3. The Planning Board has a maximum of two regularly scheduled meetings to consider the request. Failure of the Planning Board to make a recommendation to the Board of Commissioners following the Planning Board’s second regular meeting is considered a favorable recommendation for adoption of the plan.
- C. **Public Hearing by Board of Commissioners.**
  - 1. The Board of Commissioners shall receive public comment on adoption of a new comprehensive plan in a public hearing upon proper notice.
  - 2. The Board of Commissioners conducts the public hearing in accordance with its adopted [Rules of Procedure for Zoning Public Hearings and Major Subdivision Applications](#).
  - 3. The Board of Commissioners may continue the public hearing in order to receive additional public input.
- D. **Board of Commissioners Action on the Comprehensive Plan.**
  - 1. The Board of Commissioners approves, approves with modifications, or denies adoption of a new comprehensive plan. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.
  - 2. The Board of Commissioners shall not consider adoption of the comprehensive plan until after the Planning Board makes a recommendation

or fails to make a recommendation within the timeframe specified in [12.3.6B](#), above.

### **12.3.7 REVIEW CRITERIA**

Adoption of a new comprehensive plan is not subject to specific review criteria. The comprehensive plan establishes the community's long-term vision for Chatham County and establishes policies related to land use, economic development, public infrastructure and facilities, transportation, housing, recreation and open spaces, community resilience, and natural and cultural resources.

### **12.3.8 SCOPE OF APPROVAL**

Adoption of a comprehensive plan is a formal statement of County policy. It does not authorize or require specific actions as a result.

### **12.3.9 APPEALS**

This Chapter does not authorize new rights to an appeal from or remedies for adverse decisions by the Board of Commissioners.

### **12.3.10 RECORDKEEPING**

- A. When the Board of Commissioners adopts a new comprehensive plan, it shall maintain at least one physical copy in the Planning Department office for public review and shall post a digital copy on the County website.
- B. When the Board of Commissioners adopts a new Future Land Use Map, the Planning Director works with the Management Information Systems Director to update the "Future Land Use Framework" GIS layer.

## 12.4 COMPREHENSIVE PLAN AMENDMENTS

### 12.4.1 PURPOSE

This Section describes how the County makes changes to the Comprehensive Plan.

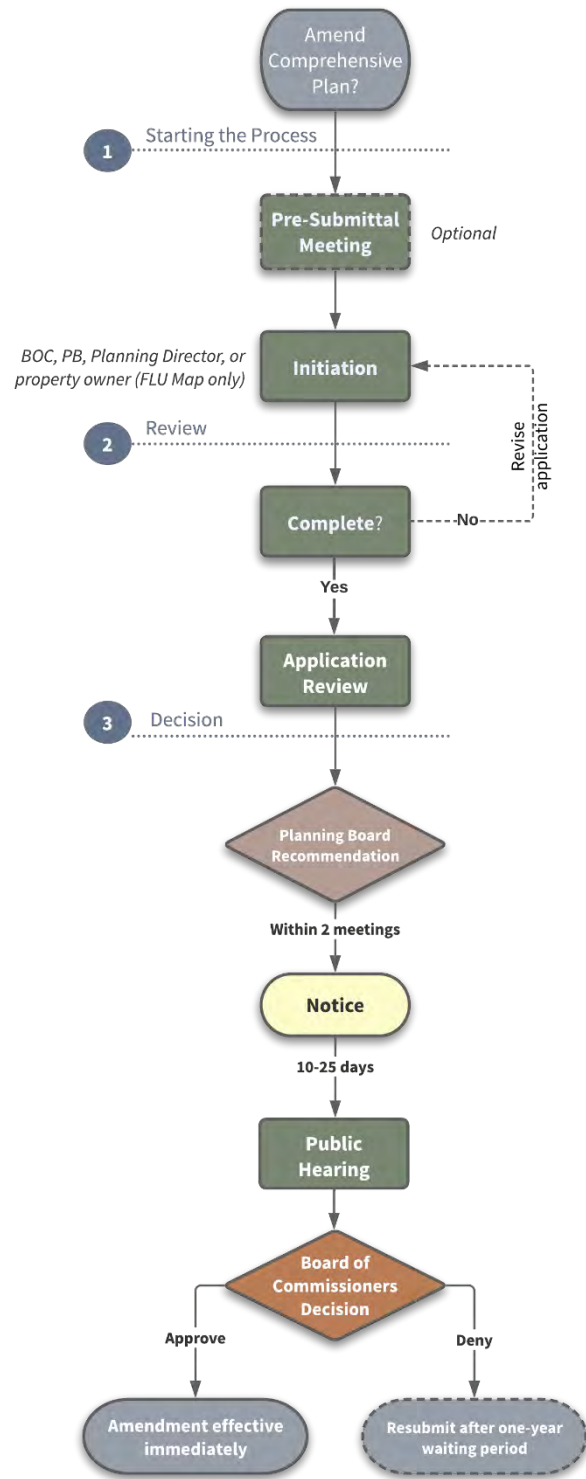
### 12.4.2 APPLICABILITY

This Section applies to any request to amend the current Comprehensive Plan, including amendments to the Future Land Use Map.

### 12.4.3 INITIATION

#### A. Applicant Eligibility.

1. The process to amend any part of the adopted Comprehensive Plan may be initiated by:
  - (a) The Board of Commissioners, by adoption of a motion;
  - (b) The Planning Board, by adoption of a motion; or
  - (c) Recommendation of the Planning Director.
  
2. The process to amend the Comprehensive Plan Future Land Use Map may be initiated by any of the agencies specified in 12.4.3A, above, or by any property owner in Chatham County.
  - (a) A property owner may only request a change in the Future Land Use Map designation of their lot(s).
  - (b) When a property owner submits a Future Land Use Map Amendment application, the property owner may concurrently submit a Rezoning application for consistency with the proposed Future Land Use Map amendment, if the current zoning is inconsistent with the proposed Future Land Use Map designation.



**B. Application Requirements.**

1. *Application Filing.*
  - (a) An applicant files a Comprehensive Plan Amendment application with the Planning Department on a form provided by the Planning Department.
  - (b) If initiated by the Board of Commissioners or the Planning Board, the chairperson must sign the application.
2. *Application Timing.* An applicant must file a Comprehensive Plan Amendment application at least 45 days prior to the public hearing at which the proposed amendment is anticipated to be heard.
3. *Application Contents.* The Comprehensive Plan Amendment application must include, at a minimum, the elements listed below.
  - (a) All materials required by the Comprehensive Plan Amendment application form; and
  - (b) All materials required by Chapter 18: *Submittal Requirements*;

**12.4.4 COMPLETENESS**

When a property owner submits a Future Land Use Map Amendment application, 12.1.6: Sufficiency Review applies.

**12.4.5 NOTICE**

The notice required by Table 12.4.5-1 applies to a Comprehensive Plan Amendment application.

<b>Table 12.4.5-1: Required Notice for Comprehensive Plan Amendments</b>			
<b>Type of Notice</b>	<b>Required?</b>	<b>To Whom</b>	<b>When Required</b>
Mail	No	n/a	n/a
Posted	No	n/a	n/a
Publication	Yes	General public	Once per week for two successive calendar weeks, with the first notice published at least 10 days but not more than 25 days prior to the BOC hearing <sup>1</sup>

<sup>1</sup> The computation of this time period excludes the day of publication but includes the day of the hearing.

**12.4.6 DECISION-MAKING PROCESS**

- A. **Approval Authority.** The Board of Commissioners renders decisions on Comprehensive Plan and Future Land Use Map Amendment applications.
- B. **Planning Department Prepares Staff Report.** The Planning Department prepares an analysis of the application and presents this information to the Planning Board.

**C. Planning Board Recommendation on Comprehensive Plan and Future Land Use Map Amendments.**

1. For Comprehensive Plan Amendments, the Planning Board provides a recommendation for approval, approval with modifications, or denial of the proposed amendment.
2. For Future Land Use Map Amendments, the Planning Board provides a recommendation for approval or denial of the proposed amendment.
3. The Planning Board has a maximum of two regularly scheduled meetings to consider the request. Failure of the Planning Board to make a recommendation to the Board of Commissioners following the Planning Board's second regular meeting is considered a favorable recommendation for adoption of the amendment.

**D. Public Hearing by Board of Commissioners.**

1. The Board of Commissioners receives public comment on a Comprehensive Plan or Future Land Use Map Amendment application in a public hearing.
2. The Board of Commissioners conducts the public hearing in accordance with its adopted [Rules of Procedure for Zoning Public Hearings and Major Subdivision Applications](#).
3. The Board of Commissioners may continue the public hearing in order to receive additional public input.

**E. Board of Commissioners Action on Comprehensive Plan and Future Land Use Map Amendments.**

1. The Board of Commissioners approves, approved with modifications, or denies adoption of a new comprehensive plan. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.
2. For Comprehensive Plan Amendments, the Board of Commissioners approves, approves with modifications, or denies the proposed amendment.
3. For Future Land Use Map Amendments, the Board of Commissioners approves or denies the proposed amendment.
4. The Board of Commissioners shall not consider a Comprehensive Plan or Future Land Use Map Amendment application until after the Planning Board makes a recommendation or fails to make a recommendation within the timeframe specified in [12.4.6C](#), above.

### 12.4.7 REVIEW CRITERIA

In considering any Comprehensive Plan or Future Land Use Map Amendment application, the Planning Board and Board of Commissioners shall consider the following criteria:

- A. Whether the proposed amendment is consistent with other policies and recommendations in the Comprehensive Plan;
- B. Whether the proposed amendment is consistent with other adopted County plans and policies relevant to the application;



- C. Whether the amendment is consistent with sound planning principles; and
- D. Any other factors the Planning Board or Board of Commissioners deem appropriate.

#### 12.4.8 SCOPE OF APPROVAL

A Comprehensive Plan or Future Land Use Map Amendment is a formal change in County policy. It does not authorize or require specific actions as a result.

#### 12.4.9 APPEALS

This Chapter does not authorize new rights to an appeal from or remedies for adverse decisions by the Board of Commissioners.

#### 12.4.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Withdrawal of Application.** An applicant may withdraw their Comprehensive Plan or Future Land Use Map Amendment application at any time by written notice to the Planning Department.
- B. **Reapplication.**
  - 1. If the applicant withdraws their Comprehensive Plan or Future Land Use Map Amendment application prior to the first notice of the public hearing, they may resubmit the application at any time.
  - 2. If the Board of Commissioners denies a Comprehensive Plan or Future Land Use Map Amendment application or the applicant withdraws the application after the first notice of the public hearing, then the County will not accept another application for the same amendment request for at least one year from the date of denial or withdrawal, as applicable.

#### 12.4.11 RECORDKEEPING

- A. When the Board of Commissioners approves changes to the text of the Comprehensive Plan, the Planning Director updates the Comprehensive Plan to include these changes or adds the changes as an appendix to the Plan, as appropriate.
- B. When the Board of Commissioners approves changes to the Future Land Use Map, the Planning Director works with the Management Information Systems Director to update the "Future Land Use Framework" GIS layer.

## 12.5 EXEMPT SUBDIVISIONS

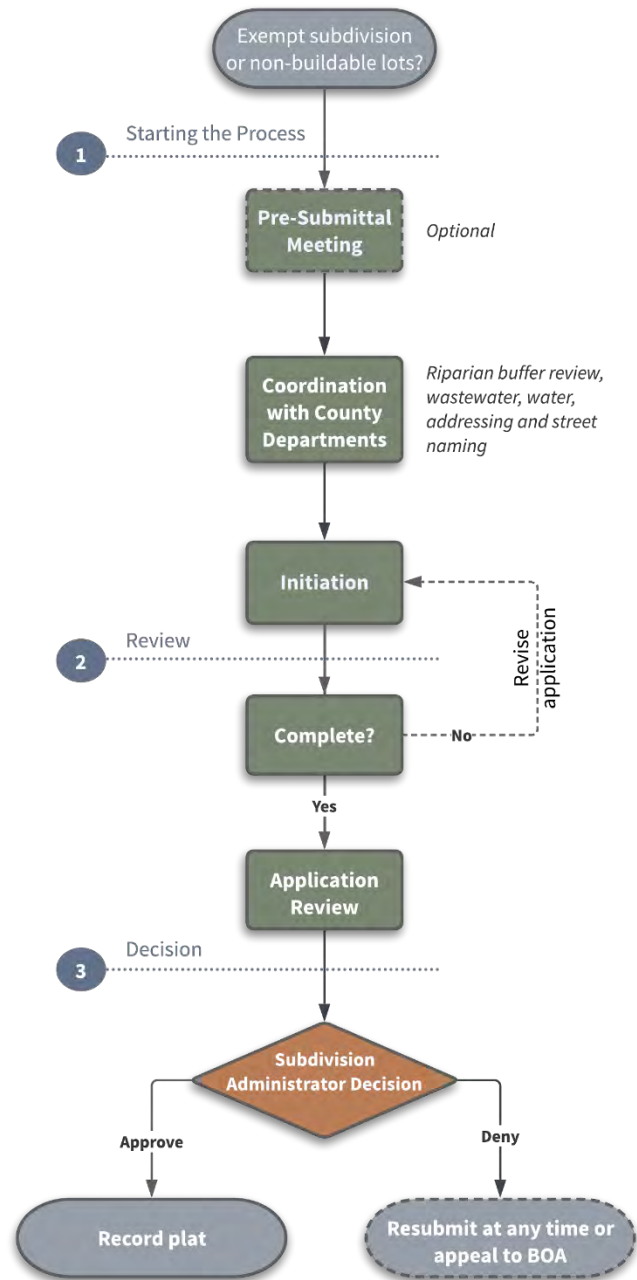
### 12.5.1 PURPOSE

This Section:

- A. Specifies how Chatham County certifies that a proposed subdivision is exempt pursuant to N.C.G.S. [§ 160D-802\(a\)](#); and
- B. Specifies how an applicant creates non-buildable lots.

### 12.5.2 APPLICABILITY<sup>614</sup>

- A. This Section applies to:
  - 1. The combination or recombination of portions of previously platted lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards specified in this UDO;
  - 2. The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved;
  - 3. The public acquisition by purchase of strips of land for widening or opening streets or other public transportation corridors or greenways;
  - 4. The division of a tract in single ownership, the entire area of which is not greater than two acres, into not more than three lots if no street



<sup>614</sup> Carries forward SR Section 4.C Exempt Subdivisions. This definition of exempt subdivisions is from N.C.G.S. [§ 160D-802\(a\)](#)(1) through (a)(5), except that the County’s current Subdivision Regulations includes the last exemption which is not included in the statute.

right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards specified in this UDO;

5. A conveyance made for the purpose of dividing up the estate of a decedent among their heirs and devisees, by will or the courts; and
6. The division of a tract of land for the dedication of public right-of-way for widening an existing public street and not involving the creation of new lots, or the extension or creation of a new public street.

B. This Section also applies to plats that create non-build~~ingable~~ lots (see 5.2.7).

### 12.5.3 INITIATION

- A. **Applicant Eligibility.** The owner of the subject property or their authorized agent may initiate an Exempt Subdivision application.
- B. **Riparian Buffer Review.** Prior to submittal of an Exempt Subdivision application, the applicant must coordinate an on-site [Riparian Buffer Review](#) with the Watershed Protection Department.
- C. **Coordination With Environmental Health Division ~~on Required Wastewater Permits~~.** Prior to submittal of an Exempt Subdivision application, the applicant must ~~apply for an Improvement Permit~~ ~~coordinate~~ with the Division of Environmental Health of the Chatham County Public Health Department ~~on required wastewater permits~~.
- D. **Public Water Availability Review.** Prior to submittal of an Exempt Subdivision application, the applicant must contact the Public Utilities & Water Department to determine whether public water is available to the subdivision and complete the [Water Service Availability form](#).
- E. **Addressing and Street Naming.** Prior to submittal of an Exempt Subdivision application, the applicant must coordinate with the Emergency Management Department on [addresses and street names](#), if applicable. The Board of Commissioners must approve street names prior to final certification of the Exempt Subdivision application.
- F. **Application Requirements.**
  1. *Application Filing.* An applicant files an Exempt Subdivision application with the Planning Department on a form provided by the Planning Department.
  2. *Application Timing.* An applicant may file an Exempt Subdivision application at any time.
  3. *Application Contents.* The Exempt Subdivision application must include, at a minimum, the elements listed below.
    - (a) All materials required by the Exempt Subdivision application form;
    - (b) All materials required by Chapter 18: *Submittal Requirements*;

- (c) A signed statement stating the reasons the proposed subdivision qualifies as an exempt subdivision; and<sup>615</sup>
- (d) The Exempt Subdivision Plat.

#### 12.5.4 COMPLETENESS

The Subdivision Administrator evaluates applications for completeness under the standards of 12.1.6: Sufficiency Review.

#### 12.5.5 NOTICE

An Exempt Subdivision application does not require public notice.

#### 12.5.6 DECISION-MAKING PROCESS

The Subdivision Administrator determines whether the Exempt Subdivision application meets the standards to be considered exempt from the major subdivision process, the administrative major subdivision process, and the minor subdivision process.

#### 12.5.7 REVIEW CRITERIA

The Subdivision Administrator ensures the Exempt Subdivision application qualifies as exempt under 12.5.2: Applicability.

#### 12.5.8 SCOPE OF APPROVAL

A certified Exempt Subdivision application authorizes the applicant to record the plat with the Chatham County Register of Deeds.

#### 12.5.9 APPEALS

The applicant may appeal the Subdivision Administrator's decision as provided in 12.2: Appeals of Administrative Decisions.

#### 12.5.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Application Withdrawal.** An applicant may withdraw their Exempt Subdivision application at any time by written notice to the Planning Department.
- B. **Reapplication.** An applicant may resubmit a withdrawn or denied Exempt Subdivision application at any time.

#### 12.5.11 MODIFICATION OF APPROVED APPLICATION

Changes to an approved Exempt Subdivision application require review through the same procedure as the original application.

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<sup>615</sup> Carries forward SR Section 1.4.D.

### **12.5.12 RECORDKEEPING**

The Subdivision Administrator maintains as a public record all Exempt Subdivision applications.

## 12.6 MINOR SUBDIVISIONS<sup>616</sup>

### 12.6.1 PURPOSE

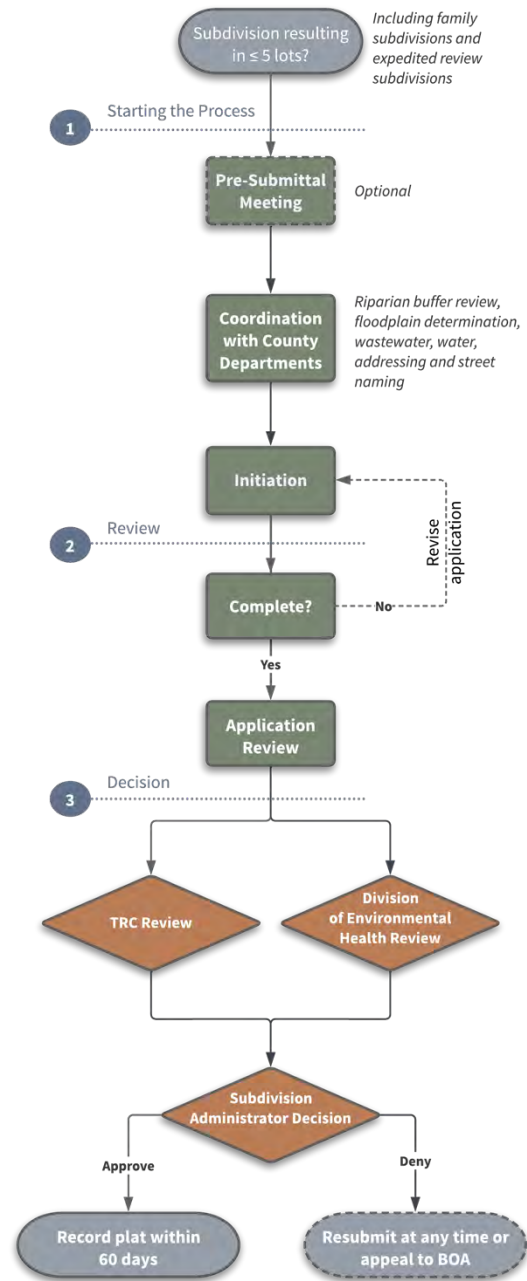
The purpose of minor subdivision approval is to ensure subdivisions resulting in five or fewer lots comply with this UDO.

### 12.6.2 APPLICABILITY

- A. This Section applies to:
  - 1. Minor subdivisions (see 5.2.3);
  - 2. Expedited review subdivisions (see 5.2.5); and
  - 3. Family subdivisions (see 5.2.4).
- B. An applicant must submit an application for approval of a minor subdivision before recording the plat with the Register of Deeds, initiating any construction or site disturbance activity, or transferring title for any lot subject to the subdivision.

### 12.6.3 INITIATION

- A. **Applicant Eligibility.** The owner of the subject property or their authorized agent may initiate a Minor Subdivision application.
- B. **Riparian Buffer Review.** Prior to submittal of a Minor Subdivision application, the applicant must coordinate an on-site [Riparian Buffer Review](#) with the Watershed Protection Department.
- C. **Floodplain Determination.** Prior to submittal of a Minor Subdivision application, the applicant must submit to the Planning Department an [Application for Floodplain Determination](#).
- D. **Coordination With Environmental Health Division on Required Wastewater Permits.** Prior to submittal of a Minor



<sup>616</sup> Carries forward the procedure for minor subdivisions. In accordance with Chapter 5: General Subdivision Standards, reduces the number of times a parcel can use the minor subdivision process to once every five years.

Subdivision application, the applicant must [apply for an Improvement Permit](#) ~~coordinate~~ with the Division of Environmental Health of the Chatham County Public Health Department ~~on required wastewater permits~~.

**E. Public Water Availability Review.**

1. Prior to submittal of a Minor Subdivision application, the applicant must contact the Public Utilities & Water Department to determine whether public water is available to the subdivision and complete the [Water Service Availability form](#).
2. If public water (other than a service line) is required to be extended to the site, the subdivision must follow the Administrative Major Subdivision Process.

**F. Addressing and Street Naming.** Prior to submittal of a Minor Subdivision application, the applicant must coordinate with the Emergency Management Department on [addresses and street names](#), if applicable. The Board of Commissioners must approve street names prior to final approval of the Minor Subdivision application.

**G. Application Requirements.**

1. *Application Filing.* An applicant files a Minor Subdivision application with the Planning Department on a form provided by the Planning Department.
2. *Application Timing.* An applicant may file a Minor Subdivision application at any time.
3. *Application Contents.* The Minor Subdivision application must include, at a minimum, the elements listed below. The Subdivision Administrator may waive any application requirement where the site conditions, type of use, or scale of the proposal makes providing that information unnecessary or impractical.
  - (a) All materials required by the Minor Subdivision application form;
  - (b) All materials required by Chapter 18: *Submittal Requirements*, except that applications for family subdivisions and expedited review subdivisions do not require payment of the Recreation Fee; and
  - (c) The Minor Subdivision Plat.

#### 12.6.4 COMPLETENESS

The Subdivision Administrator evaluates applications for completeness under the standards of 12.1.6: Sufficiency Review.

#### 12.6.5 NOTICE

A Minor Subdivision application does not require public notice.

#### 12.6.6 DECISION-MAKING PROCESS

- A. Approval Authority.** The Subdivision Administrator renders decisions on Minor Subdivision applications.

**B. Technical Review Committee Review.**

1. If the proposed subdivision involves land that contains a building or site listed on the [National Register of Historic Places](#), the TRC must review the Minor Subdivision application.
2. The TRC provides to the Subdivision Administrator a recommendation for approval, approval subject to modifications, or denial within 60 days of the date the Administrator deemed the application complete.

**C. Division of Environmental Health Review.**

1. The Division of Environmental Health of the Chatham County Public Health Department reviews the Minor Subdivision plat for compliance with water and wastewater regulations.
2. The Division must issue a [n discharge-Improvement Permit and a permit to construct for new systems and any necessary modification to existing systems](#) before the Subdivision Administrator may act on a Minor Subdivision application.

**D. Subdivision Administrator Action.**

1. The Subdivision Administrator approves or approves with conditions a Minor Subdivision application.
2. If the Subdivision Administrator approves the Minor Subdivision application, they must sign the plat and return it to the applicant for filing with the Chatham County Register of Deeds as the official plat of record.
3. If the Subdivision Administrator approves the Minor Subdivision application subject to conditions, the applicant must revise the application and resubmit it for review by the Subdivision Administrator. If the applicant does not resubmit the application and complete the subdivision process within 12 months of the date the application was deemed complete, the application expires.

**12.6.7 REVIEW CRITERIA****A. Review Criteria for Minor Subdivisions and Family Subdivisions.** The Subdivision Administrator must approve a Minor Subdivision application if:

1. The proposed subdivision complies with the minor subdivision definition (see Chapter 17: *Definitions & Acronyms*);
2. It meets all requirements and standards for Final Plats as specified in 12.10.3B.3: Application Contents;
3. The application does not propose any variances from the UDO regulations;
4. The subdivision does not create any lots that fail to meet all requirements of this UDO;
5. Additional street right-of-way dedication is shown on the plat in cases where the existing right-of-way does not meet the present minimum right-of-way width; and



6. The parcel has not been subdivided in the preceding five years.
- B. **Review Criteria for Expedited Review Subdivisions.** The Subdivision Administrator must approve a Minor Subdivision application for an expedited review subdivision if:
1. It proposes the division of a tract or parcel of land in single ownership;
  2. No part of the tract or parcel to be divided has been divided in the 10 years prior to division;
  3. The entire area of the tract or parcel to be divided is greater than five acres;
  4. After division, no more than three lots result from the division;
  5. After division, all resulting lots comply with the applicable size requirements of this UDO;
  6. The proposed use of the lots conforms with the applicable UDO requirements; and
  7. A permanent means of access for ingress and egress is recorded for each lot.
- C. **Review Criteria Not Met.** If the Minor Subdivision application does not meet one or more of the criteria listed in 12.6.7A or 12.6.7B, as applicable, it is considered an administrative major subdivision and is subject to the applicable review procedures for administrative major subdivisions.

### 12.6.8 SCOPE OF APPROVAL

- A. An approved Minor Subdivision application authorizes the applicant to record the plat and road maintenance agreement with the Chatham County Register of Deeds.
- B. The applicant must file the approved Minor Subdivision Plat and road maintenance agreement with the Chatham County Register of Deeds for recording within 60 days of the date of approval or the approval is null and void and the plat will be denied recordation, except as provided below.
  1. Minor Subdivision Plats not recorded in the Register of Deeds Office within 60 days may be reviewed by the Subdivision Administrator for compliance with current regulations.
  2. If the Subdivision Administrator determines the plat complies with current applicable UDO regulations, the Subdivision Administrator may approve the plat by signing and dating it. Then the applicant may file the plat for recording.
  3. The Subdivision Administrator shall not approve a plat that does not comply with current applicable UDO regulations.
- C. Once the Register of Deeds records the plat, the property owner may:
  1. Sell or transfer lots in the subdivision; and
  2. Apply for building permits for lots in the subdivision.
- D. Except as specified in 12.6.8E, below, a parcel qualifies for minor subdivision only once every five years. Parcels that have been subdivided using minor subdivision review in the last five years require the major subdivision process. The five-year

limitation is measured based on the history of the parcel, regardless of the identity of the current owner.

- E. A parcel qualifies for expedited subdivision only once every 10 years.
  - 1. Parcels that have been subdivided using expedited review in the last 10 years require review through the administrative major subdivision process and payment of the Recreation Fee for the district in which the parcel is located.
  - 2. The 10-year limitation is measured based on the history of the parcel, regardless of the identity of the current owner.

### 12.6.9 APPEALS

The applicant may appeal the Subdivision Administrator's decision as provided in 12.2: Appeals of Administrative Decisions.

### 12.6.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Application Withdrawal.** An applicant may withdraw their Minor Subdivision application at any time by written notice to the Planning Department.
- B. **Reapplication.** An applicant may resubmit a withdrawn or denied Minor Subdivision application at any time.

### 12.6.11 MODIFICATION OF AN APPROVED APPLICATION

- A. Except as provided in 12.6.11B, below, changes to an approved Minor Subdivision application require review through the same procedure as the original application.
- B. Corrections to a signed plat may be made within 30 days of the signature date.

### 12.6.12 RECORDKEEPING

The Subdivision Administrator maintains as a public record all Minor Subdivision applications with the grounds for approval or disapproval.

## 12.7 EARLY LAND-DISTURBING PERMITS

### 12.7.1 PURPOSE

- A. This permit accommodates due diligence activities consisting of geotechnical studies, soil evaluation for community sanitary waste systems and individual septic systems within a subdivision, and community wells.
- B. This permit is not intended to apply to due diligence activities on proposed lots or existing lots of record.

### 12.7.2 APPLICABILITY

This permit is available for projects completing the Major Subdivision Process.

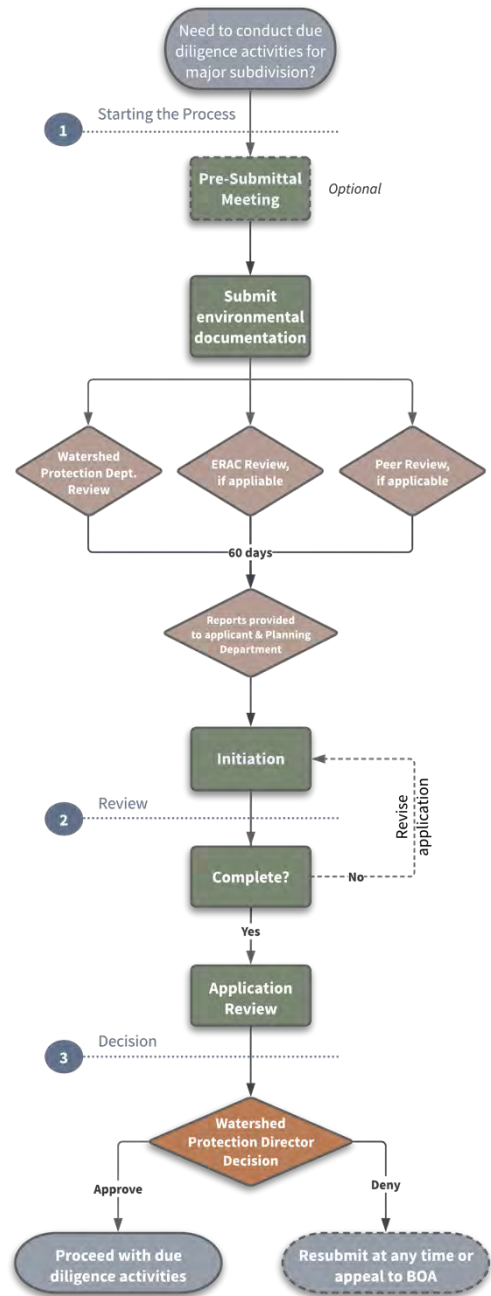
### 12.7.3 INITIATION

- A. **Applicant Eligibility.** The owner of the subject property or their authorized agent may initiate an Early Land-Disturbing Permit application.
- B. **Environmental Review.** Prior to submittal of an Early Land-Disturbing Permit application, the applicant must submit general environmental documentation or an Environmental Impact Assessment (EIA), as applicable (see Section 18.3: *General Environmental Documentation* and Section 18.4: *Environmental Impact Assessments*). The environmental documentation is reviewed as specified below.

1. *Watershed Protection Department Review.*

(a) The Watershed Protection Department reviews the:

- (1) General environmental documentation or Environmental Impact Assessment (EIA), as applicable; and
- (2) State, Federal, and County reports regarding wetlands, streams, and riparian buffer delineations, if natural water resources and riparian buffers exist on the subject property.



- (b) The Watershed Protection Department provides a report to the applicant and the Planning Department within 60 days of receipt of the environmental documentation.
2. *Peer Review.*
    - (a) If the applicant is required to submit an EIA, the Planning Department forwards it to an environmental consultant hired by the County for peer review.
    - (b) The consultant provides a report to the applicant and the Planning Department. This typically occurs within 60 days of receipt of the EIA.
    - (c) The applicant must pay the cost of this peer review before the County accepts the Early Land-Disturbing Permit application.
  3. *Environmental Review Advisory Committee Review.*
    - (a) If the applicant is required to submit an EIA, the Environmental Review Advisory Committee (ERAC) reviews the adequacy of the Assessment. ERAC is an advisory committee, and its recommendations are not binding.
    - (b) The ERAC will provide a report to the applicant and Planning Department within 60 days of the date the EIA first appeared on an ERAC meeting agenda.
- C. **Application Requirements.**
1. *Application Filing.* An applicant files an Early Land-Disturbing Permit application with the Watershed Protection Department on a form provided by the Watershed Protection Department.
  2. *Application Timing.* An applicant may file an Early Land-Disturbing Permit application prior to submittal of a Tier 1 or Tier 2 Major Subdivision Sketch Plan application.
  3. *Application Contents.*
    - (a) An Early Land-Disturbing Permit application must include:
      - (1) All materials required by the Early Land-Disturbing Permit application checklist;
      - (2) The general environmental documentation or EIA, **as applicable, and all associated reports; and**
      - (3) A riparian buffer confirmation letter from the Watershed Protection Department.

#### 12.7.4 COMPLETENESS

Staff evaluates applications for completeness under the standards of 12.1.6: Sufficiency Review.

### 12.7.5 NOTICE

An Early Land-Disturbing Permit application does not require public notice.

### 12.7.6 DECISION-MAKING PROCESS

The Watershed Protection Director reviews and approves, approves with conditions, or denies an Early Land-Disturbing Permit application.

### 12.7.7 REVIEW CRITERIA

The Watershed Protection Director reviews the Early Land-Disturbing Permit application for compliance with the following:

- A. The permit is associated with a Major Subdivision, other than a conservation subdivision;
- B. Land-disturbing activities have not occurred on the property prior to submittal;
- C. Limited disturbance is proposed for access to the proposed activity;
- D. Impacts to riparian buffers, surface water features, and mapped floodplains are not proposed or planned to occur;
- E. Soil grading activities are not proposed or planned to occur;
- F. Equipment will be tracked or otherwise designed to limit soil disturbance; and
- G. Removal of stumps is proposed only to allow equipment with low ground clearance to access the site.

### 12.7.8 SCOPE OF APPROVAL

Approval of an Early Land-Disturbing Permit application is considered authorization to proceed with due diligence activities consisting of geotechnical studies, soil evaluation for community sanitary waste systems and individual septic systems within a subdivision, and community wells.

### 12.7.9 APPEALS

The applicant may appeal the Watershed Protection Director's decision as provided in 12.2: Appeals of Administrative Decisions.

### 12.7.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Application Withdrawal.** An applicant may withdraw their Early Land-Disturbing Permit application at any time by written notice to the Watershed Protection Department.
- B. **Reapplication.** An applicant may resubmit a denied or withdrawn Early Land-Disturbing Permit application at any time.

### **12.7.11 MODIFICATION OF AN APPROVED APPLICATION**

Changes to an approved Early Land-Disturbing Permit require review through the same procedure as the original application.

### **12.7.12 RECORDKEEPING**

The Watershed Protection Director will:

- A. Maintain a record of all Early Land-Disturbing Permit applications and related materials; and
- B. Provide a copy of any application upon written request by any person.

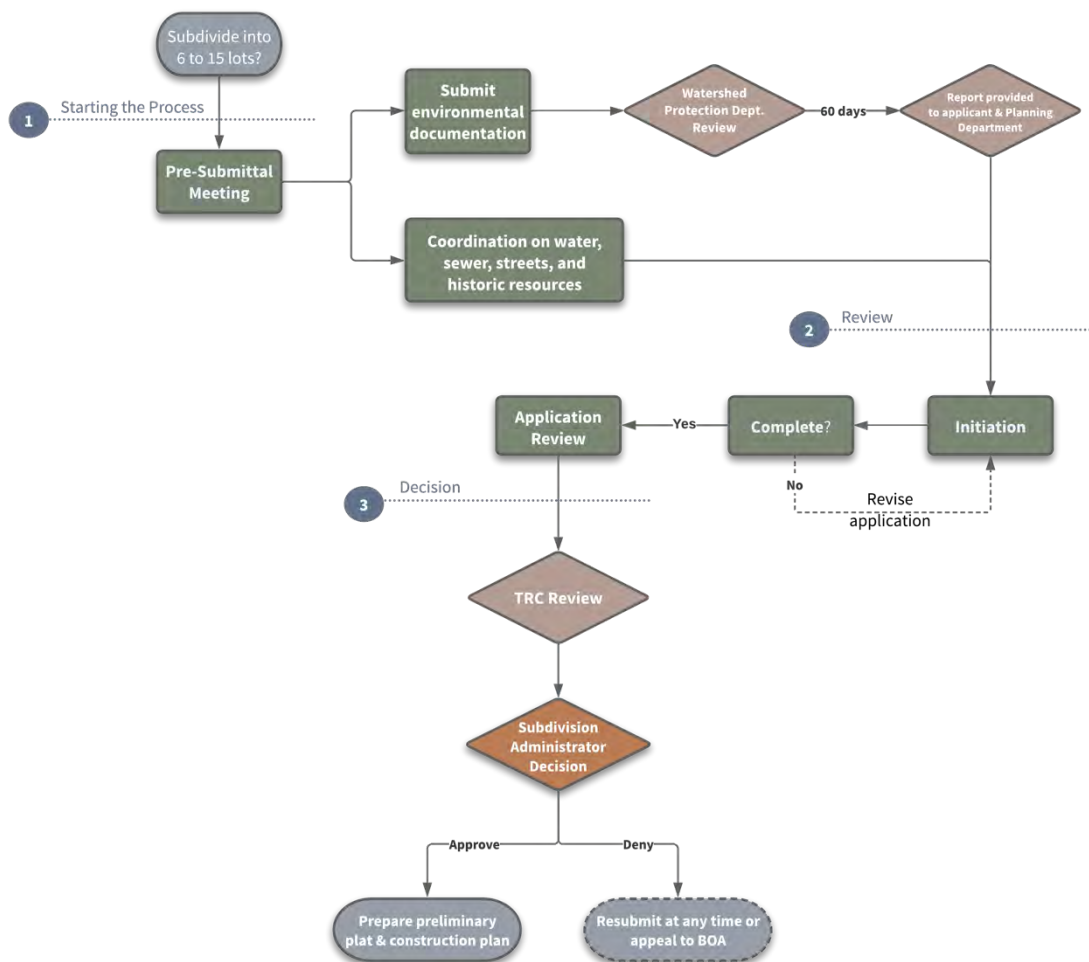
## 12.8 TIER 1 MAJOR SUBDIVISION SKETCH PLAN

### 12.8.1 PURPOSE

- A. The purpose of the Tier 1 major subdivision procedure is to provide a streamlined review process for small major subdivisions.
- B. The sketch plan procedure is the first step in the Tier 1 major subdivision process. It requires the applicant to collect site information critical to the subdivision design process, including environmental data. The procedure then provides an opportunity for the applicant to present a subdivision concept to staff for input, without a requirement for full engineering details.

### 12.8.2 APPLICABILITY

This Section applies to all Tier 1 Major Subdivision Sketch Plan applications, which is the first step in the Tier 1 major subdivision process.



### 12.8.3 INITIATION

- A. **Applicant Eligibility.** The owner of the subject property or their authorized agent may initiate a Tier 1 Major Subdivision Sketch Plan application.
- B. **Order of Pre-Submittal Steps.** The pre-submittal meeting is the first step in the Sketch Plan process, but the other pre-submittal steps (environmental review, coordination with Environmental Health Division, public water availability review, and notice to NCDOT) may occur in any sequence at the discretion of the applicant.
- C. **Pre-Submittal Meeting.**
1. A pre-submittal meeting is required. [See 12.1.5: Pre-Submittal Meetings]
  2. This initial consultation with County staff is to provide information on the subdivision regulations and processes, including required environmental information and checklists.
- D. **Environmental Review.**
1. Prior to submittal of a Tier 1 Major Subdivision Sketch Plan application, the applicant must submit the general environmental documentation required by Section 18.3: *General Environmental Documentation* to the Watershed Protection Department for review.
  2. The Watershed Protection Department provides a report to the applicant and the Planning Department within 60 days of receipt of the environmental documentation.
- E. **Coordination With Environmental Health Division.** Prior to submittal of a Tier 1 Major Subdivision Sketch Plan application, the applicant must coordinate with the Division of Environmental Health of the Chatham County Public Health Department on required wastewater permits.<sup>617</sup>
- F. **Public Water Availability Review.** Prior to submittal of a Tier 1 Major Subdivision Sketch Plan Subdivision application, the applicant must contact the Public Utilities & Water Department to determine whether public water is available to the subdivision and complete the [Water Service Availability form](#).<sup>618</sup>
- G. **Notification to NCDOT.**<sup>619</sup>
1. Prior to submittal of a Tier 1 Major Subdivision Sketch Plan application, the applicant must provide a copy of the proposed sketch plan to the NCDOT District Engineer for review of proposed State streets, State highways, and related drainage systems.

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<sup>617</sup> Implements N.C.G.S. § 160D-803(b)(2).

<sup>618</sup> Implements N.C.G.S. § 160D-803(b)(2).

<sup>619</sup> Implements N.C.G.S. § 160D-803(b)(1).



2. The District Engineer may provide comments and recommendations to the applicant and the Subdivision Administrator prior to final approval of the sketch plan by the Board of Commissioners.

#### H. **Application Requirements.**

1. *Application Filing.* An applicant files a Tier 1 Major Subdivision Sketch Plan application with the Planning Department on a form provided by the Planning Department.
2. *Application Timing.* An applicant may file a Tier 1 Major Subdivision Sketch Plan application at any time.
3. *Application Contents.* The Tier 1 Major Subdivision Sketch Plan application must include, at a minimum, the elements listed below. The Subdivision Administrator may waive any application requirement where the site conditions, type of use, or scale of the proposal makes providing that information unnecessary or impractical.
  - (a) All materials required by the Tier 1 Major Subdivision Sketch Plan application checklist;
  - (b) All materials required by Chapter 18: *Submittal Requirements*;
  - (c) The Tier 1 Major Subdivision Sketch Plan;
  - (d) Copies of State, Federal, and County reports regarding wetlands, streams, and riparian buffer delineations, if natural water resources and riparian buffers exist on the subject property; and
  - (e) A topographic map with contours at vertical intervals of not more than five feet, at the same scale as the Sketch Plan. The applicant may use existing data (e.g., from the USGS) or prepare a new survey. If the applicant prepares a new topographic survey, the date and method of preparing the survey must be stated.

#### 12.8.4 COMPLETENESS

The Subdivision Administrator evaluates applications for completeness under the standards of 12.1.6: Sufficiency Review.

#### 12.8.5 NOTICE

A Tier 1 Major Subdivision Sketch Plan application does not require public notice.

#### 12.8.6 DECISION-MAKING PROCESS

- A. **Approval Authority.** The Subdivision Administrator renders decisions on Tier 1 Major Subdivision Sketch Plan applications.
- B. **Technical Review Committee Review.**
  1. The TRC reviews the Tier 1 Major Subdivision Sketch Plan application for compliance with the UDO and other applicable ordinances and policies. The applicant must attend the TRC meeting.

2. The TRC provides to the Subdivision Administrator a recommendation for approval, approval subject to modifications, or denial within 60 days of the date the Administrator deemed the application complete.

C. **Subdivision Administrator Action.**

1. The Subdivision Administrator approves, approves with conditions, or denies a Tier 1 Major Subdivision Sketch Plan application.
2. If the Subdivision Administrator approves the Tier 1 Major Subdivision Sketch Plan application subject to conditions, the applicant must resubmit the Sketch Plan for review by the Technical Review Committee to verify compliance with the conditions of approval.

### 12.8.7 REVIEW CRITERIA

The Subdivision Administrator approves a Tier 1 Major Subdivision Sketch Plan application if the plat conforms with the requirements of this UDO.

### 12.8.8 SCOPE OF APPROVAL

A. **Authorization to Prepare Preliminary Plat and Construction Plan.** Approval of a Tier 1 Major Subdivision Sketch Plan application authorizes the applicant to begin preparation of the Tier 1 Major Subdivision Preliminary Plat and Construction Plan.

B. **Time Limit on Validity of Sketch Plan Approval.**

1. Approval of a Tier 1 Major Subdivision Sketch Plan application is valid for a period of 24 months following the date of approval by the Subdivision Administrator.
2. The approval remains valid if the Tier 1 Major Subdivision Preliminary Plat application is submitted during this time period.
3. The Subdivision Administrator may approve a one-year extension if the applicant:
  - (a) Demonstrates that delays beyond their control are responsible for the lapse; and
  - (b) Submits the extension request prior to the expiration of the original approval.

### 12.8.9 APPEALS

The applicant may appeal an administrative decision on a Tier 1 Major Subdivision Sketch Plan application in accordance with Section 12.2: Appeals of Administrative Decisions.

### 12.8.10 APPLICATION WITHDRAWAL & RESUBMITTAL

A. **Application Withdrawal.** An applicant may withdraw their Tier 1 Major Subdivision Sketch Plan application at any time by written notice to the Planning Department.

B. **Reapplication.** An applicant may resubmit a withdrawn or denied Tier 1 Major Subdivision Sketch Plan application at any time.

### **12.8.11 MODIFICATION OF APPROVED APPLICATION**

Changes to an approved Tier 1 Major Subdivision Sketch Plan application require review as specified in 12.1.10: Modification of Approved Major Subdivision Applications.

### **12.8.12 RECORDKEEPING**

The Subdivision Administrator maintains as a public record all Tier 1 Major Subdivision Sketch Plan applications with the grounds for approval or denial and any conditions.

## 12.9 TIER 1 MAJOR SUBDIVISION PRELIMINARY PLAT & CONSTRUCTION PLAN

### 12.9.1 PURPOSE

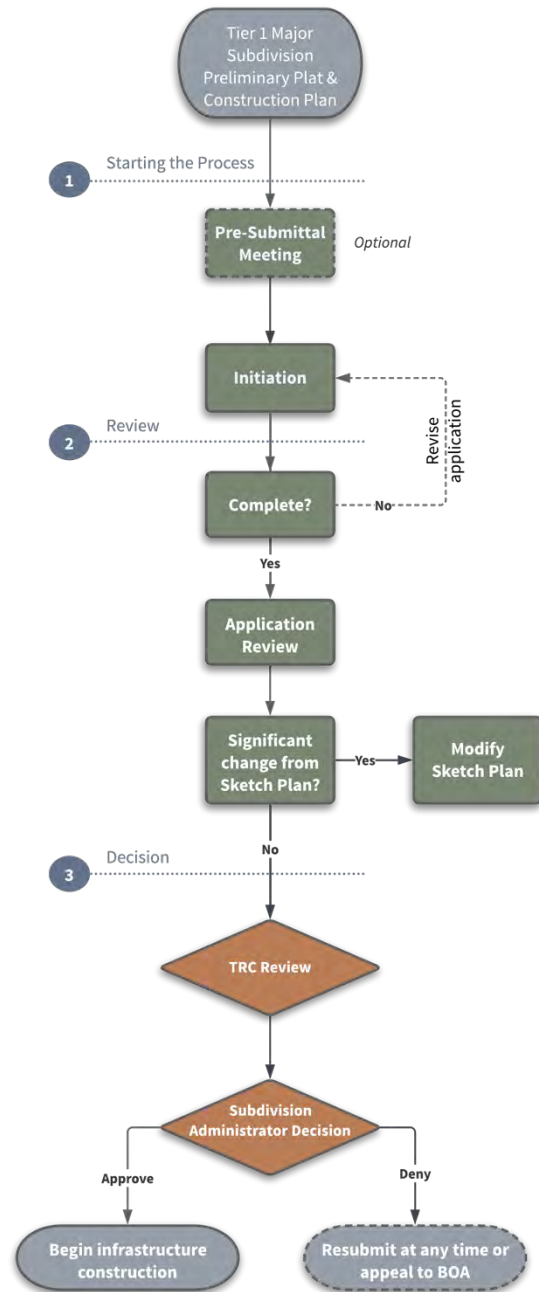
- A. The purpose of the Tier 1 major subdivision procedure is to provide a streamlined review process for small major subdivisions.
- B. The preliminary plat and construction plan procedure is the second step in the Tier 1 major subdivision process. It involves the preparation of engineered documents used for construction of the subdivision.

### 12.9.2 APPLICABILITY

This Section applies to all Tier 1 Major Subdivision Preliminary Plat & Construction Plan applications, which is the second step in the Tier 1 major subdivision process.

### 12.9.3 INITIATION

- A. **Applicant Eligibility.** The owner of the subject property or their authorized agent may initiate a Tier 1 Major Subdivision Preliminary Plat & Construction Plan application.
- B. **Application Requirements.**
  1. *Application Filing.* An applicant files a Tier 1 Major Subdivision Preliminary Plat & Construction Plan application with the Planning Department on a form provided by the Planning Department.
  2. *Application Timing.* An applicant must file a Tier 1 Major Subdivision Preliminary Plat & Construction Plan application at least 21 days prior to the Technical Review Committee meeting at which the application will be reviewed.
  3. *Application Contents.* The Tier 1 Major Subdivision Preliminary Plat & Construction Plan application must include, at a minimum, the elements listed below. The Subdivision Administrator may waive any application



requirement where the site conditions, type of use, or scale of the proposal makes providing that information unnecessary or impractical:

- (a) All materials required by the Tier 1 Major Subdivision Preliminary Plat & Construction Plan application checklist;
- (b) All materials required by Chapter 18: *Submittal Requirements*;
- (c) The Preliminary Plat and Construction Plan, drawn to a convenient scale of not more than 200 feet to an inch when practical, which must include the items listed on the application checklist;
- (d) A soils evaluation performed by a licensed soil scientist ~~certified as or~~ an authorized on-site wastewater evaluator ~~or other person certified or~~ licensed to evaluate soil suitability for ~~subsurface or subsurface septic wastewater systems installation~~, unless a central sewage disposal system is proposed. The soils ~~evaluation report~~ must include a soils map ~~showing indicating~~ the location of ~~the~~ suitable soils ~~and the house box~~ and a letter of explanation ~~for the types of wastewater systems proposed~~;
- (e) Plans of proposed utility layouts for sewer and water where applicable, showing feasible connections to the existing utility system, or any proposed utility system; and
- (f) Copies of U.S. Army Corps of Engineers and/or N.C. Division of Water Quality permits or certifications, if required, or other confirmation from the regulatory agency that they have conducted a preliminary review and will issue a permit at a later date.

#### 12.9.4 COMPLETENESS

- A. The Subdivision Administrator evaluates applications for completeness under the standards of 12.1.6: *Sufficiency Review*.
- B. If the Subdivision Administrator determines during the sufficiency review that there are significant changes or departures from the approved sketch plan, the applicant must request modification of the sketch plan in accordance with 12.9.11: *Modification of Approved Application*.
- C. For the purpose of this Section, significant changes include, but are not limited to, any one or more of the following:
  1. An increase in the number of lots by 5% or more;
  2. An increase in the number of stream crossings;
  3. An increase in the number of road lanes on any segment except where providing for turning, acceleration, or deceleration lanes pursuant to recommendation of NCDOT;
  4. An increase in the linear feet of road by 5% or more;
  5. The discovery of significant Natural Heritage Areas; or

6. The discovery of cemeteries or historically significant structures after Sketch Plan approval that may alter the overall design or layout of the subdivision.

### 12.9.5 NOTICE

A Tier 1 Major Subdivision Preliminary Plat & Construction Plan application does not require public notice.

### 12.9.6 DECISION-MAKING PROCESS

- A. **Approval Authority.** The Subdivision Administrator renders decisions on Tier 1 Major Subdivision Preliminary Plat & Construction Plan applications.
- B. **Technical Review Committee Review.**
  1. The TRC reviews the Tier 1 Major Subdivision Preliminary Plat & Construction Plan application for compliance with the approved Sketch Plan, the UDO, other applicable ordinances and policies, and required permits and approvals from the County (e.g., stormwater plan approval, erosion control plan approval) and other agencies (e.g., NCDOT, NCDEQ).
  2. The TRC provides to the Subdivision Administrator a recommendation for approval, approval subject to modifications, or denial within 60 days of the date the Administrator deemed the application complete.
- C. **Subdivision Administrator Action.**
  1. The Subdivision Administrator approves, approves with conditions, or denies a Tier 1 Major Subdivision Preliminary Plat & Construction Plan application.
  2. If the Subdivision Administrator approves the preliminary plat and construction plan subject to conditions, the applicant must revise the plat and plan and submit them to the Subdivision Administrator to verify compliance with the conditions of approval.

### 12.9.7 REVIEW CRITERIA

The Subdivision Administrator approves a Tier 1 Major Subdivision Preliminary Plat & Construction Plan application if the plat and plan conform with the approved sketch plan, the requirements of this UDO, and required permits and approvals from the County and other agencies.

### 12.9.8 SCOPE OF APPROVAL

- A. **Infrastructure Construction Authorized.** Approval of a Tier 1 Major Subdivision Preliminary Plat & Construction Plan application authorizes the applicant to:
  1. Begin making improvements and installing utilities; and
  2. Apply to the Public Health Department Division Environmental Health for improvement permits once all lot lines and corners are marked.
- B. **Permit Limitations.** The County shall not issue Zoning Compliance Permits or building permits for any proposed lots until after final plat approval. However, the applicant may obtain permits for structures necessary to support required

infrastructure improvements, such as well houses and wastewater treatment facilities if the structures:

1. Conform with the existing zoning district; and
2. Do not conflict with the approved preliminary plat.

C. **Time Limit on Validity of Preliminary Plat and Construction Plan Approval.**

1. Approval of a Tier 1 Major Subdivision Preliminary Plat & Construction Plan application is valid for a period of 24 months following the date of approval by the Subdivision Administrator.
2. The approval remains valid if the Tier 1 Major Subdivision Final Plat application is submitted during this time period.
3. The Subdivision Administrator may approve a one-year extension if the applicant demonstrates that delays beyond their control are responsible for the lapse.
  - (a) The extension request requires review by the TRC and action by the Subdivision Administrator in accordance with the process specified in 12.9.6A: Technical Review Committee Review and 12.9.6C: Subdivision Administrator Action.
  - (b) The applicant must submit the extension request prior to the expiration of the original approval.
4. If an approved Tier 1 Major Subdivision Preliminary Plat & Construction Plan application expires, the Subdivision Administrator shall not accept a Final Plat application until the applicant submits a new Preliminary Plat and Construction Plan (and Sketch Plan, if necessary) based on standards in effect at the time of resubmission.

### 12.9.9 APPEALS

The applicant may appeal an administrative decision on a Tier 1 Major Subdivision Preliminary Plat & Construction Plan application in accordance with Section 12.2: Appeals of Administrative Decisions.

### 12.9.10 APPLICATION WITHDRAWAL & RESUBMITTAL

- A. **Application Withdrawal.** An applicant may withdraw their Tier 1 Major Subdivision Preliminary Plat & Construction Plan application at any time by written notice to the Planning Department.
- B. **Reapplication.** An applicant may resubmit a withdrawn or denied Tier 1 Major Subdivision Preliminary Plat & Construction Plan application at any time.

### 12.9.11 MODIFICATION OF APPROVED APPLICATION

Changes to an approved Tier 1 Major Subdivision Preliminary Plat & Construction Plan application require review as specified in 12.1.10: Modification of Approved Major Subdivision Applications.

### **12.9.12 RECORDKEEPING**

The Subdivision Administrator maintains as a public record all Tier 1 Major Subdivision Preliminary Plat & Construction Plan applications with the grounds for approval or denial and any conditions.



**12.10 TIER 1 MAJOR SUBDIVISION FINAL PLAT**

**12.10.1 PURPOSE**

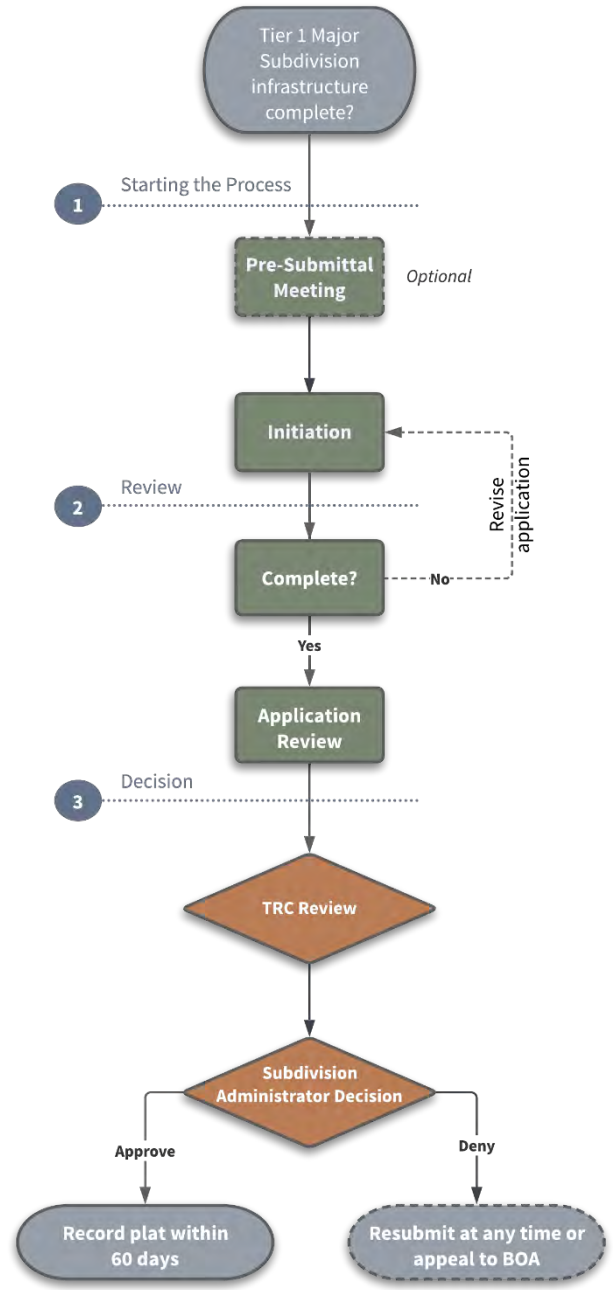
- A. The purpose of the Tier 1 major subdivision procedure is to provide a streamlined review process for small major subdivisions.
- B. Final plat approval is the final step in the subdivision of land for Tier 1 major subdivisions. Final plat approval is intended to ensure the construction and development of the subdivision complies with the approved preliminary plat and construction plan and the standards and requirements of this UDO.
- C. The approved final plat, filed with the Register of Deeds, is the permanent record of the subdivision as constructed. It shows all property lines and other dimensions important for the accurate and legal transfer of property, and records the location of street lines, and easements.

**12.10.2 APPLICABILITY**

This Section applies to all Tier 1 Major Subdivision Final Plat applications, which is the final step in the Tier 1 major subdivision process.

**12.10.3 INITIATION**

- A. **Applicant Eligibility.** The owner of the subject property or their authorized agent may initiate a Tier 1 Major Subdivision Final Plat application.
- B. **Application Requirements.**
  - 1. *Application Filing.* An applicant files a Tier 1 Major Subdivision Final Plat application with the Planning Department on a form provided by the Planning Department.
  - 2. *Application Timing.*



- (a) An applicant may file a Tier 1 Major Subdivision Final Plat application when the required improvements have been installed or appropriate financial assurance for completion of improvements has been filed.
  - (b) An applicant must file a Tier 1 Major Subdivision Final Plat application at least 21 days prior to the Technical Review Committee meeting at which the Construction Plan will be reviewed.
3. *Application Contents.* The Tier 1 Major Subdivision Final Plat application must include, at a minimum, the elements listed below. The Subdivision Administrator may waive any application requirement where the site conditions, type of use, or scale of the proposal makes providing that information unnecessary or impractical. If desired by the applicant, the application may include only that portion of the approved Preliminary Plat that they propose to record and develop at the time of Final Plat application submittal.
- (a) All materials required by the Tier 1 Major Subdivision Final Plat application checklist;
  - (b) All materials required by Chapter 18: *Submittal Requirements*;
  - (c) The Final Plat, which must be:
    - (1) Drawn to an appropriate scale of not more than one inch equals 200 feet on sheets having an outside marginal size of not more than 24 inches by 36 inches. When more than one sheet is required, an index sheet of the same size must be labeled showing the entire subdivision with the sheets lettered in alphabetical order as a key, or the location map shall show the relationship of the separate sheets; and
    - (2) Prepared by a surveyor licensed in the State of North Carolina.
  - (d) The Final Plat must show the information listed on the application checklist, in addition to any information required by N.C.G.S. [§ 47-30](#) *Plats and subdivisions; mapping requirements*.
  - (e) When public or community water and/or sewage systems are installed, the applicant must submit as-built drawings of the systems.

#### 12.10.4 COMPLETENESS

The Subdivision Administrator evaluates applications for completeness under the standards of 12.1.6: Sufficiency Review.

#### 12.10.5 NOTICE

A Tier 1 Major Subdivision Final Plat application does not require public notice.

#### 12.10.6 DECISION-MAKING PROCESS

- A. **Approval Authority.** The Subdivision Administrator renders decisions on Tier 1 Major Subdivision Final Plat applications.

**B. Technical Review Committee Review.**

1. The Technical Review Committee reviews the Tier 1 Major Subdivision Final Plat application for compliance with the approved construction plan and required permits and approvals from the County (e.g., stormwater plan approval, erosion control plan approval) and other agencies (e.g., NCDOT, NCDEQ).
2. The TRC provides to the Subdivision Administrator a recommendation for approval, approval subject to modifications, or disapproval within 60 days of the date the Administrator deemed the application complete.

**C. Subdivision Administrator Action.**

1. The Subdivision Administrator approves, approves with conditions, or denies a Tier 1 Major Subdivision Final Plat application.
2. If the Subdivision Administrator approves the application, they must sign the final plat and return it to the applicant for filing with the Chatham County Register of Deeds as the official plat of record.
3. If the Subdivision Administrator approves the application subject to conditions, the applicant must resubmit the final plat to the Subdivision Administrator to verify compliance with the conditions of approval. Once the Subdivision Administrator verifies compliance with the conditions of approval, they sign the plat and return it to the applicant for filing.

**12.10.7 REVIEW CRITERIA**

The Subdivision Administrator approves a Tier 1 Major Subdivision Final Plat application if the plat substantially conforms to the approved preliminary plat and construction plan, the requirements of this UDO, and required permits and approvals from the County and other agencies.

**12.10.8 SCOPE OF APPROVAL**

- A. An approved Tier 1 Major Subdivision Final Plat application authorizes the applicant to record the plat with the Chatham County Register of Deeds.
- B. The applicant must file the approved final plat with the Chatham County Register of Deeds for recording within 60 days of the date of the Planning Director's signature or the approval is null and void and the plat will be denied recordation, except as provided below.
  1. Final plats not recorded in the Register of Deeds Office within 60 days may be reviewed by the Subdivision Administrator for compliance with current regulations.
  2. If the Subdivision Administrator determines the plat complies with current applicable UDO regulations, the Planning Director may approve the plat by signing and dating it. Then the applicant may file the plat for recording.
  3. The Planning Director shall not approve a plat that does not comply with current applicable UDO regulations.

- C. Once the Register of Deeds records the plat, the property owner may:
1. Sell or transfer lots in the subdivision; and
  2. Apply for building permits for lots in the subdivision.

### 12.10.9 APPEALS

The applicant may appeal an administrative decision on a Tier 1 Major Subdivision Final Plat application in accordance with Section 12.2: Appeals of Administrative Decisions.

### 12.10.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Application Withdrawal.** An applicant may withdraw their Tier 1 Major Subdivision Final Plat application at any time by written notice to the Planning Department.
- B. **Reapplication.** An applicant may resubmit a withdrawn or denied Tier 1 Major Subdivision Final Plat application at any time.

### 12.10.11 MODIFICATION OF APPROVED APPLICATION

Changes to an approved Tier 1 Major Subdivision Final Plat application require review as specified in 12.1.10: Modification of Approved Major Subdivision Applications.

### 12.10.12 RECORDKEEPING

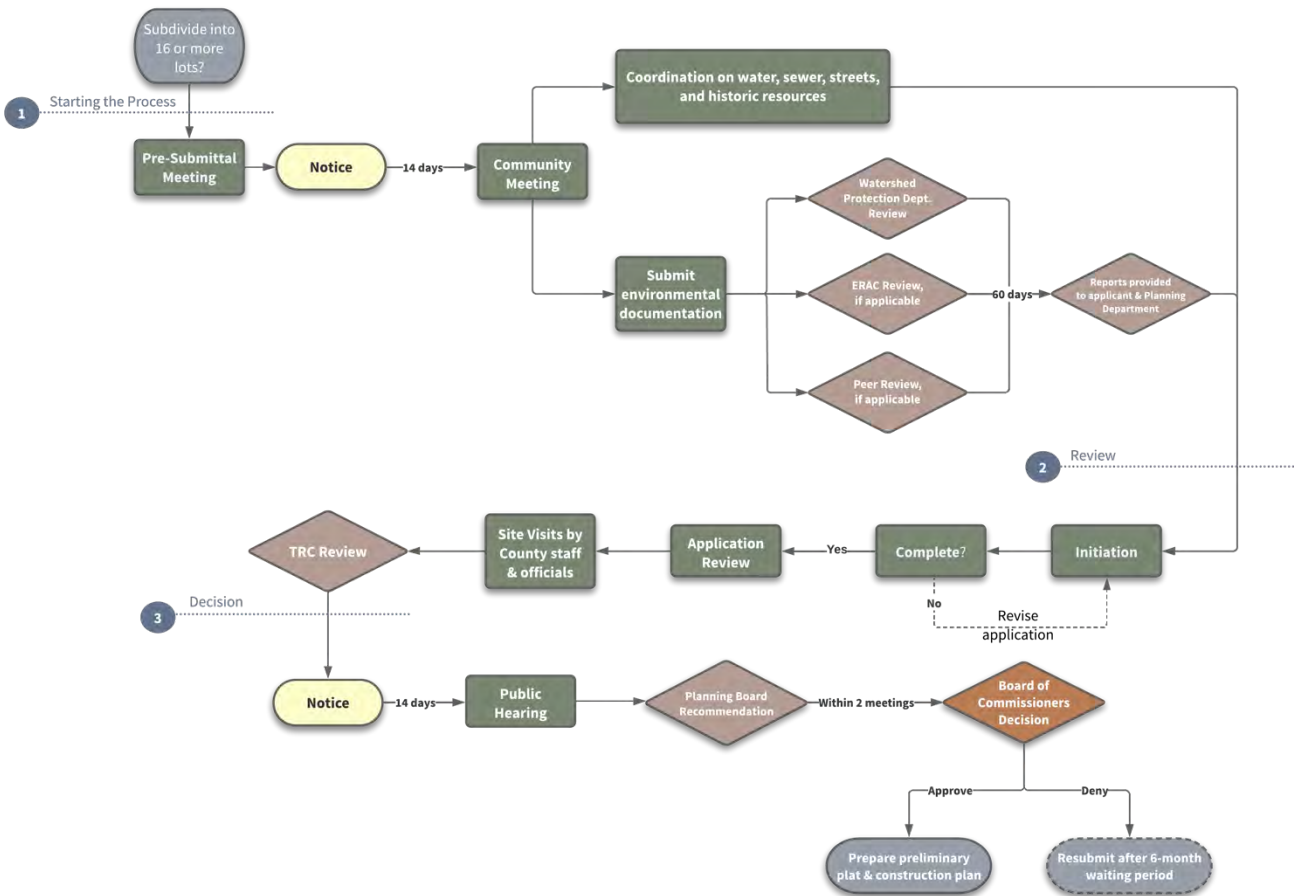
The Subdivision Administrator maintains as a public record all Tier 1 Major Subdivision Final Plat applications with the grounds for approval or denial and any conditions.



**12.11 TIER 2 MAJOR SUBDIVISION SKETCH PLAN<sup>620</sup>**

**12.11.1 PURPOSE**

- A. The Tier 2 major subdivision procedure ensures new Tier 2 major subdivisions comply with the standards and requirements of this UDO.
- B. The sketch plan procedure is the first step in the Tier 2 major subdivision process. It requires the applicant to collect site information critical to the subdivision design process, including environmental data; soils information, which influences the location of septic systems and, ultimately, lots; and information on historical resources. The procedure then provides an opportunity for the applicant to present a subdivision concept to the community, staff, and appointed and elected officials for input, without a requirement for full engineering details.



<sup>620</sup> Proposes to rename Major Subdivision Concept Plans for consistency with the terminology used in N.C.G.S. § 160D-80]. Proposes significant changes to the review process for major subdivisions by requiring review and action on a Sketch Plan by the Planning Board and Board of Commissioners, with review and action on Preliminary (First) and Final Plats by staff.

- C. Developers are encouraged to be innovative with their design and go beyond minimum regulations for safe and orderly growth by advocating sustainable planning and development practices that encourage the types and patterns of land development that will preserve and enhance the best features of Chatham County.

### 12.11.2 APPLICABILITY

This Section applies to all Tier 2 Major Subdivision Sketch Plan applications, which is the first step in the Tier 2 major subdivision process. A Tier 2 major subdivision results in more than 15 lots.

### 12.11.3 INITIATION<sup>621</sup>

- A. **Applicant Eligibility.** The owner of the subject property or their authorized agent may initiate a Tier 2 Major Subdivision Sketch Plan application.
- B. **Order of Pre-Submittal Steps.** The pre-submittal meeting is the first step in the Sketch Plan process, but the other pre-submittal steps (community meeting, environmental review, coordination with Environmental Health Division, public water availability review, notice to NCDOT, etc.) may occur in any sequence at the discretion of the applicant.
- C. **Pre-Submittal Meeting.**
1. A pre-submittal meeting is required. [See 12.1.5: *Pre-Submittal Meetings*]
  2. This initial consultation with County staff is to provide information on the subdivision regulations and processes, including required environmental information and checklists.
- D. **Applicant Prepares Initial Environmental Documentation.**
1. Using the guidelines provided by the Planning and Watershed Protection Departments, the applicant develops an overview of the existing site conditions and environmental site constraints that must be addressed during the subdivision process.
  2. The applicant may use data layers available from the Chatham County GIS office to meet this requirement, unless additional documentation is required to show existing site conditions.
- E. **Draft Initial Sketch Plan(s).** The applicant prepares a horizontal plan that provides a general overview of the potential layout for the development. The County encourages one of the Sketch Plan drafts (if more than one is offered) to be a sustainable development plan with a conservation design incorporating Low Impact Development (LID) features.
- F. **Community Meeting.** Prior to submitting an application to the Planning Department, the applicant must conduct a community meeting (see 12.1.8:

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<sup>621</sup> Carries forward 5.2.B Concept Plan with minor revisions for clarity.

*Community Meetings*). The applicant reviews the Draft Initial Sketch Plan(s) with the community at this meeting.

- G. **Revised Draft Sketch Plan.** Based on feedback received in the community meeting and any meetings or discussions with County staff or staff from other agencies, the applicant selects the preferred layout (if the applicant presented more than one layout at the community meeting) and revises the Draft Initial Sketch Plan for submittal to the Planning Department.
- H. **Environmental Review.** Prior to submittal of a Tier 2 Major Subdivision Sketch Plan application, the applicant must submit general environmental documentation or an Environmental Impact Assessment (EIA), as applicable (see Section 18.3: *General Environmental Documentation* and Section 18.4: *Environmental Impact Assessments*). The environmental documentation is reviewed as specified below.
1. *Watershed Protection Department Review.*
    - (a) The Watershed Protection Department reviews the:
      - (1) General environmental documentation or Environmental Impact Assessment (EIA), as applicable; and
      - (2) State, Federal, and County reports regarding wetlands, streams, and riparian buffer delineations, if natural water resources and riparian buffers exist on the subject property.
    - (b) The Watershed Protection Department provides a report to the applicant and the Planning Department within 60 days of receipt of the environmental documentation.
  2. *Peer Review.*
    - (a) If the applicant is required to submit an EIA, the Planning Department forwards it to an environmental consultant hired by the County for peer review.
    - (b) The consultant provides a report to the applicant and the Planning Department. This typically occurs within 60 days of receipt of the EIA.
    - (c) The applicant must pay the cost of this peer review before the County accepts the Major Subdivision Preliminary Plat application.
  3. *Environmental Review Advisory Committee Review.*
    - (a) If the applicant is required to submit an EIA, the Environmental Review Advisory Committee (ERAC) reviews the adequacy of the Assessment. ERAC is an advisory committee, and its recommendations are not binding.
    - (b) The ERAC will provide a report to the applicant and Planning Department within 60 days of the date the EIA first appeared on an ERAC meeting agenda.
  4. *Effect of Environmental Review on Board of Commissioners' Action.* The Board of Commissioners receives the EIA and all related comments as



information only. The information presented may be used only to determine compliance with specific development standards established in this UDO.

- I. **Coordination With Environmental Health Division.** Prior to submittal of a Tier 2 Major Subdivision Sketch Plan application, the applicant must coordinate with the Division of Environmental Health of the Chatham County Public Health Department on required wastewater permits.<sup>622</sup>
- J. **Public Water Availability Review.** Prior to submittal of a Tier 2 Major Subdivision Sketch Plan Subdivision application, the applicant must contact the Public Utilities & Water Department to determine whether public water is available to the subdivision and complete the [Water Service Availability form](#).<sup>623</sup>
- K. **Notification to NCDOT.**<sup>624</sup>
  1. Prior to submittal of a Tier 2 Major Subdivision Sketch Plan application, the applicant must provide a copy of the proposed sketch plan to the NCDOT District Engineer for review of proposed State streets, State highways, and related drainage systems.
  2. The District Engineer may provide comments and recommendations to the applicant and the Subdivision Administrator prior to final approval of the sketch plan by the Board of Commissioners.
- L. **Notification to Chatham County Historical Association.**
  1. Prior to submittal of a Tier 2 Major Subdivision Sketch Plan application, the applicant must notify the [Chatham County Historical Association](#) (CCHA) of:
    - (a) The presence of any historical structures greater than 50 years in age or that have historical significance on the subject property or within 100 feet of any lot line of the subject property; and
    - (b) Any evidence of a cemetery on the subject property or within 100 feet of any lot line of the subject property.
  2. The CCHA may provide comments and recommendations during the public hearing.<sup>625</sup>
- M. **Application Requirements.**
  1. *Application Filing.* An applicant files a Tier 2 Major Subdivision Sketch Plan application with the Planning Department on a form provided by the Planning Department.

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<sup>622</sup> Implements N.C.G.S. § 160D-803(b)(2).

<sup>623</sup> Implements N.C.G.S. § 160D-803(b)(2).

<sup>624</sup> Implements N.C.G.S. § 160D-803(b)(1).

<sup>625</sup> The Chatham County Historical Association is separate from Chatham County government and is not a regulatory agency. For this reason, the UDO proposes that the CCHA can provide comments and recommendations on a proposed Sketch Plan during the public hearing just like other community members, rather than requiring CCHA review as a step in the decision-making process.

2. *Application Timing.* An applicant must file a Tier 2 Major Subdivision Sketch Plan application at least 46 days prior to the Planning Board meeting at which the proposed Sketch Plan is anticipated to be considered.
3. *Application Contents.* The Tier 2 Major Subdivision Sketch Plan application must include, at a minimum, the elements listed below. The Subdivision Administrator may waive any application requirement where the site conditions, type of use, or scale of the proposal makes providing that information unnecessary or impractical:
  - (a) All materials required by the Tier 2 Major Subdivision Sketch Plan application checklist;
  - (b) All materials required by Chapter 18: *Submittal Requirements*, including the [General Environmental Documentation Submittal Form](#) or Environmental Impact Assessment, as applicable;
  - (c) The Tier 2 Major Subdivision Sketch Plan;
  - (d) Copies of State, Federal, and County reports regarding wetlands, streams, and riparian buffer delineations, if natural water resources and riparian buffers exist on the subject property;
  - (e) A topographic map with contours at vertical intervals of not more than five feet, at the same scale as the Sketch Plan. The applicant may use existing data (e.g., from the USGS) or prepare a new survey. If the applicant prepares a new topographic survey, the date and method of preparing the survey must be stated;
  - (f) A soils evaluation performed by a licensed soil scientist ~~certified as or~~ an authorized on-site wastewater evaluator ~~or other person certified or~~ licensed to evaluate soil suitability for ~~subsurface~~ or ~~subsurface septic wastewater systems installation~~, unless a central sewage disposal system is proposed. The soils ~~evaluation report~~ must include a soils map ~~showing indicating~~ the location of ~~the~~ suitable soils ~~and the house box~~ and a letter of explanation ~~for the types of wastewater systems proposed~~; and
  - (g) Documentation demonstrating the applicant has contacted the Chatham County Historical Association in accordance with 12.11.31, above.

#### 12.11.4 COMPLETENESS

The Subdivision Administrator evaluates applications for completeness under the standards of 12.1.6: *Sufficiency Review*.

#### 12.11.5 APPLICATION AMENDMENTS

- A. After the Sufficiency Review, an applicant may submit additional information or amend a Tier 2 Major Subdivision Sketch Plan application at any time prior to the Planning Board public hearing. Significant changes to the application may require submittal of a new application.

- B. After the public hearing, an application may submit additional information or amend a Tier 2 Major Subdivision Sketch Plan application only at the request of the Planning Board or Board of Commissioners.

**12.11.6 NOTICE<sup>626</sup>**

The notice required by Table 12.11.6-1 applies to a Tier 2 Major Subdivision Sketch Plan application.

<b>Table 12.11.6-1: Required Notice for Tier 2 Major Subdivision Sketch Plan</b>			
<b>Type of Notice</b>	<b>Required?</b>	<b>To Whom</b>	<b>When Required</b>
Mail	Yes	Owners of property proposed for subdivision and owners of property within 400 feet of the property proposed for subdivision <sup>1</sup>	Notice must be deposited in the mail at least 14 days prior to the public hearing <sup>2</sup>
Posted	Yes	General public	At least 14 days prior to the public hearing <sup>2</sup>
Publication	No	n/a	n/a

<sup>1</sup> For the purpose of this Section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor.

<sup>2</sup> The computation of this time period excludes the day of mailing or posting but includes the day of the hearing.

**12.11.7 DECISION-MAKING PROCESS**

- A. **Approval Authority.** The Board of Commissioners renders decisions on Tier 2 Major Subdivision Sketch Plan applications.
- B. **Site Visits.** Once the Planning Department has determined the Tier 2 Major Subdivision Sketch Plan application is complete, the applicant must provide time(s) during at least two separate days for site visits by County staff, advisory board members, and elected officials. This does not preclude County staff from making additional site visits at other times.
- C. **Technical Review Committee Review.**
  - 1. The TRC reviews the Tier 2 Major Subdivision Sketch Plan application for compliance with the UDO and other applicable ordinances and policies. The applicant must attend the TRC meeting.

<sup>626</sup> Proposed here is to require posted notice in addition to the mailed notice currently required by SR Section 5.2.H. Notice of Review.

2. The TRC provides to the Subdivision Administrator a recommendation for approval, approval subject to modifications, or denial within 60 days of the date the Administrator deemed the application complete.

**D. Subdivision Administrator Report.**

1. The Subdivision Administrator prepares a report for the Planning Board and Board of Commissioners that includes the TRC recommendation and other pertinent information about the application.
2. The Subdivision Administrator must provide this report to the applicant prior to the public hearing.

**E. Planning Board Review and Public Hearing.**

1. The Planning Board holds a public hearing to receive public comment on the Tier 2 Major Subdivision Sketch Plan application.
2. Following the public hearing, the Planning Board reviews the application, Subdivision Administrator report, and public comments and provides to the Board of Commissioners a recommendation for approval, approval subject to modifications, or disapproval. If the Board recommends disapproval or approval subject to modifications, the necessary reasons or modifications must be specified in the meeting minutes.
3. The Planning Board has two regular meetings in which to act on a Tier 2 Major Subdivision Sketch Plan application. Failure of the Planning Board to act on within two meetings will be deemed a favorable recommendation for approval of the Sketch Plan.

**F. Board of Commissioners Review.**

1. The Board of Commissioners considers the Tier 2 Major Subdivision Sketch Plan application at the next available regular meeting after the Planning Board has acted or its time to act has expired.
2. The Board of Commissioners reviews the application and the record, including the Subdivision Administrator report, public comments, and the Planning Board recommendation.
3. The Board of Commissioners (BOC) has a maximum of 65 days from the date of the first BOC meeting at which the application was considered to approve, approve with modifications, or disapprove the Major Subdivision Sketch Plan application. If the Board of Commissioners approves the application subject to modifications or disapproves the application, the necessary reasons or modifications must be specified in the meeting minutes.
4. Failure of the Board of Commissioners to act on the Sketch Plan within 65 days will be deemed approval of the plan as submitted.
5. Following the Board of Commissioners' final action, the applicant may begin working on the Major Subdivision Preliminary Plat application.

### 12.11.8 REVIEW CRITERIA

The Board of Commissioners approves a Tier 2 Major Subdivision Sketch Plan application if it conforms with the requirements of this UDO.

### 12.11.9 SCOPE OF APPROVAL

#### A. **Authorization to Prepare Preliminary Plat and Construction Plan.**

1. Approval of a Tier 2 Major Subdivision Sketch Plan application authorizes the applicant to begin preparation of the Tier 2 Major Subdivision Preliminary Plat and Construction Plan, including the acquisition of necessary permits.
2. "Necessary permits" include Local, State, and Federal permits or approval letters required to prepare a valid Construction Plan.

#### B. **Time Limit on Validity of Sketch Plan Approval.**

1. Approval of a Tier 2 Major Subdivision Sketch Plan application for 49 or fewer lots is valid for a period of 24 months from the date of approval by the Board of Commissioners. Approval of a Tier 2 Major Subdivision Sketch Plan application for 50 or more lots is valid for a period of 36 months from the date of approval by the Board of Commissioners.
2. The approval remains valid if the Tier 2 Major Subdivision Preliminary Plat application is submitted during this time period.
3. The Board of Commissioners may approve a one-year extension if the applicant demonstrates that delays beyond their control are responsible for the lapse.
  - (a) The extension request requires review by the Planning Board and action by the Board of Commissioners in accordance with the process specified in 12.11.7E: *Planning Board Review* and 12.11.7F: *Board of Commissioners Review*. Notice is required as specified in 12.11.6: *Notice*.
  - (b) The applicant must submit the extension request prior to the expiration of the original approval.
4. If an approved Tier 2 Major Subdivision Sketch Plan application expires, the Subdivision Administrator shall not accept a Preliminary Plat & Construction Plan application until the applicant submits a new Sketch Plan application based on standards in effect at the time of resubmission.

### 12.11.10 APPEALS

This Chapter does not authorize new rights to an appeal from or remedies for adverse decisions by the Board of Commissioners.

### 12.11.11 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Application Withdrawal.** An applicant may withdraw their Tier 2 Major Subdivision Sketch Plan application at any time by written notice to the Planning Department.
- B. **Reapplication.**

1. An applicant may resubmit a withdrawn Tier 2 Major Subdivision Sketch Plan application at any time.
2. If the Board of Commissioners denies approval of the Tier 2 Major Subdivision Sketch Plan application, the applicant must wait at least six months from the date of denial before resubmitting a new application.

#### **12.11.12 MODIFICATION OF AN APPROVED APPLICATION**

Changes to an approved Tier 2 Major Subdivision Sketch Plan application require review as specified in 12.1.10: *Modification of Approved Major Subdivision Applications*.

#### **12.11.13 RECORDKEEPING**

The Subdivision Administrator maintains as a public record all Tier 2 Major Subdivision Sketch Plan applications with the grounds for approval or disapproval and any conditions.

**12.12 TIER 2 MAJOR SUBDIVISION PRELIMINARY PLAT & CONSTRUCTION PLAN<sup>627</sup>**

**12.12.1 PURPOSE**

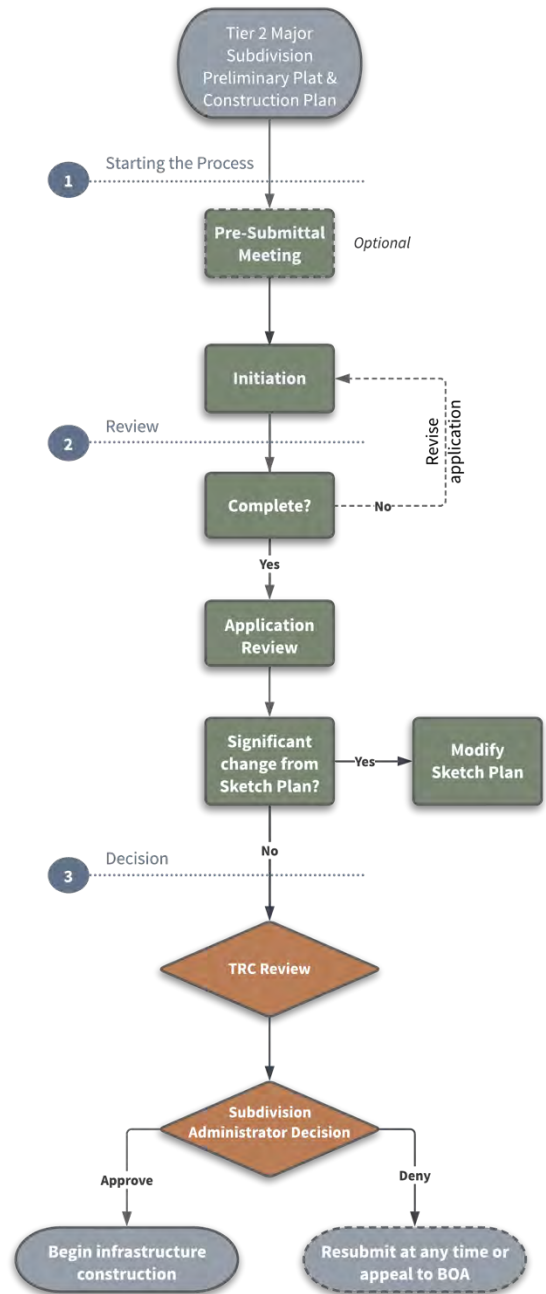
- A. The Tier 2 major subdivision procedure ensures new Tier 2 major subdivisions comply with the standards and requirements of this UDO.
- B. The preliminary plat and construction plan procedure is the second step in the Tier 2 major subdivision process. It involves the preparation of engineered documents used for construction of the subdivision.
- C. Preliminary plat and construction plan review is required to ensure compliance with the design standards for all public improvements and the layout of the development set forth in the Sketch Plan.

**12.12.2 APPLICABILITY**

This Section applies to all Tier 2 Major Subdivision Preliminary Plat & Construction Plan applications, which is the second step in the major subdivision process.

**12.12.3 INITIATION**

- A. **Applicant Eligibility.** The owner of the subject property or their authorized agent may initiate a Tier 2 Major Subdivision Preliminary Plat & Construction Plan application.
- B. **Application Requirements.**
  - 1. *Application Filing.* An applicant files a Tier 2 Major Subdivision Preliminary Plat & Construction Plan application with the Planning Department on a form provided by the Planning Department.



<sup>627</sup> Carries forward and consolidates SR Section 5.2.C First Plat and SR Section 5.2.D Construction Plan. Proposes to rename Major Subdivision First Plats for consistency with the terminology used in N.C.G.S. § 160D-801.

2. *Application Timing.* An applicant must file a Tier 2 Major Subdivision Preliminary Plat & Construction Plan application at least 21 days prior to the Technical Review Committee meeting at which the application will be reviewed.
3. *Application Contents.* The Tier 2 Major Subdivision Preliminary Plat & Construction Plan application must include, at a minimum, the elements listed below. The Subdivision Administrator may waive any application requirement where the site conditions, type of use, or scale of the proposal makes providing that information unnecessary or impractical
  - (a) All materials required by the Tier 2 Major Subdivision Preliminary Plat & Construction Plan application checklist;
  - (b) All materials required by Chapter 18: *Submittal Requirements*;
  - (c) The Preliminary Plat and Construction Plan, drawn to a convenient scale of not more than 200 feet to an inch when practical, which must include the items listed on the application checklist;
  - (d) Plans of proposed utility layouts for sewer and water where applicable, showing feasible connections to the existing utility system, or any proposed utility system; and
  - (e) Copies of U.S. Army Corps of Engineers and/or N.C. Division of Water Quality permits or certifications, if required, or other confirmation from the regulatory agency that they have conducted a preliminary review and will issue a permit at a later date.

#### 12.12.4 COMPLETENESS

- A. The Subdivision Administrator evaluates applications for completeness under the standards of 12.1.6: *Sufficiency Review*.
- B. If the Subdivision Administrator determines during the sufficiency review that there are significant changes or departures from the approved sketch plan, the applicant must request modification of the sketch plan in accordance with 12.11.12: *Modification of an Approved Application*.
- C. For the purpose of this Section, significant changes include, but are not limited to, any one or more of the following:
  1. An increase in the number of lots by 5% or more;
  2. An increase in the number of stream crossings;
  3. An increase in the number of road lanes on any segment except where providing for turning, acceleration, or deceleration lanes pursuant to recommendation of NCDOT;
  4. An increase in the linear feet of road by 5% or more;
  5. The discovery of significant Natural Heritage Areas; or
  6. The discovery of cemeteries or historically significant structures after Sketch Plan approval that may alter the overall design or layout of the subdivision.



### 12.12.5 NOTICE

A Tier 2 Major Subdivision Preliminary Plat & Construction Plan application does not require public notice.

### 12.12.6 DECISION-MAKING PROCESS

- A. **Approval Authority.** The Subdivision Administrator renders decisions on Tier 2 Major Subdivision Preliminary Plat & Construction Plan applications.
- B. **Technical Review Committee Review.**
  - 1. The TRC reviews the Tier 2 Major Subdivision Preliminary Plat & Construction Plan application for compliance with the approved Sketch Plan, the UDO, other applicable ordinances and policies, and required permits and approvals from the County (e.g., stormwater plan approval, erosion control plan approval) and other agencies (e.g., NCDOT, NCDEQ).
  - 2. The TRC provides to the Subdivision Administrator a recommendation for approval, approval subject to modifications, or denial within 60 days of the date the Administrator deemed the application complete.
- C. **Subdivision Administrator Action.**
  - 1. The Subdivision Administrator approves, approves with conditions, or denies a Tier 2 Major Subdivision Preliminary Plat & Construction Plan application.
  - 2. If the Subdivision Administrator approves the preliminary plat and construction plan subject to conditions, the applicant must revise the plat and plan and submit them to the Subdivision Administrator to verify compliance with the conditions of approval.

### 12.12.7 REVIEW CRITERIA

The Subdivision Administrator approves a Tier 2 Major Subdivision Preliminary Plat & Construction Plan application if the plat and plan conform with the approved sketch plan, the requirements of this UDO, and required permits and approvals from the County and other agencies.

### 12.12.8 SCOPE OF APPROVAL

- A. **Infrastructure Construction Authorized.** Approval of a Tier 2 Major Subdivision Preliminary Plat & Construction Plan application authorizes the applicant to:
  - 1. Begin making improvements and installing utilities; and
  - 2. Apply to the Public Health Department Division Environmental Health for improvement permits once all lot lines and corners are marked.
- B. **Permit Limitations.** The County shall not issue Zoning Compliance Permits or building permits for any proposed lots until after final plat approval. However, the applicant may obtain permits for structures necessary to support required infrastructure improvements, such as well houses and wastewater treatment facilities if the structures:

1. Conform with the existing zoning district; and
2. Do not conflict with the approved preliminary plat.

C. **Time Limit on Validity of Preliminary Plat and Construction Plan Approval.**

1. Approval of a Tier 2 Major Subdivision Preliminary Plat & Construction Plan application is valid for a period of 24 months following the date of approval by the Subdivision Administrator.
2. The approval remains valid if the Tier 2 Major Subdivision Final Plat application is submitted during this time period.
3. The Subdivision Administrator may approve a one-year extension if the applicant demonstrates that delays beyond their control are responsible for the lapse.
  - (a) The extension request requires review by the TRC and action by the Subdivision Administrator in accordance with the process specified in 12.12.6A: *Technical Review Committee Review* and 12.12.6C: *Subdivision Administrator Action*.
  - (b) The applicant must submit the extension request prior to the expiration of the original approval.
4. If an approved Tier 2 Major Subdivision Preliminary Plat & Construction Plan application expires, the Subdivision Administrator shall not accept a Final Plat application until the applicant submits a new Preliminary Plat and Construction Plan (and Sketch Plan, if necessary) based on standards in effect at the time of resubmission.

D. **Exception to Time Limit on Validity of Preliminary Plat Approval.** The time limit on the validity of Preliminary Plat approval does not apply for subdivisions with 50 lots or more if:

1. A development schedule is submitted and approved as part of the application;
2. The development continues according to the overall phasing and time schedule established as part of the Preliminary Plat application approval.
3. The applicant must submit a Tier 2 Major Subdivision Construction Plan for the first phase of a phased subdivision within three years of approval of the Preliminary Plat. The Subdivision Administrator may grant a one-year extension for phases using the same criteria listed in 12.12.8C.3, above.

E. **Post-Approval Discoveries of Historical or Cultural Resources.**

1. If any burial sites or significant features (e.g., buried foundations, abandoned wells) are discovered after approval of a Tier 2 Major Subdivision Preliminary Plat & Construction Plan application (e.g., during site preparation or

- construction activities), the applicant must notify the Planning Department and stop work until the situation is assessed and findings are documented.<sup>628</sup>
2. If burial sites are discovered, the applicant may need to coordinate with Office of State Archaeology.
  3. The applicant must revise the approved preliminary plat and construction plan to reflect the location(s) of the historical or cultural resources.<sup>629</sup>
  4. If applicable, the buffer required by Section 6.2: *Cemetery Buffers* must be depicted on the revised preliminary plat and construction plan and established on the site.

### 12.12.9 APPEALS

The applicant may appeal an administrative decision on a Tier 2 Major Subdivision Preliminary Plat & Construction Plan application in accordance with Section 12.2: *Appeals of Administrative Decisions*.

### 12.12.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Application Withdrawal.** An applicant may withdraw their Tier 2 Major Subdivision Preliminary Plat & Construction Plan application at any time by written notice to the Planning Department.
- B. **Reapplication.** An applicant may resubmit a withdrawn or denied Tier 2 Major Subdivision Preliminary Plat & Construction Plan application at any time.

### 12.12.11 MODIFICATION OF AN APPROVED APPLICATION

Changes to an approved Tier 2 Major Subdivision Preliminary Plat & Construction Plan application require review as specified in 12.1.10: *Modification of Approved Major Subdivision Applications*.

### 12.12.12 RECORDKEEPING

The Subdivision Administrator maintains as a public record all Tier 2 Major Subdivision Preliminary Plat & Construction Plan applications with the grounds for approval or denial and any conditions.

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<sup>628</sup> The Chatham County Historical Association proposes these provisions.

<sup>629</sup> Subsection 12.6.11 authorizes the Subdivision Administrator to approve these as minor revisions.

**12.13 TIER 2 MAJOR SUBDIVISION FINAL PLAT<sup>630</sup>**

**12.13.1 PURPOSE**

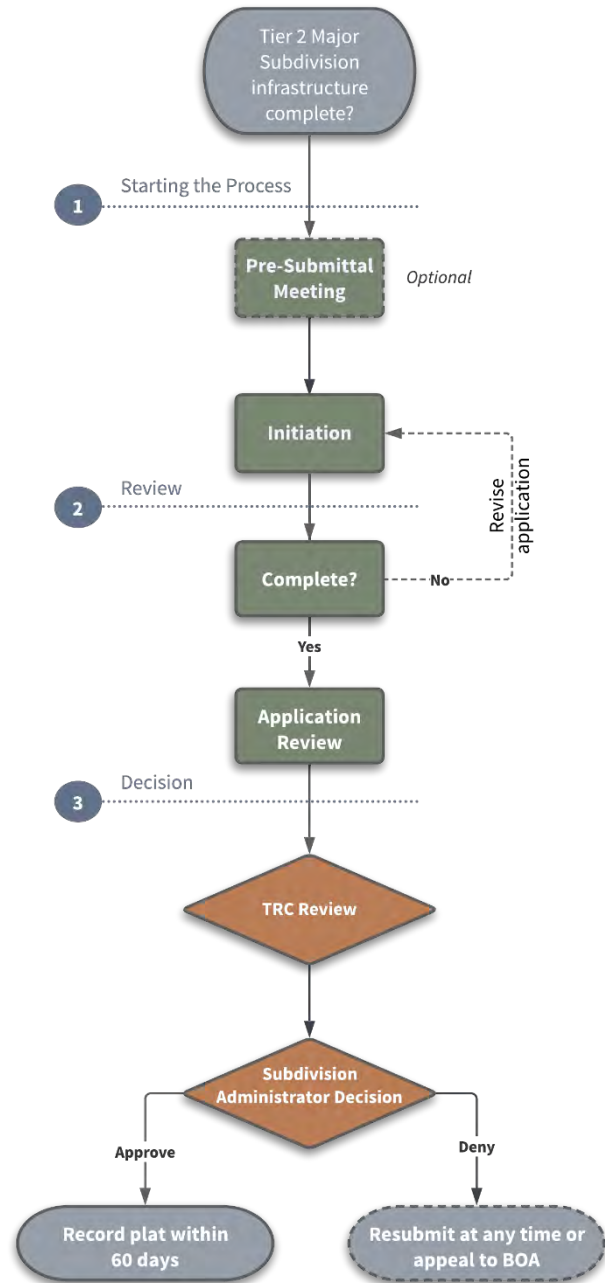
- A. Final plat approval is the final mandatory step in the subdivision of land for Tier 2 major subdivisions. Final plat approval is intended to ensure the construction and development of all subdivisions of land and land development activities comply with the approved preliminary plat and construction plan and the standards and requirements of this UDO.
- B. The approved final plat, filed with the Register of Deeds, is the permanent record of the subdivision as constructed. It shows all property lines and other dimensions important for the accurate and legal transfer of property, and records the location of street lines, and easements.

**12.13.2 APPLICABILITY**

This Section applies to all Tier 2 Major Subdivision Final Plat applications, which is the fourth and final step in the Tier 2 major subdivision process.

**12.13.3 INITIATION**

- A. **Applicant Eligibility.** The owner of the subject property or their authorized agent may initiate a Tier 2 Major Subdivision Final Plat application.
- B. **Application Requirements.**
  - 1. *Application Filing.* An applicant files a Tier 2 Major Subdivision Final Plat application with the Planning Department on a form provided by the Planning Department.



<sup>630</sup> Carries forward SR Section 6.4 *Final Plat*.

2. *Application Timing.*
  - (a) An applicant may file a Tier 2 Major Subdivision Final Plat application when the required improvements are 75% complete.
  - (b) An applicant must file a Tier 2 Major Subdivision Final Plat application at least 21 days prior to the Technical Review Committee meeting at which the Construction Plan will be reviewed.
3. *Application Contents.* The Tier 2 Major Subdivision Final Plat application must include, at a minimum, the elements listed below. The Subdivision Administrator may waive any application requirement where the site conditions, type of use, or scale of the proposal makes providing that information unnecessary or impractical. If desired by the applicant, the application may include only that portion of the approved Preliminary Plat that they propose to record and develop at the time of Final Plat application submittal.
  - (a) All materials required by the Tier 2 Major Subdivision Final Plat application form;
  - (b) All materials required by Chapter 18: *Submittal Requirements*;
  - (c) The Final Plat, which must be:
    - (1) Drawn to an appropriate scale of not more than one inch equals 200 feet on sheets having an outside marginal size of not more than 24 inches by 36 inches. When more than one sheet is required, an index sheet of the same size must be labeled showing the entire subdivision with the sheets lettered in alphabetical order as a key, or the location map shall show the relationship of the separate sheets; and
    - (2) Prepared by a surveyor licensed in the State of North Carolina.
  - (d) The Final Plat, which must show the information listed on the application checklist, in addition to any information required by N.C.G.S. [§ 47-30 Plats and subdivisions; mapping requirements](#); and
  - (e) If desired by the applicant, a request to provide a performance guarantee in accordance with Section 7.4: *Performance Guarantees for Completion of Improvements*.
  - (f) When public or community water and/or sewage systems are installed, the applicant must submit as-built drawings of the systems.

#### 12.13.4 COMPLETENESS

- A. The Subdivision Administrator evaluates applications for completeness under the standards of 12.1.6: *Sufficiency Review*.
- B. If the Subdivision Administrator determines during the completeness review that the Final Plat does not substantially conform to the Construction Plan or this UDO, the Subdivision Administrator must deny the Final Plat.

### 12.13.5 NOTICE

A Tier 2 Major Subdivision Final Plat application does not require public notice.

### 12.13.6 DECISION-MAKING PROCESS

A. **Approval Authority.** The Subdivision Administrator renders decisions on Tier 2 Major Subdivision Final Plat applications.

A.B. **Technical Review Committee Review.**

1. The Technical Review Committee reviews the Tier 2 Major Subdivision Final Plat application for compliance with the approved construction plan and required permits and approvals from the County (e.g., stormwater plan approval, erosion control plan approval) and other agencies (e.g., NCDOT, NCDEQ).
2. The TRC provides to the Subdivision Administrator a recommendation for approval, approval subject to modifications, or disapproval within 60 days of the date the Administrator deemed the application complete.

B.C. **Subdivision Administrator Action.**

1. The Subdivision Administrator approves, approves with conditions, or denies a Tier 2 Major Subdivision Final Plat application.
2. If the Subdivision Administrator approves the application, the Planning Director signs the final plat and returns it to the applicant for filing with the Chatham County Register of Deeds as the official plat of record.
3. If the Subdivision Administrator approves the application subject to conditions, the applicant must resubmit the final plat to the Subdivision Administrator to verify compliance with the conditions of approval. Once the Subdivision Administrator verifies compliance with the conditions of approval, they sign the plat and return it to the applicant for filing.

### 12.13.7 REVIEW CRITERIA

The Subdivision Administrator approves a Tier 2 Major Subdivision Final Plat application if it substantially conforms to the approved Preliminary Plat and Construction Plan, the requirements of this UDO, and required permits and approvals from the County and other agencies.

### 12.13.8 SCOPE OF APPROVAL

- A. An approved Tier 2 Major Subdivision Final Plat application authorizes the applicant to record the plat with the Chatham County Register of Deeds.
- B. The applicant must file the approved final plat with the Chatham County Register of Deeds for recording within 60 days of the date of the Planning Director's signature or the approval is null and void and the plat will be denied recordation, except as provided below.

1. Final plats not recorded in the Register of Deeds Office within 60 days may be reviewed by the Subdivision Administrator for compliance with current regulations.
  2. If the Subdivision Administrator determines the plat complies with current applicable UDO regulations, the Planning Director may approve the plat by signing and dating it. Then the applicant may file the plat for recording.
  3. The Planning Director shall not approve a plat that does not comply with current applicable UDO regulations.
- C. Once the Register of Deeds records the plat, the property owner may:
1. Sell or transfer lots in the subdivision; and
  2. Apply for building permits for lots in the subdivision.

### 12.13.9 APPEALS

The applicant may appeal an administrative decision on a Tier 2 Major Subdivision Final Plat application in accordance with Section 12.2: *Appeals of Administrative Decisions*.

### 12.13.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Application Withdrawal.** An applicant may withdraw their Tier 2 Major Subdivision Final Plat application at any time by written notice to the Planning Department.
- B. **Reapplication.** An applicant may resubmit a withdrawn or denied Tier 2 Major Subdivision Final Plat application at any time.

### 12.13.11 MODIFICATION OF AN APPROVED APPLICATION

Changes to an approved Tier 2 Major Subdivision Final Plat application require review as specified in 12.1.10: *Modification of Approved Major Subdivision Applications*.

### 12.13.12 RECORDKEEPING

The Subdivision Administrator maintains as a public record all Tier 2 Major Subdivision Final Plat applications with the grounds for approval or disapproval.

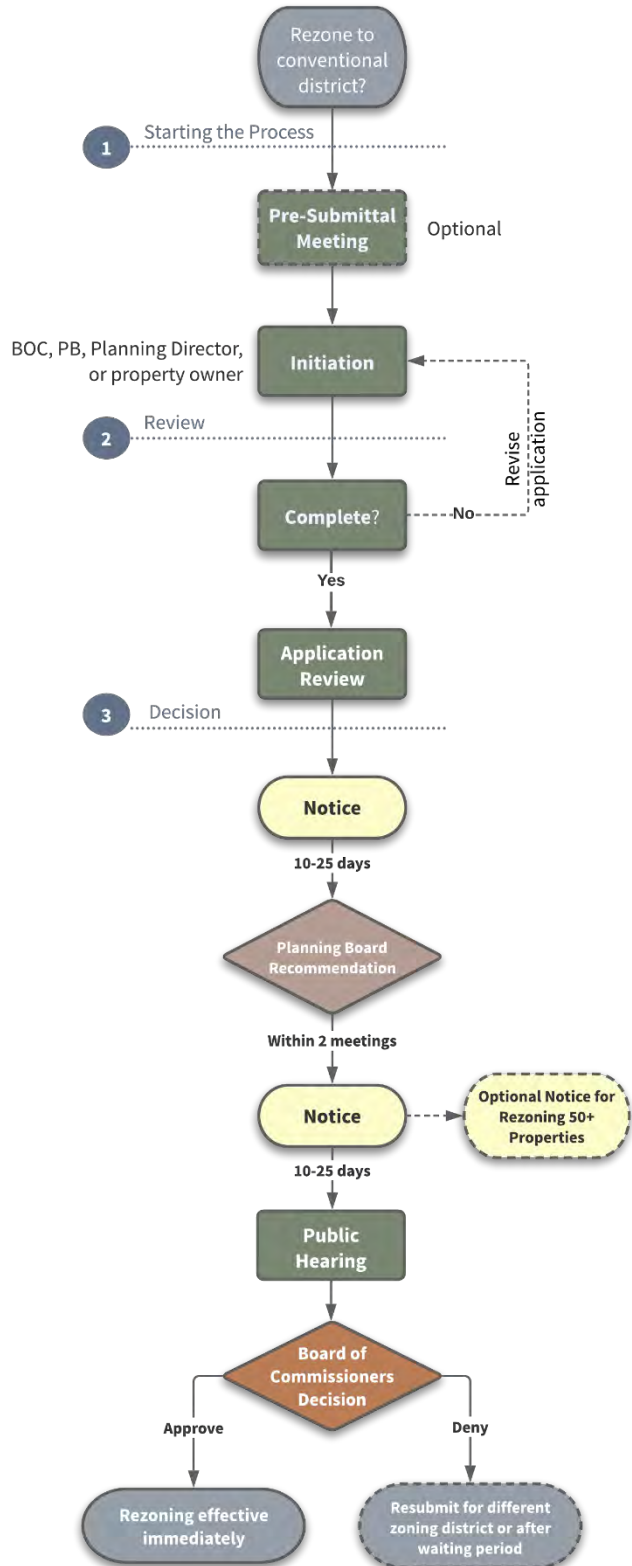
## 12.14 REZONINGS (CONVENTIONAL DISTRICTS)

### 12.14.1 PURPOSE

- A. This Section provides a way to change the zoning designation of one or more lots to a conventional district.
- B. Zoning Map changes can occur as the result of implementation of the Comprehensive Plan, changes in local conditions, new development proposals, or other factors.
- C. Rezoning applications are most often requested by property owners to provide a suitable framework for development.

### 12.14.2 APPLICABILITY

- A. This Section applies to any application to change the zoning designation of one or more lots (a "Rezoning") to a conventional district.
- B. If the proposed rezoning is to a conditional district as defined in Section 2.3: *Conditional Districts*, the procedural requirements of Section 12.15: *Rezoning (Conditional Districts)* apply.
- C. A Rezoning that down-zones property shall not be initiated, nor shall it be enforceable, without the written consent of all property owners whose property is the subject of the down-zoning, unless the down-zoning is initiated by Chatham County. For purposes of this Section, "down-zoning" means a zoning regulation





that affects an area of land in one of the following ways:<sup>631</sup>

1. By decreasing the development density of the land to be less dense than was allowed under its previous usage; or
2. By reducing the permitted uses of the land specified in this UDO to fewer uses than were allowed under its previous usage.

### 12.14.3 INITIATION

A. **Applicant Eligibility.** A Rezoning to a conventional district may be initiated by:<sup>632</sup>

1. The Board of Commissioners on its own motion;
2. The Planning Board on its own motion; and
3.        The owner of the subject property or their authorized agent.

B. **Community Meeting.** Prior to submitting an application to the Planning Department, the applicant must conduct a community meeting if the proposed rezoning is from PP, AG, RA, R5, R2, NR, or R1 to RV, OI, NB, CB, RB, RHC, IL, or IH (see 12.1.8: Community Meetings).

C. **Application Requirements.**

1. *Application Filing.*
  - (a) An applicant files a Rezoning application with the Planning Department on a form provided by the Planning Department.
  - (b) If initiated by the Board of Commissioners or the Planning Board, the chairperson must sign the application.
2. *Application Timing.* An applicant must file a Rezoning application at least 45 days prior to the Planning Board at which the proposed Rezoning is anticipated to be reviewed.
3. *Application Contents.* The Rezoning application must include, at a minimum, the elements listed below.
  - (a) All materials required by the Rezoning application form;
  - (b) All materials required by Chapter 18: *Submittal Requirements*;
  - (c) Information showing the boundaries of the subject property as follows:
    - (1) A GIS or survey map showing the land subject to the proposed rezoning and its parcel number(s); or
    - (2) If the proposed rezoning does not affect the entire property, a boundary survey and vicinity map showing the property's total acreage, parcel number, current zoning classification(s), and the

<sup>631</sup> Carries forward a portion of ZO Section 9.4.B. This provision is from N.C.G.S. [§ 160D-601\(d\)](#).

<sup>632</sup> Carries forward ZO Section 19.2.1 Text Amendment [Amendment Initiation]. Clarifies the Planning Board must adopt a motion just like the BOC.

property’s general location in relation to major streets, railroads, and/or waterways;

- (d) A legal description of the subject property or adequate description to define the area to be rezoned;
- (e) A written description of the changed or changing conditions, if any, in the area or in the County generally, that make the proposed rezoning reasonably necessary to promote the public health, safety, and general welfare;
- (f) The manner in which the proposed rezoning will carry out the intent and purpose of the Comprehensive Plan or any other adopted plan or part thereof; and
- (g) All other circumstances, factors, and reasons the applicant offers in support of the proposed rezoning.

- D. **Pre-Submittal Meeting.** A pre-submittal meeting is required if the application is filed by the owner of the subject property or their authorized agent. [See 12.1.5: *Pre-Submittal Meetings*]
- E. **Concurrent Applications.** A Comprehensive Plan Amendment application and a Rezoning application may be considered concurrently.<sup>633</sup> The Board of Commissioners must take action on the Comprehensive Plan Amendment prior to taking action on the Rezoning application.

**12.14.4 COMPLETENESS**

Staff evaluates applications for completeness under the standards of 12.1.6: *Sufficiency Review*.

**12.14.5 NOTICE**

- A. **Generally.** The notice required by Table 12.14.5-1 applies to an application for Rezoning to a conventional district.<sup>634</sup>

Table 12.14.5-1: Required Notice for Rezoning (Conventional Districts)			
Type of Notice	Required?	To Whom	When Required
Mail	Yes	Owners of property subject to the rezoning and owners of property within 400 feet of the property subject to the rezoning <sup>1</sup>	The first notice must be deposited in the mail at least 10 days but not more than 25 days prior to the Planning Board meeting;

<sup>633</sup> Carries forward a provision in ZO Section 19.9 Board of Commissioners Receives Recommendation of Planning Board and clarifies the Comprehensive Plan amendment must be adopted first.

<sup>634</sup> Proposed is to expand the mailed notice requirement to all property owners within 400 feet of the subject property (rather than just the abutting property owners). This aligns with the mailed notice requirements for major subdivisions and exceeds the minimum requirement of State law.

Table 12.14.5-1: Required Notice for Rezoning (Conventional Districts)			
Type of Notice	Required?	To Whom	When Required
			the second notice must be deposited in the mail at least 10 days but not more than 25 days prior to the BOC hearing <sup>2</sup>
Posted	Yes	General public	At least 10 days but not more than 25 days prior to the BOC hearing <sup>2</sup>
Publication	Yes	General public	Once per week for two successive calendar weeks, with the first notice published at least 10 days but not more than 25 days prior to the BOC hearing <sup>2</sup>

<sup>1</sup> For the purpose of this Section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor.

<sup>2</sup> The computation of this time period excludes the day of mailing, posting, or publication but includes the day of the hearing.

**B. Optional Notice for Large-Scale Rezonings.<sup>635</sup>**

1. The mailed notice required by Table 12.14.5-1: *Required Notice for Rezoning (Conventional Districts)* is not required if:
  - (a) The rezoning proposes to change the zoning designation of more than 50 properties owned by at least 50 different property owners; and
  - (b) Each published notice required by Table 12.18.6-1: *Required Notice for Rezoning (Conventional Districts)* is at least one-half of a newspaper page in size.
2. The advertisement specified in 12.14.5B.1, above, is effective only for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, must be notified by mail as specified in Table 12.18.6-1: *Required Notice for Rezoning (Conventional Districts)*.

**12.14.6 DECISION-MAKING PROCESS**

- A. **Approval Authority.** The Board of Commissioners renders decisions on Conventional District Rezoning applications.

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<sup>635</sup> This is from N.C.G.S. [§ 160D-602\(b\)](#).

- B. **Applicant Testimony.**<sup>636</sup> During the decision-making process, the applicant for a Conventional District Rezoning should not offer testimony or evidence concerning the specific manner in which they intend to use or develop the subject property because the reviewing and decision-making bodies must consider the appropriateness of all allowable uses in the proposed zoning district.
- C. **Planning Department Prepares Staff Report.**<sup>637</sup> The Planning Department prepares an analysis of the application and presents this information to the Planning Board.
- D. **Planning Board Recommendation on the Rezoning Application.**<sup>638</sup>
1. The Planning Board provides a recommendation to the Board of Commissioners for approval or denial of the Rezoning application.
  2. The Planning Board provides a recommendation to the Board of Commissioners that addresses consistency with the Comprehensive Plan and other matters as deemed appropriate.
    - (a) If the proposed rezoning qualifies as a “large-scale rezoning” as described in 12.14.5B.1(a), then the Planning Board’s plan consistency statement may address the overall rezoning and describe how the analysis and policies in the relevant adopted plan(s) were considered in the recommendation made.
    - (b) A recommendation by the Planning Board that a proposed rezoning is inconsistent with the Comprehensive Plan does not preclude consideration of approval of the proposed rezoning by the Board of Commissioners.
  3. The Planning Board has a maximum of two regularly scheduled meetings to consider the request. Failure of the Planning Board to make a recommendation to the Board of Commissioners following the Planning Board’s second regular meeting is considered a favorable recommendation.
  4. A Planning Board member shall not vote on recommendations regarding any Rezoning application where the outcome of the matter being considered is likely to have a direct, substantial, identifiable financial impact on the member. [See [Planning Board Code of Ethics](#)]

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<sup>636</sup> Carries forward a portion of ZO Section 19.3: Conditional District Rezoning, but changes “prohibited” to “should not.”

<sup>637</sup> Carries forward ZO Section 19.7 Planning Department Prepares Final Analysis and Recommendation but removes the requirement for staff to provide a specific recommendation for approval or denial.

<sup>638</sup> Carries forward ZO Section 19.8 Planning Board Action on the Amendment Application. Adds provision from N.C.G.S. [§ 160D-604](#)(d) related to large-scale rezonings.

**E. Public Hearing by Board of Commissioners.<sup>639</sup>**

1. The Board of Commissioners receives public comment on a Rezoning application in a public hearing at the Board's last regular meeting in January, February, March, April, May, June, August, September, October, and November.
2. The Board of Commissioners conducts the public hearing in accordance with its adopted [Rules of Procedure for Zoning Public Hearings](#).
3. The Board of Commissioners may continue the public hearing in order to receive more public input or requested information from the applicant.

**F. Board of Commissioners Action on the Rezoning Application.<sup>640</sup>**

1. The Board of Commissioners approves or denies a Rezoning application. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.
2. The Board of Commissioners shall not consider the Rezoning application until after the Planning Board makes a recommendation or fails to make a recommendation within the timeframe specified in 12.14.6D.3, above.
3. Prior to approving or denying a Rezoning application, the Board of Commissioners must adopt a statement describing whether its action is consistent or inconsistent<sup>641</sup> with the Comprehensive Plan, is reasonable, and is in the public interest.

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<sup>639</sup> Generally carries forward ZO Section 19.5 Joint Public Hearing for County-Initiated Amendments and a portion of ZO Section 5.7.D Joint Public Hearing by Board of Commissioners and Planning Board but removes the provision for a joint meeting since the current regulation does not require the Planning Board to be present. ZO Section 19.5 indicates that citizen-initiated rezonings follow the procedure in ZO Section 5 (except for the community meeting and CCAC review), but it is the same procedure.

The Planning Board prefers the County continue to hold the public hearing prior to the Planning Board's consideration of the application. However, this can be confusing for residents since the first meeting is held by the decision-makers (the BOC), but no decision is made. Then the application is considered at a separate meeting by an advisory body, then it goes back to the BOC.

Holding the public hearing after the Planning Board meeting can reduce the total number of meetings, since the BOC could act on the application at the same meeting as the public hearing. This streamlines the process, reduces the number of meetings residents need to attend to provide input, and saves applicants time and money. Further, the community may still provide input at the Planning Board meeting (presumably the same type of input that would be received at the public hearing).

<sup>640</sup> Carries forward ZO Section 19.9 Board of Commissioners Receives Recommendation of Planning Board and reorganizes and reformats for clarity. Relocates provision allowing concurrent consideration of Comprehensive Plan amendments and Rezonings to 12.4.3: Initiation. Adds provision from N.C.G.S. [§ 160D-605](#) related to large-scale rezonings.

<sup>641</sup> Adds "or inconsistent" to align with N.C.G.S. [§ 160D-605\(a\)](#).

- (a) The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board that, at the time of action on the amendment, the Board was aware of and considered the Planning Board's recommendations and any relevant portions of the Comprehensive Plan or other relevant plan.
  - (b) If the Board of Commissioners approves a Rezoning application after finding that such an action is inconsistent with the Comprehensive Plan, the zoning amendment has the effect of also amending the Comprehensive Plan Future Land Use Map designation of the subject property. An additional request or application for a Comprehensive Plan amendment is not required.
  - (c) If the proposed rezoning qualifies as a "large-scale rezoning" as described in 12.14.5B.1(a), then the Board of Commissioners' plan consistency statement may address the overall rezoning and describe how the analysis and policies in the relevant adopted plan(s) were considered in the recommendation made.
4. When approving or denying a Rezoning application, the Board must approve a brief statement explaining the reasonableness of the proposed rezoning.
- (a) The statement of reasonableness may consider, among other factors:
    - (1) The size, physical conditions, and other attributes of any areas proposed for rezoning;
    - (2) The benefits and detriments to the landowners, neighbors, and surrounding community;
    - (3) The relationship between the current actual and permissible development and the development under the proposed amendment;
    - (4) Why the action taken is in the public interest; and
    - (5) Any changed conditions warranting the rezoning.
  - (b) If the proposed rezoning qualifies as a "large-scale rezoning" as described in 12.14.5B.1(a), then the Board of Commissioners' statement on reasonableness may address the overall rezoning.
5. The required plan consistency statement and the statement of reasonableness may be approved as a single statement.<sup>642</sup>
6. A member of the Board of Commissioners shall not vote on any Rezoning application where the outcome of the matter under consideration is reasonably likely to have a direct, substantial, identifiable financial impact on the member. [See County Code [Chapter 30: Code of Ethics of the Board of County Commissioners](#)]

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<sup>642</sup> This is from N.C.G.S. [§ 160D-605\(c\)](#).

### 12.14.7 REVIEW CRITERIA<sup>643</sup>

- A. For the purpose of establishing and maintaining sound, stable, and desirable development within Chatham County, the Board of Commissioners shall not rezone property except:
  - 1. To correct an error;
  - 2. Where necessary to implement the Comprehensive Plan;
  - 3. When warranted by changed or changing conditions in a particular area or in the County generally; or
  - 4. To recognize changes in technology, the style of living, or manner of doing business.<sup>644</sup>
- B. All rezonings must be reasonably necessary to promote the public health, safety, and general welfare and to achieve the purposes of the Comprehensive Plan.
- C. The Board of Commissioners must consider the appropriateness for the subject property of all uses allowed in the proposed zoning district.

### 12.14.8 SCOPE OF APPROVAL

- A. A rezoning becomes effective immediately upon final approval by the Board of Commissioners.
- B. An approved rezoning application does not authorize development. Any development that occurs after approval of the rezoning application requires additional approval, which may include site plan or subdivision plat approval, if applicable, and building permits and certificates of zoning compliance.

### 12.14.9 APPEALS

This Chapter does not authorize new rights to an appeal from or remedies for adverse decisions by the Board of Commissioners.

### 12.14.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Withdrawal of Application.**<sup>645</sup>
  - 1. An applicant may withdraw their Rezoning application at any time by written notice to the Planning Department.
  - 2. Withdrawal of an application after the County has provided the first public notice required by 12.14.5: *Notice* is considered a denial of the application. Any fees paid are non-refundable.

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<sup>643</sup> Carries forward a portion of ZO Section 19.1 Statement of Intent.

<sup>644</sup> This criterion is new.

<sup>645</sup> Carries forward ZO Section 19.10 Withdrawal of Application with minor revisions to simplify the language.

**B. Reapplication.**<sup>646</sup>

1. If the applicant withdraws their Rezoning application prior to the first notice of the public hearing, they may resubmit the application at any time.
2. If the Board of Commissioners denies a Rezoning application or the applicant withdraws the application after the first notice of the public hearing, then the County will not accept another application for the same or similar rezoning request affecting the same property or a portion of the same property for at least one year from the date of denial or withdrawal, as applicable, except as provided in 12.14.10B.3, below.
3. However, one additional application may be made before the expiration of the one-year period for the same property or a portion of the same property if the additional application is for a conditional zoning district or for a different conventional zoning district than originally proposed.

**12.14.11 RECORDKEEPING**

- A. **Zoning Map.** When the Board of Commissioners approves a Rezoning application, the Planning Department will enter the changes on the map promptly in accordance with 2.1.4: *Zoning Map & Other Official Maps*.
- B. **Notice to NCDOT Regarding Industrial Zones in Proximity to Interstate or Primary Highways.** The Planning Department must provide written notice to the North Carolina Department of Transportation (NCDOT) of the establishment or revision of any industrial zone within 660 feet of the right-of-way of interstate or primary highways. Notice must be by registered mail sent to the offices of the NCDOT in Raleigh, North Carolina, within 15 days after the effective date of the zoning change or establishment.<sup>647</sup>

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<sup>646</sup> Carries forward ZO Section 19.11 Effect of Denial on Subsequent Petitions with minor revisions to simplify the language.

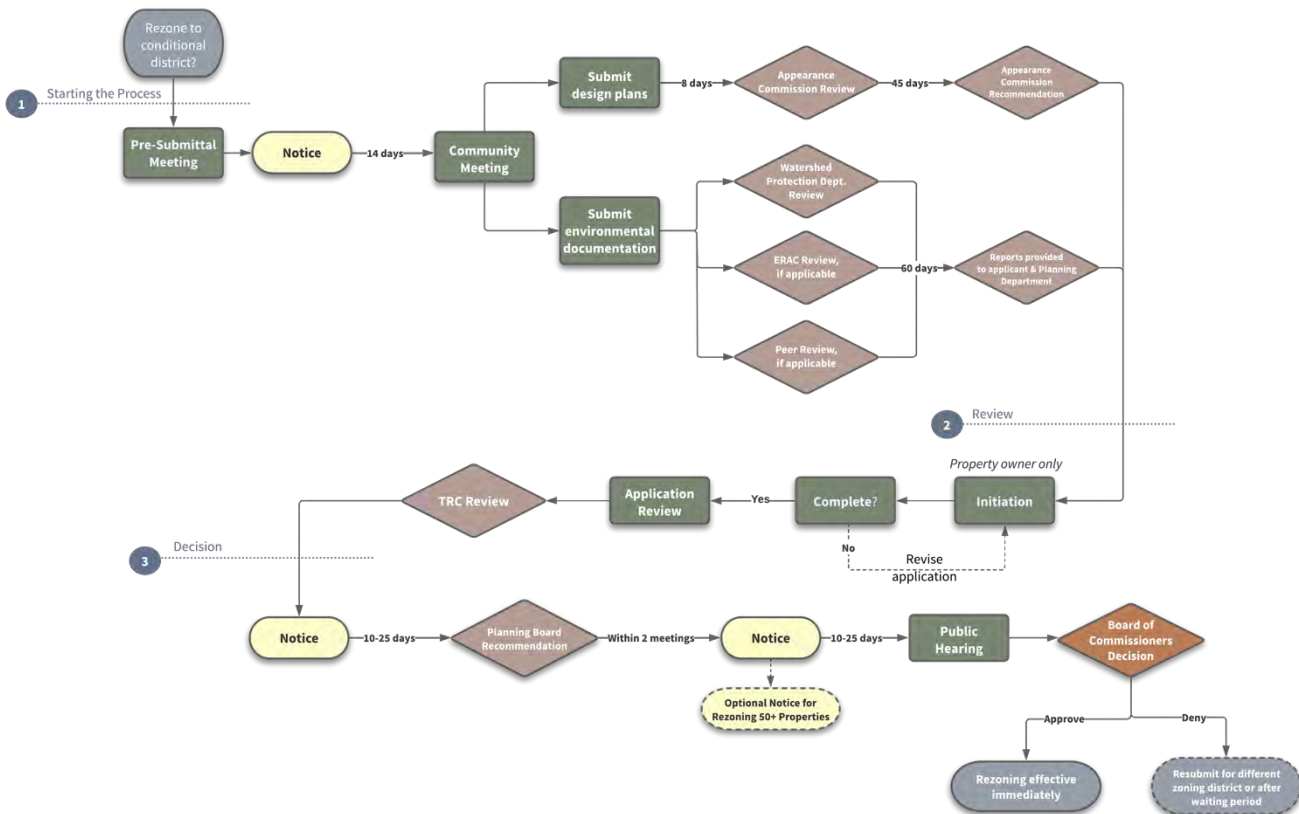
<sup>647</sup> Implements a requirement in N.C.G.S. [§ 136-153](#): Zoning changes. [[Junkyard Control Act](#)].



## 12.15 REZONINGS (CONDITIONAL DISTRICTS)

### 12.15.1 PURPOSE

- A. This Section provides a way to change the zoning designation of one or more lots to a conditional district.
- B. Zoning Map changes can occur as the result of implementation of the Comprehensive Plan, changes in local conditions, new development proposals, or other factors.
- C. Rezoning applications are most often requested by property owners to provide a suitable framework for development.



### 12.15.2 APPLICABILITY

- A. This Section applies to any application to change the zoning designation of one or more lots (a “Rezoning”) to a conditional district.
- B. If the proposed rezoning is to a conventional district as defined in Section 2.2: *Conventional Districts*, the procedural requirements of Section 12.14: *Rezoning (Conventional Districts)* apply.

### 12.15.3 INITIATION

- A. **Applicant Eligibility.** All owners of the subject property or their authorized agent(s) may initiate a Conditional District Rezoning.<sup>648</sup>
- B. **Pre-Submittal Meeting.** A pre-submittal meeting is required. [See 12.1.5: *Pre-Submittal Meetings*]<sup>649</sup>
- C. **Community Meeting.** Prior to submitting an application to the Planning Department, the applicant must conduct a community meeting (see 12.1.8: *Community Meetings*).
- D. **Appearance Commission Review.**<sup>650</sup>
  - 1. Prior to submitting an application to the Planning Department, the applicant must meet with the Chatham County Appearance Commission for review of the following elements:
    - (a) Landscape plan;
    - (b) Exterior lighting plan;
    - (c) Parking area design;
    - (d) Signs; and
    - (e) Building elevations, if available.
  - 2. The applicant must submit the proposed plans to the Planning Department at least eight days prior to the date of the Appearance Commission meeting.
  - 3. The Appearance Commission has 45 days from the date of submittal to forward a recommendation to the applicant and Planning Department. The Appearance Commission may request additional information<sup>651</sup> from the applicant that enables the Commission to effectively complete its review.
  - 4. The applicant should incorporate the Appearance Commission's recommendation into their proposed plans.
- E. **Environmental Review.** Prior to submittal of a Rezoning (Conditional District) application, the applicant must submit general environmental documentation or an Environmental Impact Assessment (EIA), as applicable (see Section 18.3: *General Environmental Documentation* and Section 18.4: *Environmental Impact Assessments*). The environmental documentation is reviewed as specified below.
  - 1. *Watershed Protection Department Review.*
    - (a) The Watershed Protection Department reviews the:

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<sup>648</sup> Carries forward a portion of ZO Section 5.3.A Application [Conditional District].

<sup>649</sup> The current Zoning Ordinance “encourages,” but does not require, a pre-submittal meeting.

<sup>650</sup> Carries forward ZO Section 5.7.B Chatham County Appearance Commission Review. Clarifies the applicant is not required to revise their plan as a result of the CCAC's recommendation.

<sup>651</sup> Carries forward ZO Section 5.3.B(3) as it relates to the Appearance Commission.

- (1) General environmental documentation or Environmental Impact Assessment (EIA), as applicable; and
  - (2) State, Federal, and County reports regarding wetlands, streams, and riparian buffer delineations, if natural water resources and riparian buffers exist on the subject property.
- (b) The Watershed Protection Department provides a report to the applicant and the Planning Department within 60 days of receipt of the environmental documentation.
2. *Peer Review.*
- (a) If the applicant is required to submit an EIA, the Planning Department forwards it to an environmental consultant hired by the County for peer review.
  - (b) The consultant provides a report to the applicant and the Planning Department. This typically occurs within 60 days of receipt of the EIA.
  - (c) The applicant must pay the cost of this peer review before the County accepts the Major Subdivision Preliminary Plat application.
3. *Environmental Review Advisory Committee Review.*
- (a) If the applicant is required to submit an EIA, the Environmental Review Advisory Committee (ERAC) reviews the adequacy of the Assessment. ERAC is an advisory committee, and its recommendations are not binding.
  - (b) The ERAC provides a report to the applicant and Planning Department within 60 days of the date the EIA first appeared on an ERAC meeting agenda.
4. *Effect of Environmental Review on Board of Commissioners' Action.* The Board of Commissioners receives the EIA and all related comments as information only. The information presented may be used only to determine compliance with specific development standards established in this UDO.

F. **Application Requirements.**

1. *Application Filing.*
  - (a) An applicant files a Conditional District Rezoning application with the Planning Department on a form provided by the Planning Department.
  - (b) If initiated by the Board of Commissioners or the Planning Board, the chairperson must sign the application.
2. *Application Timing.* An applicant must file a Conditional District Rezoning application at least 45 days prior to the Planning Board meeting at which the proposed Rezoning is anticipated to be reviewed.
3. *Application Contents.* The Conditional District Rezoning application must include, at a minimum, the elements listed below. The Zoning Administrator

may waive any application requirement where the type of use or scale of the proposal makes providing that information unnecessary or impractical<sup>652</sup>

- (a) All materials required by the Conditional District Rezoning application checklist;
- (b) All materials required by Chapter 18: *Submittal Requirements*, including the [General Environmental Documentation Submittal Form](#) or Environmental Impact Assessment, as applicable;
- (c) A written description of:
  - (1) The alleged error in this UDO, if any, that would be remedied by the proposed amendment, with a detailed explanation of such error in the UDO and detailed reasons how the proposed rezoning will correct the same;
  - (2) The changed or changing conditions, if any, in the area or in the County generally, that make the proposed rezoning reasonably necessary to promote the public health, safety, and general welfare;
  - (3) The manner in which the proposed rezoning will carry out the intent and purpose of the Comprehensive Plan or any other adopted plan or part thereof;
  - (4) How the requested amendment is either essential or desirable for the public convenience or welfare; and
  - (5) All other circumstances, factors, and reasons the applicant offers in support of the proposed rezoning.
- (d) A site plan, drawn to scale, with supporting information and text that specifies the actual use or uses proposed for the property and any rules, regulations, and conditions that, in addition to the UDO requirements, will govern the development and use of the property;
- (e) Information showing the boundaries of the subject property as follows:
  - (1) A GIS or survey map showing the land subject to the proposed rezoning and its parcel number(s); or
  - (2) If the proposed rezoning does not affect the entire property, a boundary survey and vicinity map showing the property's total acreage, parcel number, current zoning classification(s), and the property's general location in relation to major streets, railroads, and/or waterways;

G. **Concurrent Applications.** A Comprehensive Plan Amendment application and a Conditional District Rezoning application may be considered concurrently. The

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<sup>652</sup> Carries forward ZO Section 5.3.B. Plans and other information to accompany application and a portion of ZO Section 5.3.A Application [Conditional District].

Board of Commissioners must take action on the Comprehensive Plan Amendment prior to taking action on the Rezoning application.<sup>653</sup>

#### 12.15.4 COMPLETENESS

Staff evaluates applications for completeness under the standards of 12.1.6: *Sufficiency Review*.

#### 12.15.5 APPLICATION AMENDMENTS<sup>654</sup>

- A. After the Sufficiency Review, an applicant may submit additional information or amend a Rezoning (Conditional District) application at any time prior to the first Planning Board meeting. Significant changes to the application may require submittal of a new application.
- B. After the first Planning Board meeting, an application may submit additional information or amend a Rezoning (Conditional District) application only at the request of the Planning Board or Board of Commissioners.

#### 12.15.6 NOTICE

The notice requirements specified in 12.14.5: *Notice for Rezoning (Conventional District)* applications also apply to Rezoning (Conditional District) applications.

#### 12.15.7 DECISION-MAKING PROCESS

- A. **Approval Authority.** The Board of Commissioners renders decisions on Conditional District Rezoning applications.
- B. **Technical Review Committee Review.** The TRC reviews the Conditional District Rezoning application prior to the public hearing for comments and recommendations from other agencies.<sup>655</sup>
- C. **Planning Department Prepares Staff Report.**<sup>656</sup>
  - 1. The Planning Department prepares an analysis of the application presents this information to the Planning Board.
- D. **Planning Board Recommendation on the Conditional District Rezoning Application.**<sup>657</sup>

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<sup>653</sup> Carries forward a provision in ZO Section 19.9 Board of Commissioners Receives Recommendation of Planning Board.

<sup>654</sup> Generally carries forward ZO Section 5.3.B(3) but removes Chatham County Appearance Commission since its review occurs prior to application submittal.

<sup>655</sup> Carries forward ZO Section 5.7.C(4).

<sup>656</sup> Carries forward ZO Section 19.7 Planning Department Prepares Final Analysis and Recommendation.

<sup>657</sup> Carries forward ZO Section 19.8 Planning Board Action on the Amendment Application. Adds provision from N.C.G.S. [§ 160D-604\(d\)](#) related to large-scale rezonings.

1. The Planning Board provides a recommendation to the Board of Commissioners for approval, approval with conditions, or denial of the Rezoning application.
2. The Planning Board provides a recommendation to the Board of Commissioners that addresses consistency with the Comprehensive Plan and other matters as deemed appropriate.
  - (a) If the proposed rezoning qualifies as a “large-scale rezoning” as described in 12.14.5B, then the Planning Board’s plan consistency statement may address the overall rezoning and describe how the analysis and policies in the relevant adopted plan(s) were considered in the recommendation made.
  - (b) A recommendation by the Planning Board that a proposed rezoning is inconsistent with the Comprehensive Plan does not preclude consideration of approval of the proposed rezoning by the Board of Commissioners.
3. The Planning Board has a maximum of two regularly scheduled meetings to consider the request. Failure of the Planning Board to make a recommendation to the Board of Commissioners following the Planning Board’s second regular meeting is considered a favorable recommendation.
4. A Planning Board member shall not vote on recommendations regarding any Rezoning application where the outcome of the matter being considered is likely to have a direct, substantial, identifiable financial impact on the member. [See [Planning Board Code of Ethics](#)]

**E. Public Hearing by Board of Commissioners.<sup>658</sup>**

1. The Board of Commissioners receives public comment on Conditional Zoning District applications in a public hearing at the Board’s last regular meeting in January, February, March, April, May, June, August, September, October, and November.
2. The Board of Commissioners conducts the public hearing in accordance with its adopted [Rules of Procedure for Zoning Public Hearings](#).
3. The Board of Commissioners may continue the public hearing in order to receive more public input or requested information from the applicant.

**F. Board of Commissioners Action on the Conditional District Rezoning Application.<sup>659</sup>**

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<sup>658</sup> Carries forward ZO Section 5.7.D Joint Public Hearing by Board of Commissioners and Planning Board. Relocates notice provisions to 12.7.6: Notice.

<sup>659</sup> Carries forward ZO Section 19.9 Board of Commissioners Receives Recommendation of Planning Board and reorganizes and reformats for clarity. Relocates provision allowing concurrent consideration of Comprehensive Plan amendments and Rezonings to 12.7.3: Initiation. Adds provision from N.C.G.S. [§ 160D-605](#) related to large-scale rezonings.

1. The Board of Commissioners approves, approves with conditions, or denies a Conditional District Rezoning application. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board. The Board may vary or waive any applicable UDO standard in a conditional district.
2. The Board of Commissioners shall not consider the Conditional District Rezoning application until after the Planning Board makes a recommendation or fails to make a recommendation within the timeframe specified in 12.15.7D.3, above.
3. Prior to approving or denying a Conditional District Rezoning application, the Board of Commissioners must adopt a statement describing whether its action is consistent or inconsistent<sup>660</sup> with the Comprehensive Plan, is reasonable, and is in the public interest.
  - (a) The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board that, at the time of action on the amendment, the Board was aware of and considered the Planning Board's recommendations and any relevant portions of the Comprehensive Plan or other relevant plan.<sup>661</sup>
  - (b) If the Board of Commissioners approves a Conditional District Rezoning application after finding that such an action is inconsistent with the Comprehensive Plan, the zoning amendment has the effect of also amending the Comprehensive Plan Future Land Use Map. An additional request or application for a Comprehensive Plan amendment is not required.
  - (c) If the proposed rezoning qualifies as a "large-scale rezoning" as described in 12.14.5B, then the Board of Commissioners' plan consistency statement may address the overall rezoning and describe how the analysis and policies in the relevant adopted plan(s) were considered in the recommendation made.
4. When approving or denying a Conditional District Rezoning application, the Board must approve a brief statement explaining the reasonableness of the proposed rezoning.
  - (a) The statement of reasonableness may consider, among other factors:
    - (1) The size, physical conditions, and other attributes of any areas proposed for rezoning;
    - (2) The benefits and detriments to the landowners, neighbors, and surrounding community;

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<sup>660</sup> Adds "or inconsistent" to align with N.C.G.S. [§ 160D-605\(a\)](#).

<sup>661</sup> N.C.G.S. [§ 160D-605\(a\)](#) authorizes this option for the plan consistency statement requirement.

- (3) The relationship between the current actual and permissible development and the development under the proposed amendment;
  - (4) Why the action taken is in the public interest; and
  - (5) Any changed conditions warranting the rezoning.
- (b) If the proposed rezoning qualifies as a “large-scale rezoning” as described in 12.14.5B, then the Board of Commissioners’ statement on reasonableness may address the overall rezoning.

5. The required plan consistency statement and the statement of reasonableness may be approved as a single statement.<sup>662</sup>
6. A member of the Board of Commissioners shall not vote on any Conditional District Rezoning application where the outcome of the matter under consideration is reasonably likely to have a direct, substantial, identifiable financial impact on the member. [See County Code [Chapter 30: Code of Ethics of the Board of County Commissioners](#)]

**G. Conditions.**<sup>663</sup>

1. In reviewing a Conditional District Rezoning application, the Planning Department and Planning Board may recommend, and the Board of Commissioners may request, that the applicant agree to reasonable and appropriate conditions. However, only those conditions mutually approved by the Board of Commissioners and consented to by the petitioner in writing may be incorporated into the zoning regulations.
2. Conditions and site-specific standards imposed in a conditional district must be limited to those that address the:
  - (a) Conformance of the development and use of the site to Chatham County ordinances;
  - (b) Comprehensive Plan and other plans adopted pursuant to N.C.G.S. [§ 160D-501](#); or
  - (c) Impacts reasonably expected to be generated by the development or use of the site.
3. Conditions of approval should relate to:
  - (a) The relationship of the proposed use to surrounding property;
  - (b) Proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation, screening and buffer areas,
  - (c) The timing of development;

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<sup>662</sup> This is from N.C.G.S. [§ 160D-605\(c\)](#).

<sup>663</sup> Carries forward ZO Section 5.5 Conditions with revisions to remove redundant text.



- (d) Street and right-of-way improvements;
  - (e) Water and sewer improvements;
  - (f) Stormwater drainage;
  - (g) The provision of open space; and
  - (h) Other matters that the Board of Commissioners may find appropriate or the applicant may propose.
4. The conditions to approval of the rezoning may include dedication to the County or State, as appropriate, of any rights-of-way or easements for roads, water, or other public utilities necessary to serve the proposed development.
  5. The applicant must have a reasonable opportunity to consider and respond to any proposed conditions prior to final action by the Board of Commissioners.

### 12.15.8 REVIEW CRITERIA<sup>664</sup>

- A. For the purpose of establishing and maintaining sound, stable, and desirable development within Chatham County, the Board of Commissioners shall not rezone property except:
  1. To correct an error;
  2. Where necessary to implement the Comprehensive Plan;
  3. When warranted by changed or changing conditions in a particular area or in the County generally; or
  4. To recognize changes in technology, the style of living, or manner of doing business.<sup>665</sup>
- B. All rezonings must be reasonably necessary to promote the public health, safety, and general welfare and to achieve the purposes of the Comprehensive Plan.
- C. When the proposed rezoning involves a use subject to a special study (see Section 18.6: *Special Studies*), the Board of Commissioners must make the following affirmative findings:<sup>666</sup>
  1. The proposed district is either essential or desirable for the public convenience or welfare;
  2. The proposed district will not impair the integrity or character of the surrounding or adjoining areas, and will not be detrimental to the health, safety, welfare, or environment of the community;
  3. The proposed district will be consistent with the objectives of the Comprehensive Plan; and

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<sup>664</sup> Carries forward a portion of ZO Section 19.1 Statement of Intent.

<sup>665</sup> This criterion is new.

<sup>666</sup> Carries forward the findings required by ZO Section 17.1 *Procedure* [Special Use Permits].

4. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities will be provided consistent with the County's plans, policies, and regulations.

### 12.15.9 SCOPE OF APPROVAL<sup>667</sup>

- A. If the Board of Commissioners approves a Conditional District Rezoning application, the development and use of the property will be governed by the UDO requirements applicable to the district classification, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which constitute the zoning regulations for the conditional district and are binding on the property as an amendment to this UDO and the Zoning Map.
- B. Only those uses and structures indicated in the approved application and site plan are allowed on the subject property. A change of location of any structures may be authorized pursuant to 12.15.11: *Modification of an Approved Application*.
- C. Following the approval of a Conditional District Rezoning application, the subject property will be identified on the Zoning Map by the appropriate district designation.

### 12.15.10 APPEALS

This Chapter does not authorize new rights to an appeal from or remedies for adverse decisions by the Board of Commissioners.

### 12.15.11 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Withdrawal of Application.**<sup>668</sup>
  1. An applicant may withdraw their Conditional District Rezoning application at any time by written notice to the Planning Department.
  2. Withdrawal of an application after the County has provided the first public notice required by 12.14.5: *Notice* is considered a denial of the application. Any fees paid are non-refundable.
- B. **Reapplication.**<sup>669</sup>
  1. If the applicant withdraws their Conditional District Rezoning application prior to the first notice of the public hearing, they may resubmit the application at any time.
  2. If the Board of Commissioners denies a Conditional District Rezoning application or the applicant withdraws the application after the first notice of the public hearing, then the County will not accept another application for the

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<sup>667</sup> Carries forward ZO Section 5.8 Effect of Approval with minor revisions to simplify the language.

<sup>668</sup> Carries forward ZO Section 19.10 Withdrawal of Application with minor revisions to simplify the language.

<sup>669</sup> Carries forward ZO Section 19.11 Effect of Denial on Subsequent Petitions with minor revisions to simplify the language.

same or similar rezoning request affecting the same property or a portion of the same property for at least one year from the date of denial or withdrawal, as applicable, except as provided in 12.15.11B.3, below.

3. However, one additional application may be made before the expiration of the one-year period for the same property or a portion of the same property, if the additional application is for a conventional zoning district or a conditional zoning district that provides for different allowed uses than the originally proposed conditional district.

### **12.15.12 MODIFICATION OF AN APPROVED APPLICATION<sup>670</sup>**

- A. Except as provided in 12.15.12B, below, changes to the approved Conditional District Rezoning application or to the conditions attached to the approval shall be treated the same as a new Conditional District Rezoning application and shall be processed in accordance with the procedures in this Section.
- B. The Zoning Administrator may approve a minor change to a site plan approved as part of a Conditional District Rezoning application, if the proposed change does not significantly alter the site plan or its conditions and the change does not have a significant impact upon abutting properties.
  1. The Zoning Administrator may review and approve any modifications in conditional district standards that:
    - (a) Do not involve a change in allowed uses;
    - (b) Decrease the number of dwelling units allowed;
    - (c) Increase the approved building square footage of a non-residential development by 10% or 5,000 square feet, whichever is less;
    - (d) Involve changes to the square footage of individual buildings without increasing the total square footage beyond what 12.15.12B.1(c), above, allows; or
    - (e) Involve minor adjustments to the location of lot lines, buildings, landscaping, signs, light fixtures, parking areas, driveways, internal streets, open space, or tree save areas to accommodate changes to the site plan required by another County department, such as the Watershed Protection Department, or another agency involved in approval of elements of the development, such as the NCDOT.
  2. An increase in the density of a residential development constitutes a major change that requires review through the same process as the original Conditional District Rezoning application.
- C. The Zoning Administrator has the discretion to decline to exercise the delegated authority because a Conditional District Rezoning application with a public hearing

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<sup>670</sup> Carries forward ZO Section 5.9 Alterations to Approval with minor revisions to simplify the language and limit the use of passive voice.

and Board of Commissioners action is deemed appropriate under the circumstances. If the Zoning Administrator declines to exercise this authority, then the applicant can only file a Conditional District Rezoning application for a public hearing and Commissioners' decision.

### 12.15.13 RECORDKEEPING

- A. **Zoning Map.** When the Board of Commissioners approves a Rezoning application, the Planning Department will enter the changes on the map promptly in accordance with 2.1.4: *Zoning Map & Other Official Maps*.
- B. **Notice to NCDOT Regarding Industrial Zones in Proximity to Interstate or Primary Highways.** The Planning Department must provide written notice to the North Carolina Department of Transportation (NCDOT) of the establishment or revision of any industrial zone within 660 feet of the right-of-way of interstate or primary highways. Notice must be by registered mail sent to the offices of the NCDOT in Raleigh, North Carolina, within 15 days after the effective date of the zoning change or establishment.<sup>671</sup>

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<sup>671</sup> Implements a requirement in N.C.G.S. [§ 136-153](#): Zoning changes. [[Junkyard Control Act](#)].

**12.16 SPECIAL USE PERMIT AMENDMENTS<sup>672</sup>**

**12.16.1 PURPOSE**

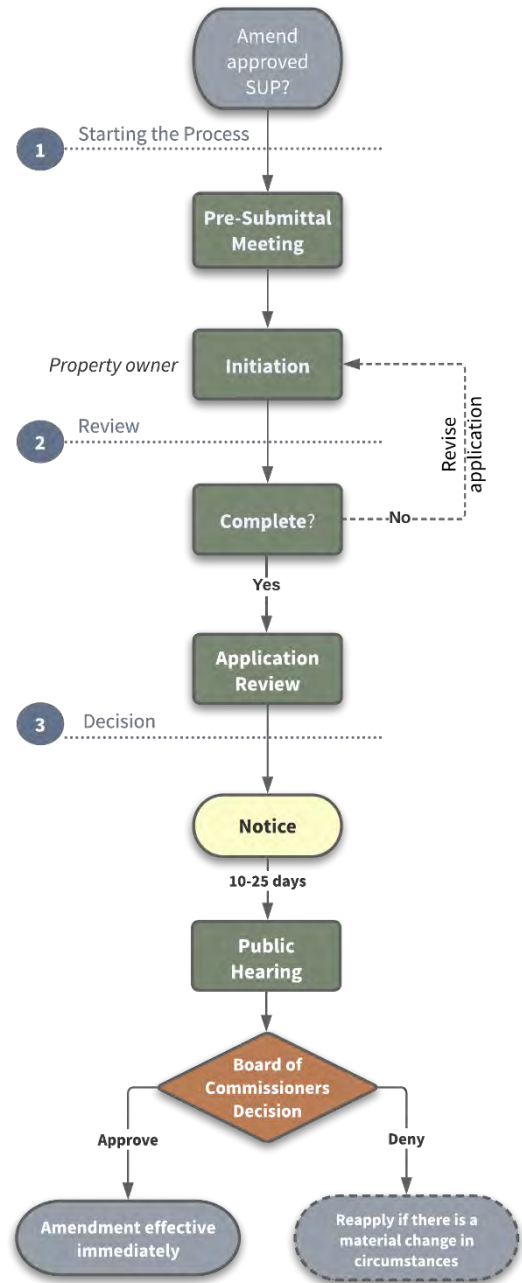
Although the UDO does not provide for new Special Use Permits, this Section provides a way to amend an existing, approved Special Use Permit.

**12.16.2 APPLICABILITY**

This Section applies to any application to change any element of an approved Special Use Permit, including conditions of approval.

**12.16.3 INITIATION**

- A. **Applicant Eligibility.** All owners of the subject property or their authorized agent(s) may initiate a Special Use Permit (SUP) Amendment.<sup>673</sup>
- B. **Pre-Submittal Meeting.** A pre-submittal meeting is required. [See 12.1.5: *Pre-Submittal Meetings*]
- C. **Application Requirements.**
  - 1. *Application Filing.* An applicant files an SUP Amendment application with the Clerk to the Board of Commissioners on a form provided by the Planning Department.
  - 2. *Application Timing.* An applicant must file an SUP Amendment application at least 30 days prior to the Board of Commissioners public hearing at which the proposed SUP Amendment is anticipated to be heard.



<sup>672</sup> This Section carries forward relevant portions of ZO Sections 17.1 Procedure, 17.4 Changes or Amendments, and 17.10 Quasi-Judicial Procedure [Special Use Permits]. Proposed is to eliminate the Planning Board public hearing currently required by ZO Section 17.4 since N.C.G.S. § 160D-301(b)(6) prohibits the use of the Planning Board’s recommendation as a basis for the Board of Commissioners’ decision on a quasi-judicial matter.

<sup>673</sup> Carries forward a portion of ZO Section 5.3.A Application [Conditional District].

3. *Application Contents.* The SUP Amendment application must include, at a minimum, the elements listed below.
  - (a) All materials required by the SUP Amendment application form; and
  - (b) All materials required by Chapter 18: *Submittal Requirements*.

**12.16.4 COMPLETENESS**

Staff evaluates applications for completeness under the standards of 12.1.6: *Sufficiency Review*.

**12.16.5 NOTICE**

A. **Generally.** The notice required by Table 12.16.5-1 applies to an SUP Amendment application.

Table 12.16.5-1: Required Notice for SUP Amendments			
Type of Notice	Required?	To Whom	When Required
Mail	Yes	Applicant; owner(s) of property subject to the variance; and owners of property abutting the property subject to the SUP Amendment <sup>1</sup>	Notice must be deposited in the mail at least 10 days but not more than 25 days prior to the BOC hearing <sup>2</sup>
Posted	Yes	General public	At least 10 days but not more than 25 days prior to the BOC hearing <sup>2</sup>
Publication	No	n/a	n/a

<sup>1</sup> For the purpose of this Section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor.

<sup>2</sup> The computation of this time period excludes the day of mailing or posting but includes the day of the hearing.

B. **Continuation of Hearings.**

1. The Board of Commissioners may continue an evidentiary hearing that has been convened without further advertisement.
2. If an evidentiary hearing is set for a given date and a quorum of the Board of Commissioners is not then present, the hearing shall be continued until the next regular Board meeting without further advertisement.

**12.16.6 DECISION-MAKING PROCESS**

- A. **Approval Authority.** The Board of Commissioners renders decisions on SUP Amendment applications.
- B. **Administrative Materials.**

1. The Zoning Administrator shall transmit to the Board of Commissioners all applications, reports, and written materials relevant to the SUP Amendment application.
2. The Zoning Administrator may distribute the administrative materials to the members of the Board of Commissioners prior to the hearing if, at the same time they are distributed to the Board, the Zoning Administrator also provides a copy to the applicant and to the landowner if that person is not the applicant.
3. The Zoning Administrator may provide the administrative materials in written or electronic form.
4. The administrative materials become a part of the hearing record.
5. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the Board of Commissioners at the hearing.

**C. Presentation of Evidence.**

1. The applicant, the local government, and any person who has standing to appeal the decision under N.C.G.S. [§ 160D-1402\(c\)](#) has the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive, as allowed by the Board of Commissioners.
2. Objections regarding jurisdictional and evidentiary issues including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the Board of Commissioners.
  - (a) The Board chair shall rule on any objections, and the chair's rulings may be appealed to the full board.
  - (b) These rulings are also subject to judicial review pursuant to N.C.G.S. [§ 160D-1402](#). Objections based on jurisdictional issues may be raised for the first time on judicial review.

**D. Oaths.**

1. The Board of Commissioners chair, the acting chair, and the clerk to the Board are authorized to administer oaths to witnesses in any matter considered by the Board.
2. Any person who, while under oath during a proceeding before the Board of Commissioners determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor as specified in N.C.G.S. [§ 160D-406\(f\)](#).

**E. Subpoenas.**

1. The Board of Commissioners making a quasi-judicial decision through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence.
2. To request issuance of a subpoena, the applicant, the local government, and any person with standing under N.C.G.S. [§ 160D-1402\(c\)](#) may make a written

request to the chair explaining why it is necessary to compel certain witnesses or evidence. The chair shall issue requested subpoenas they determine to be relevant, reasonable in nature and scope, and not oppressive.

3. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full Board of Commissioners.
4. If a person fails or refuses to obey a subpoena issued pursuant to this Subsection, the Board of Commissioners or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

**F. Voting.**

1. The affirmative vote of a majority of the Board of Commissioners members is required to approve an SUP Amendment application.
2. For the purposes of this Subsection, vacant positions on the Board of Commissioners and members who are disqualified from voting on a quasi-judicial matter under N.C.G.S. [§ 160D-109\(d\)](#) are not considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

**G. Decisions.**

1. The Board of Commissioners shall determine contested facts and make its decision within a reasonable time.
2. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.
3. The Board may impose appropriate conditions on its approval of any SUP Amendment application as it may deem necessary in order that the purpose and intent of this UDO are served, public welfare secured, and substantial justice done.
  - (a) Conditions may include time limits for expiration of the approval if specified criteria are not met.
  - (b) If the applicant accepts all requirements and conditions, the Board of Commissioners shall approve the SUP Amendment application; otherwise, the Board shall deny the application.<sup>674</sup>
4. A member of the Board of Commissioners shall not participate in or vote on any SUP Amendment application in a manner that would violate affected persons' constitutional rights to an impartial decision maker.<sup>675</sup>

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<sup>674</sup> Carries forward a portion of ZO Section 17.1 *Procedure* [Special Use Permits].

<sup>675</sup> Carries forward the last paragraph of ZO Section 17.1 *Procedure* [Special Use Permits].



- (a) Impermissible conflicts include:
  - (1) A member having a fixed opinion prior to hearing the matter that is not susceptible to change;
  - (2) Undisclosed ex parte communications;
  - (3) A close familial, business, or other associational relationship with an affected person; or
  - (4) A financial interest in the outcome of the matter.
- (b) If an objection is raised to a member’s participation and that member does not recuse themselves, the remaining members shall by majority vote rule on the objection.

### 12.16.7 REVIEW CRITERIA<sup>676</sup>

- A. In considering an SUP Amendment application, the Board of Commissioners shall give due regard that the purpose and intent of this UDO shall be served, public safety and welfare secured, and substantial justice done.
- B. In approving an SUP Amendment application, the Board of Commissioners must make the following affirmative findings:
  - 1. The requested amendment is either essential or desirable for the public convenience or welfare;
  - 2. The requested amendment will not impair the integrity or character of the surrounding or adjoining areas, and will not be detrimental to the health, safety, welfare or environment of the community;
  - 3. The requested amendment will be consistent with the objectives of the Comprehensive Plan; and
  - 4. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County’s plans, policies, and regulations.

### 12.16.8 SCOPE OF APPROVAL

An approved SUP Amendment application does not authorize construction or development. Any construction or development that occurs after approval of an SUP Amendment application requires additional approvals, which may include Zoning Compliance Permits and building permits.

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<sup>676</sup> Carries forward a portion of ZO Section 17.1 *Procedure* [Special Use Permits], except for the finding that “[t]he use requested is among those listed as an eligible special use in the district in which the subject property is located or is to be located” since “special uses” are no longer a use type specified in the use table.

### 12.16.9 APPEALS

- A. Every quasi-judicial decision is subject to review by the superior court by proceedings in the nature of certiorari pursuant to N.C.G.S. [§ 160D-1402](#).
- B. Appeals must be filed within the times specified in N.C.G.S. [§ 160D-1405\(d\)](#).
- C. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is provided in accordance with 12.16.12: *Recordkeeping*. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

### 12.16.10 APPLICATION WITHDRAWAL AND REAPPLICATION

- A. **Withdrawal of Application.** The applicant or the property owner, if the property owner is not the applicant, may withdraw an SUP Amendment application:
  - 1. At any time by written notice to the Clerk to the Board of Commissioners and the Planning Department; or
  - 2. By appearing at the scheduled hearing and stating that they withdraw the application.
- B. **Reapplication After Application Withdrawal.** If an applicant withdraws their application prior to action by the Board of Commissioners, they may reapply at any time.
- C. **Reapplication After Board Action.** If the Board of Commissioners acts on an SUP Amendment application, then the applicant cannot reapply unless there is a material change in circumstances. In such cases, the applicant may submit a new application in accordance with this Section.

### 12.16.11 MODIFICATION OF APPROVED APPLICATIONS

- A. Minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development may be reviewed and approved administratively.<sup>677</sup>
- B. All other changes require review and action by the Board of Commissioners in accordance with this Section.

### 12.16.12 RECORDKEEPING<sup>678</sup>

- A. The Board of Commissioners' decision on an SUP Amendment application shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards.

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<sup>677</sup> Carries forward last sentence of ZO Section 17.4 Changes or Amendments [Special Use Permits].

<sup>678</sup> Carries forward a portion of ZO Section 7.10.J. Decisions [Quasi-Judicial Procedure].

- B. The Chair or other duly authorized member of the Board must sign the written decision.
- C. The decision is effective upon filing the written decision with the Clerk to the Board.
- D. The decision of the Board must be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

**12.17 UDO INTERPRETATIONS<sup>679</sup>**

**12.17.1 PURPOSE**

A UDO Interpretation is a written decision issued by the Zoning Administrator or Subdivision Administrator regarding the interpretation of any provision set forth in the UDO or an associated development approval.

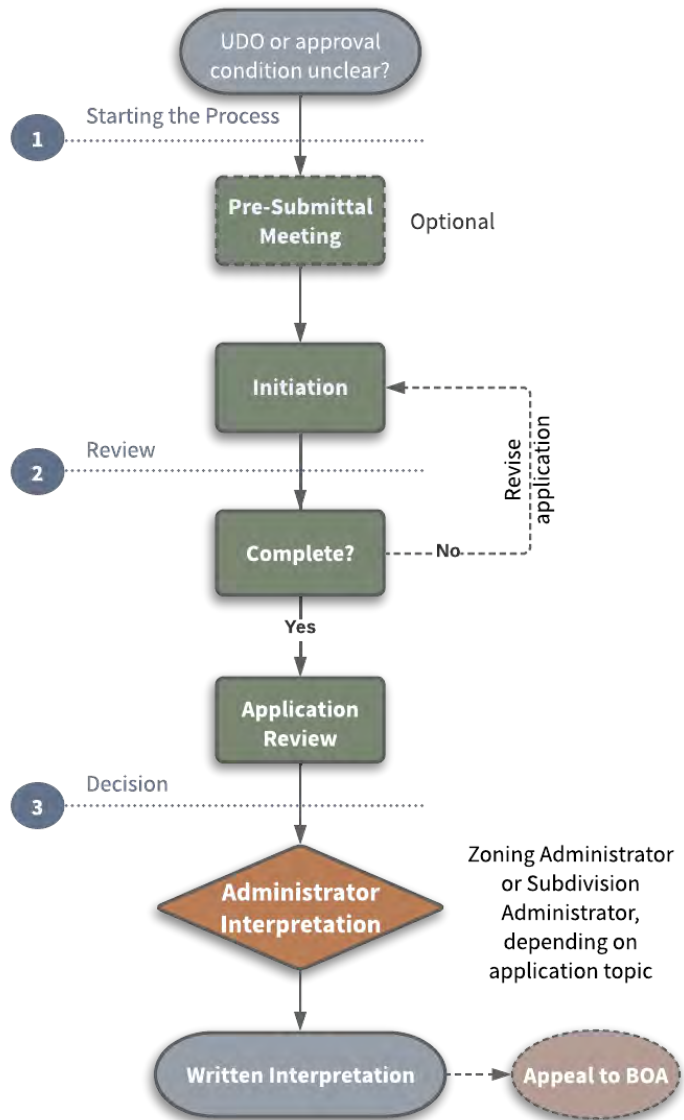
**12.17.2 APPLICABILITY**

This Section applies to requests for a decision by the Zoning Administrator or Subdivision Administrator to:

- A. Interpret a possible ambiguous standard in this UDO;
- B. Clarify a standard in this UDO;
- C. Clarify conditions associated with a development approval;
- D. Clarify standards approved for conditional districts; or
- E. Address the categorization of a land use (“use determination”), building, or structure that this UDO does not specifically address.

**12.17.3 INITIATION**

- A. **Applicant Eligibility.** Any person may submit a written request for a UDO Interpretation to the Zoning Administrator or Subdivision Administrator.
- B. **Application Requirements.**



<sup>679</sup> Formalizes the process specified in ZO Section 20.3 Duties of Zoning Administrator, Zoning Official, Board of Adjustment, and Courts as to Matters of Appeal. This Section establishes a formal process to obtain the Zoning Administrator’s or Subdivision Administrator’s interpretation of a particular UDO provision or set of provisions, conditions associated with a development approval, conditions or standards associated with a conditional zoning district. This procedure also includes the process for the Zoning Administrator to make unlisted use determinations.

1. *Application Filing.* An applicant files a request for a UDO Interpretation with the Planning Department.
2. *Application Contents.* A UDO Interpretation application must be in writing and include, at a minimum:
  - (a) All materials required by the UDO Text Amendment application form;
  - (b) All materials required by Chapter 18: *Submittal Requirements*;
  - (c) The section of the UDO, standard, or condition that is allegedly ambiguous or in need of clarification;
  - (d) The subject matter or nature of the request; and
  - (e) A statement of facts relevant to the nature of the request.

#### **12.17.4 COMPLETENESS**

Staff evaluates applications for completeness under the standards of 12.1.6: *Sufficiency Review*.

#### **12.17.5 NOTICE**

Applications for UDO Interpretations do not require public notice.

#### **12.17.6 DECISION-MAKING PROCESS**

The Zoning Administrator or Subdivision Administrator may approve or deny a UDO Interpretation application by issuing a written decision delivered by electronic mail or regular mail to the applicant.

#### **12.17.7 REVIEW CRITERIA**

- A. The Zoning Administrator or Subdivision Administrator may issue a UDO Interpretation if there is an ambiguity or need for the clarification demonstrated by the applicant. The interpretation must be based on the purposes and standards of this UDO, other applicable law, and previous interpretations of this UDO.
- B. The Zoning Administrator or Subdivision Administrator may deny or reject the request if there is no ambiguity or need for the clarification demonstrated by the applicant.
- C. The Zoning Administrator or Subdivision Administrator shall render only one interpretation per issue. If an applicant requests an interpretation on an issue previously addressed, the Zoning Administrator or Subdivision Administrator shall provide a copy of the previous interpretation.

#### **12.17.8 SCOPE OF APPROVAL**

- A. A UDO Interpretation becomes effective upon execution by the Zoning Administrator or Subdivision Administrator.
- B. The UDO Interpretation applies to the review of:

1. Any pending application for the applicant who applied for the interpretation; and
  2. All future applications filed on or after the effective date of the interpretation.
- C. A UDO Interpretation remains valid as long as the underlying regulations on which the Zoning Administrator or Subdivision Administrator based the interpretation have not changed.

### 12.17.9 APPEALS

Any ~~applicant~~ peron who has standing under N.C.G.S. § 160D-405 may appeal staff's decision as provided in Section 12.2: Appeals of Administrative Decisions.

### 12.17.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Application Withdrawal.** An applicant may withdraw their UDO Interpretation application at any time by written notice to the Planning Department.
- B. **Reapplication.** An applicant may resubmit a withdrawn UDO Interpretation application at any time.

### 12.17.11 RECORDKEEPING<sup>680</sup>

- A. The Planning Department will maintain records of all UDO interpretations.
- B. On at least an annual basis, the County should review issued UDO Interpretations and consider amending the UDO to incorporate them.

## 12.18 UDO TEXT AMENDMENTS<sup>681</sup>

### 12.18.1 PURPOSE

This Section describes how the County changes the text of this UDO.

### 12.18.2 APPLICABILITY

- A. This Section applies to any request to amend the text of this UDO.
- B. A Rezoning that down-zones property shall not be initiated, nor shall it be enforceable, without the written consent of all property owners whose property is the subject of the down-zoning, unless the down-zoning is initiated by Chatham

<sup>680</sup> While this does require additional staff time to maintain a formal record and initiate an annual set of text amendments, it ensures the UDO remains up-to-date and reflects the Zoning Administrator's and Subdivision Administrator's determinations—which is helpful for applicants and staff.

<sup>681</sup> This Section carries forward the procedure for amending ordinance text specified in ZO Section 19 Amendment to Zoning Ordinance and SR Section 1.12 Amendments.

County. For purposes of this Section, "down-zoning" means a zoning regulation that affects an area of land in one of the following ways:<sup>682</sup>

1. By decreasing the development density of the land to be less dense than was allowed under its previous usage; or
2. By reducing the permitted uses of the land specified in this UDO to fewer uses than were allowed under its previous usage.

### 12.18.3 INITIATION

- A. **Applicant Eligibility.** An amendment to this UDO may be initiated by:<sup>683</sup>
1. The Board of Commissioners on its own motion;
  2. The Planning Board on its own motion;
  3. The Planning Director; and
  4. Any person who owns property or a business or resides in the area of jurisdiction of this UDO.
- B. **Application Requirements.**
1. *Application Filing.*
    - (a) An applicant must file an application to amend the UDO with the Planning Department on a form provided by the Planning Department.
    - (b) If initiated by the Board of Commissioners or the Planning Board, the chairperson must sign the application.
  2. *Application Timing.* An applicant must file a UDO Text Amendment application at least 30 days prior to the public hearing at which the proposed amendment is anticipated to be heard.
  3. *Application Contents.* The UDO Text Amendment application must include, at a minimum, the elements listed below.
    - (a) All materials required by the UDO Text Amendment application form;
    - (b) All materials required by Chapter 18: *Submittal Requirements*;
    - (c) A written description of:
      - (1) The alleged error in this UDO, if any, that would be remedied by the proposed amendment with a detailed explanation of such error in the UDO and detailed reasons how the proposed amendment will correct the same;

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<sup>682</sup> Carries forward a portion of ZO Section 9.4.B. This provision is from N.C.G.S. [§ 160D-601\(d\)](#).

<sup>683</sup> Carries forward ZO Section 19.2.1 Text Amendment [Amendment Initiation]. Expands to include business owners; the current text only allows application by "any person who owns property or resides in the area of jurisdiction of this UDO." Clarifies the Planning Board must adopt a motion just like the BOC.

- (2) The changed or changing conditions, if any, in the area or in the County generally, that make the proposed UDO Text Amendment reasonably necessary to promote the public health, safety, and general welfare; and
- (3) The manner in which the proposed UDO Text Amendment will carry out the intent and purpose of the Comprehensive Plan or part thereof; and
- (4) All other circumstances, factors, and reasons the applicant offers in support of the proposed UDO Text Amendment.

**12.18.4 COMPLETENESS**

Staff evaluates applications for completeness under the standards of 12.1.6: *Sufficiency Review*.

**12.18.5 APPLICATION AMENDMENTS**

- A. After the Sufficiency Review, an applicant may submit additional information or amend a UDO Text Amendment application at any time prior to the first Planning Board meeting. Significant changes to the application may require submittal of a new application.
- B. After the first Planning Board meeting, an application may submit additional information or amend a UDO Text Amendment application only at the request of the Planning Board or Board of Commissioners.

**12.18.6 NOTICE**

The notice required by Table 12.18.6-1 applies to a UDO Text Amendment application.

Table 12.18.6-1: Required Notice for UDO Text Amendments			
Type of Notice	Required?	To Whom	When Required
Mail	No	n/a	n/a
Posted	No	n/a	n/a
Publication	Yes	General public	Once per week for two successive calendar weeks, with the first notice published at least 10 days but not more than 25 days prior to the BOC hearing <sup>1</sup>

<sup>1</sup> The computation of this time period excludes the day of publication but includes the day of the hearing.

**12.18.7 DECISION-MAKING PROCESS**

- A. **Approval Authority.** The Board of Commissioners renders decisions on UDO Text Amendment applications.



- B. Planning Department Prepares Staff Report.**<sup>684</sup>
1. The Planning Department prepares an analysis of the application and presents this information to the Planning Board.
- C. Planning Board Recommendation on the UDO Text Amendment Application.**<sup>685</sup>
1. The Planning Board provides a recommendation to the Board of Commissioners for approval, approval with modifications, or denial of the UDO Text Amendment application.
  2. The Planning Board provides a recommendation to the Board of Commissioners that addresses consistency with the Comprehensive Plan and other matters as deemed appropriate. A recommendation by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan does not preclude consideration of approval of the proposed amendment by the Board of Commissioners.
  3. The Planning Board has a maximum of two regularly scheduled meetings to consider the request. Failure of the Planning Board to make a recommendation to the Board of Commissioners following the Planning Board's second regular meeting is considered a favorable recommendation.
  4. A Planning Board member shall not vote on recommendations regarding any UDO Text Amendment application where the outcome of the matter being considered is likely to have a direct, substantial, identifiable financial impact on the member. [See [Planning Board Code of Ethics](#)]
- D. Public Hearing for County-Initiated UDO Text Amendments.**<sup>686</sup>
1. The Board of Commissioners shall receive public comment on a County-initiated UDO Text Amendment application in a public hearing at the Board's last regular meeting in January, February, March, April, May, June, August, September, October, and November.
  2. The Board of Commissioners conducts the public hearing in accordance with its adopted [Rules of Procedure for Zoning Public Hearings](#).
  3. The Board of Commissioners may continue the public hearing in order to receive more public input or requested information from the applicant.
- E. Board of Commissioners Action on the UDO Text Amendment Application.**<sup>687</sup>

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<sup>684</sup> Carries forward ZO Section 19.7 Planning Department Prepares Final Analysis and Recommendation.

<sup>685</sup> Carries forward ZO Section 19.8 Planning Board Action on the Amendment Application.

<sup>686</sup> Generally carries forward ZO Section 19.5 Joint Public Hearing for County-Initiated Amendments but removes the provision for a joint meeting since the current regulation does not require the Planning Board to be present. The County could consider expanding the public hearing requirement to all UDO Text Amendment applications.

<sup>687</sup> Carries forward ZO Section 19.9 Board of Commissioners Receives Recommendation of Planning Board and reorganizes and reformats for clarity.

1. The Board of Commissioners approves, approves with modifications, or denies a UDO Text Amendment application.
2. The Board of Commissioners shall not consider the UDO Text Amendment application until after the Planning Board makes a recommendation or fails to make a recommendation within the timeframe specified in 12.14.6D.3, above.
3. Prior to approving or denying a UDO Text Amendment application, the Board of Commissioners must:
  - (a) Adopt a statement describing whether its action is consistent with the Comprehensive Plan, is reasonable, and is in the public interest; or
  - (b) Provide a clear indication in the minutes of the Board that, at the time of action on the amendment, the Board was aware of and considered the Planning Board's recommendations and any relevant portions of the Comprehensive Plan.
4. When approving or denying a UDO Text Amendment application, the Board must approve a brief statement explaining the reasonableness of the proposed amendment. The statement of reasonableness may consider, among other factors:
  - (a) The size, physical conditions, and other attributes of any areas affected by the text amendment;
  - (b) The benefits and detriments to the affected landowners, neighbors, and surrounding community;
  - (c) The relationship between the current actual and permissible development and the development under the proposed amendment;
  - (d) Why the action taken is in the public interest; and
  - (e) Any changed conditions warranting the amendment.
5. The required plan consistency statement and the statement of reasonableness may be approved as a single statement.<sup>688</sup>
6. A member of the Board of Commissioners shall not vote on any UDO Text Amendment application where the outcome of the matter under consideration is reasonably likely to have a direct, substantial, identifiable financial impact on the member. [See County Code [Chapter 30: Code of Ethics of the Board of County Commissioners](#)]

### 12.18.8 REVIEW CRITERIA<sup>689</sup>

All UDO amendments must be reasonably necessary to promote the public health, safety, and general welfare and to achieve the purposes of the Comprehensive Plan.

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<sup>688</sup> This is from N.C.G.S. [§ 160D-605\(c\)](#).

<sup>689</sup> Carries forward a portion of ZO Section 19.1 Statement of Intent.

### 12.18.9 SCOPE OF APPROVAL

- A. A UDO Text Amendment is effective as directed in the ordinance adopting the amendment.
- B. Approval of a UDO Text Amendment does not authorize development. Any development that occurs after the Board of Commissioners adopts the amendment is subject to all applicable requirements of this UDO as revised by the amendment.

### 12.18.10 APPEALS

This Chapter does not authorize new rights to an appeal from or remedies for adverse decisions by the Board of Commissioners.

### 12.18.11 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Withdrawal of Application.**<sup>690</sup>
  - 1. An applicant may withdraw their UDO Text Amendment application at any time by written notice to the Planning Department.
  - 2. Withdrawal of an application after the County has provided the first public notice required by 12.14.5: *Notice* is considered a denial of the application.
- B. **Reapplication.** When the Board of Commissioners denies a UDO Text Amendment application, the Planning Department shall not accept another application for the same amendment for at least one year from the date of denial.<sup>691</sup>

### 12.18.12 RECORDKEEPING

- A. When the Board of Commissioners approves changes to the text of this UDO, those changes will be reflected in the UDO as soon as reasonably possible following adoption of the amendment.
- B. The Zoning Administrator maintains a record of all UDO Text Amendment applications and related materials.

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<sup>690</sup> Carries forward ZO Section 19.10 Withdrawal of Application with minor revisions to simplify the language.

<sup>691</sup> Applies the one-year period for map amendments (rezonings) in ZO Section 19.11 Effect of Denial on Subsequent Petitions to UDO Text Amendments.

## 12.19 VARIANCES<sup>692</sup>

### 12.19.1 PURPOSE

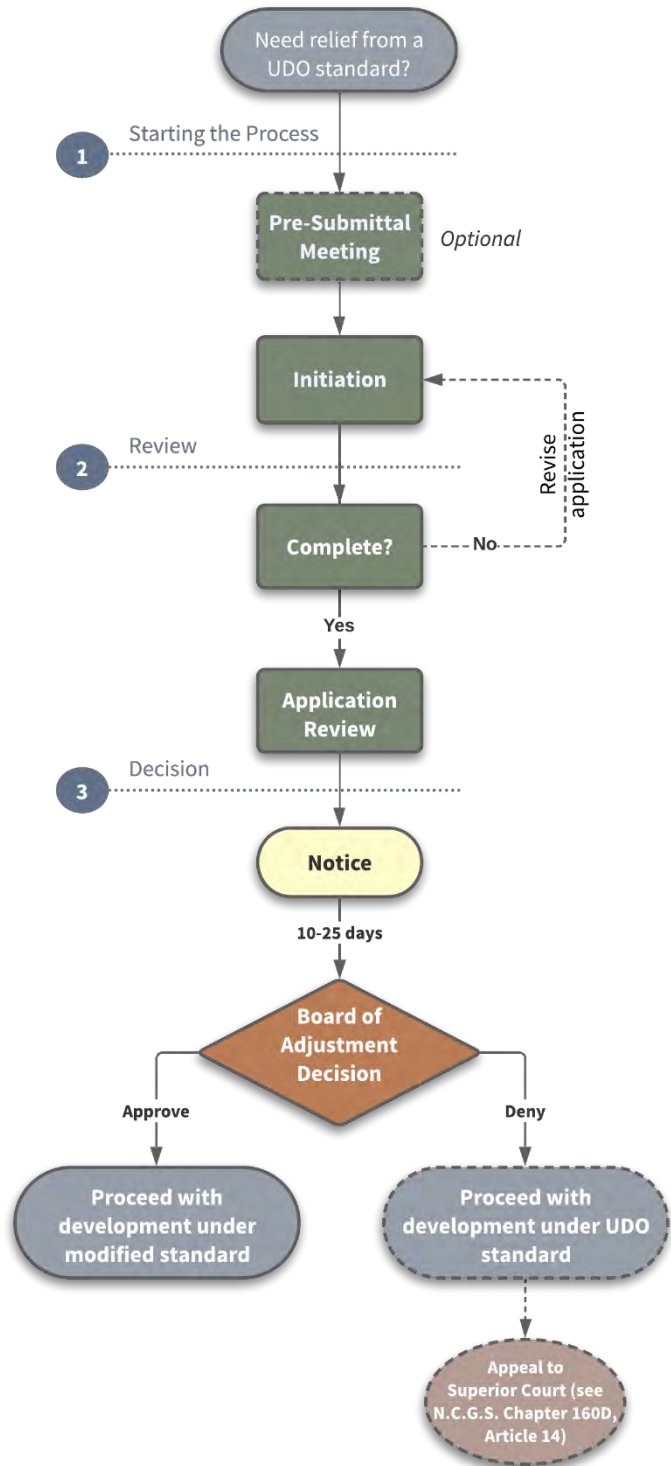
This Section establishes a procedure to avoid unnecessary hardships that could result from a strict application of this UDO.

### 12.19.2 APPLICABILITY

- A. This Section applies to an application for a variance. An applicant shall obtain variance approval to develop land or construct or make a material change to any structure in a manner that does not comply with the standards of this UDO.
- B. A variance shall not authorize a change in allowed uses for a particular lot.<sup>693</sup>

### 12.19.3 INITIATION

- A. **Applicant Eligibility.** A Variance application may be initiated by the owner of the subject property or their authorized agent.
- B. **Application Requirements.**
  1. *Application Filing.* An applicant files a Variance application with the Clerk to the Board of Commissioners on a form provided by the Planning Department.<sup>694</sup>
  2. *Application Timing.* An applicant must file a Variance application at least 30 days prior to the public hearing at which the proposed Variance is anticipated to be heard.
  3. *Application Contents.* A Variance application must be in writing and include, at a minimum:



- (a) All materials required by the Variance application form;
- (b) All materials required by Chapter 18: *Submittal Requirements*; and
- (c) A written description of how the proposed variance meets all of the criteria specified in 12.19.7: *Review Criteria*.

C. **Stays.**<sup>695</sup>

1. A Variance application that would correct a UDO violation and any subsequent appeal in accordance with N.C.G.S. [§ 160D-1402](#) stays enforcement of the UDO violation and accrual of any fines assessed during the pendency of the Variance request or during the pendency of any civil proceeding authorized by law or related appeal.
2. If, however, the Zoning Administrator or Subdivision Administrator certifies to the Board after the Variance application has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the UDO violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation, then enforcement proceedings are not stayed except by a restraining order, which may be granted by a court.
3. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the Variance application, and the Board shall meet to hear the appeal within 15 days after the request is filed.

**12.19.4 COMPLETENESS**

Staff evaluates applications for completeness under the standards of 12.1.6: *Sufficiency Review*.

**12.19.5 NOTICE**

A. **Generally.** The notice required by Table 12.19.5-1 applies to a Variance application.

<b>Table 12.19.5-1: Required Notice for Variances</b>			
<b>Type of Notice</b>	<b>Required?</b>	<b>To Whom</b>	<b>When Required</b>
Mail	Yes	Applicant; owner(s) of property subject to the variance; and owners of property abutting the property subject to the variance <sup>1</sup>	Notice must be deposited in the mail at least 10 days but not more than 25 days prior to the BOA hearing <sup>2</sup>
Posted	Yes	General public	At least 10 days but not more than 25 days prior to the BOA hearing <sup>2</sup>

<sup>695</sup> Carries forward a portion of ZO Section 18.4.6. and updates to apply to variances (rather than appeals of administrative decisions).

**Table 12.19.5-1: Required Notice for Variances**

<b>Type of Notice</b>	<b>Required?</b>	<b>To Whom</b>	<b>When Required</b>
Publication	No	n/a	n/a

1 For the purpose of this Section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor.

2 The computation of this time period excludes the day of mailing or posting but includes the day of the hearing.

**B. Continuation of Hearings.**

1. The Board may continue an evidentiary hearing that has been convened without further advertisement.
2. If an evidentiary hearing is set for a given date and a quorum of the Board is not then present, the hearing shall be continued until the next regular Board meeting without further advertisement.

**12.19.6 DECISION-MAKING PROCESS<sup>696</sup>**

**A. Approval Authority.** The Board of Adjustment renders decisions on Variance applications.

**B. Administrative Materials.**

1. The Zoning Administrator shall transmit to the Board of Adjustment all applications, reports, and written materials relevant to the Variance application.
2. The Zoning Administrator may distribute the administrative materials to the members of the Board of Adjustment prior to the hearing if, at the same time they are distributed to the Board, the Zoning Administrator also provides a copy to the applicant and to the landowner if that person is not the applicant.
3. The Zoning Administrator may provide the administrative materials in written or electronic form.
4. The administrative materials become a part of the hearing record.
5. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the Board of Adjustment at the hearing.

**C. Presentation of Evidence.**

1. The applicant, the local government, and any person who has standing to appeal the decision under N.C.G.S. [§ 160D-1402\(c\)](#) has the right to participate as a party at the evidentiary hearing. Other witnesses may present competent,

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<sup>696</sup> Carries forward and consolidates ZO Section 17.10 Quasi-Judicial Procedure, ZO Section 18.2.A. Oath, ZO Section 18.2.B. Subpoenas, ZO Section 18.3.B. Variance, ZO Section 18.3.C. Quasi-Judicial Decisions, ZO Section 18.4.1, ZO Section 18.4.6, ZO Section 18.4.7, and portions of ZO Section 18.5 Vote Required - Judicial Appeal.

material, and substantial evidence that is not repetitive, as allowed by the Board of Adjustment.

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

**D. Oaths.**

1. The Board of Adjustment chair, the acting chair, and the clerk to the Board are authorized to administer oaths to witnesses in any matter considered by the Board.
2. Any person who, while under oath during a proceeding before the Board of Adjustment determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor as specified in N.C.G.S. [§ 160D-406\(f\)](#).

**E. Subpoenas.**

1. The Board of Adjustment making a quasi-judicial decision through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence.
2. To request issuance of a subpoena, the applicant, the local government, and any person with standing under N.C.G.S. [§ 160D-1402\(c\)](#) may make a written request to the chair explaining why it is necessary to compel certain witnesses or evidence. The chair shall issue requested subpoenas they determine to be relevant, reasonable in nature and scope, and not oppressive.
3. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full Board.
4. If a person fails or refuses to obey a subpoena issued pursuant to this Subsection, the Board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

**F. Voting.**

1. The concurring vote of four-fifths of the Board of Adjustment is necessary to grant a variance.
2. For the purposes of this Subsection, vacant positions on the Board of Adjustment and members who are disqualified from voting on a quasi-judicial matter under N.C.G.S. [§ 160D-109\(d\)](#) are not considered members of the board for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

**G. Decisions.**

1. The Board of Adjustment shall determine contested facts and make its decision within a reasonable time.
2. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.
3. The Board may impose appropriate conditions on its approval of any Variance application, if the conditions are reasonably related to the proposed variance.

**12.19.7 REVIEW CRITERIA<sup>697</sup>**

- A. The Board of Adjustment may issue a variance when:
  1. Unnecessary hardship would result from the strict application of the ordinance. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
  2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the federal Fair Housing Act for a person with a disability;
  3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is a self-created hardship.
  4. The requested variance is consistent with the spirit, purpose, and intent of this UDO, such that public safety is secured and substantial justice is achieved.
- B. The Board of Adjustment must make findings of fact to substantiate all of the criteria listed in 12.19.7A, above.
- C. In considering applications for variances from the provisions of this UDO, demonstration of financial disadvantage alone does not constitute conclusive evidence of unnecessary hardship.

**12.19.8 SCOPE OF APPROVAL**

- A. An approved Variance application does not authorize construction or development of the nonconforming structure. Any construction or development that occurs after approval of a Variance application requires additional approvals, which may include Zoning Compliance Permits and building permits.

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<sup>697</sup> Carries forward ZO Section 18.3.B.1. and B.2. Adds reasonable accommodation provisions for consistency with N.C.G.S. § 160D-705(d)(2).



- B. A variance, once granted, continues for an indefinite period of time unless otherwise specified at the time granted.<sup>698</sup>

### 12.19.9 APPEALS<sup>699</sup>

- A. Every quasi-judicial decision is subject to review by the superior court by proceedings in the nature of certiorari pursuant to N.C.G.S. [§ 160D-1402](#).
- B. Appeals must be filed within the times specified in N.C.G.S. [§ 160D-1405\(d\)](#).
- C. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is provided in accordance with 12.19.11: *Recordkeeping*. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

### 12.19.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Withdrawal of Application.** The applicant or the property owner, if the property owner is not the applicant, may withdraw a Variance application:
1. At any time by written notice to the Clerk to the Board of Commissioners and the Planning Department; or
  2. By appearing at the scheduled hearing and stating that they withdraw the application.
- B. **Reapplication After Application Withdrawal.** If an applicant withdraws their application prior to action by the Board, they may reapply at any time.
- C. **Reapplication After Board Action.** If the Board of Adjustment acts on a Variance application, then the applicant cannot reapply unless there is a material change in circumstances. In such cases, the applicant may submit a new application in accordance with this Section.

### 12.19.11 RECORDKEEPING<sup>700</sup>

- A. The Board of Adjustment must keep records of its hearings and any other official action. The Board's records must show the vote of each member upon every question or their absence or failure to vote.
- B. The Board of Adjustment's decision on a Variance application shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards.

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<sup>698</sup> Carries forward ZO Section 18.3.B.5.

<sup>699</sup> Carries forward ZO Section 17.10.K. ZO Section 18.5 Vote Required - Judicial Appeal includes similar language but copies the statutory text rather than cross-referencing the statute (N.C.G.S. [§ 160D-1405\(d\)](#)). Proposed here is to carry forward the statutory cross-reference since it deals with timeframes for appeals to circuit court and not a County procedure.

<sup>700</sup> Carries forward and consolidates ZO Section 18.3.C. Quasi-Judicial Decisions and a portion of the first paragraph of ZO Section 18.2 Meetings.

- C. The Chair or other duly authorized member of the Board must sign the written decision.
- D. The decision is effective upon filing the written decision with the Clerk to the Board of Commissioners.
- E. The decision of the Board must be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

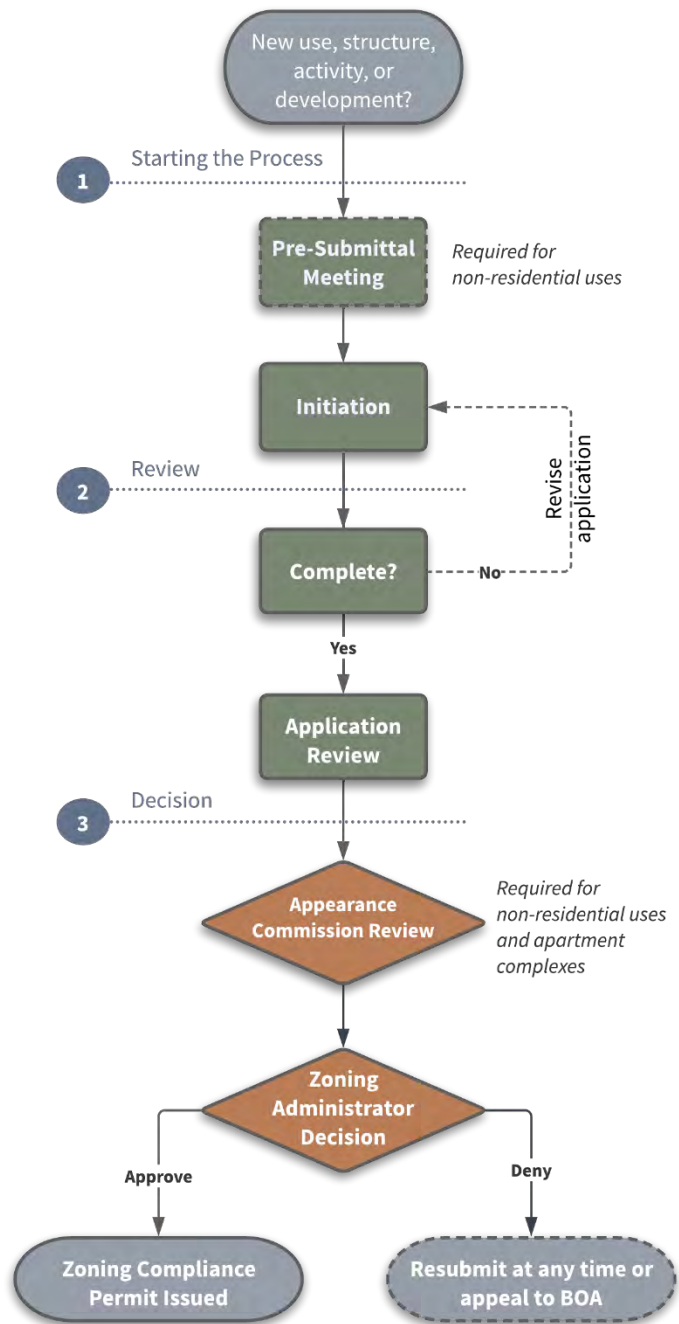
**12.20 ZONING COMPLIANCE PERMITS<sup>701</sup>**

**12.20.1 PURPOSE**

Zoning compliance is a process that allows the Zoning Administrator to review new uses, structures, activities, and developments prior to establishment of the use or commencement of development activities to ensure they comply with the standards in this UDO, have appropriate design and infrastructure, and comply with any conditions of rezoning, subdivision, or variance approval.

**12.20.2 APPLICABILITY**

- A. This Section applies to an application for a Zoning Compliance Permit. Unless elsewhere exempted by this UDO, an applicant must obtain a Zoning Compliance Permit prior to:<sup>702</sup>
1. Constructing, structurally altering, moving, or occupying a structure;
  2. Establishing a new principal or accessory use;<sup>703</sup>
  3. Changing an existing principal or accessory use to another use;



<sup>701</sup> This Section clarifies the procedure for receiving zoning compliance approval.

<sup>702</sup> Carries forward first two sentences of ZO Section 20.2 Certificate of Zoning Compliance and revises to simplify the language and add provisions related to signs.

<sup>703</sup> This includes home occupations.

4. Reestablishing a use after a period of non-use for 365 days or more;<sup>704</sup> and
  5. Constructing, enlarging, moving, or replacing a sign.
- B. This Section does not apply to any change to or replacement of the permanent copy on an existing lawful sign if the copy change does not change the size or nature of the sign in such a manner as to render the sign in violation of this UDO.
- C. This Section does not apply to wireless telecommunications facilities, which are subject to the permitting requirements in Section 3.8: *Wireless Telecommunications Facilities*.

### 12.20.3 INITIATION

- A. **Applicant Eligibility.** The owner of the subject property or their authorized agent may initiate a Zoning Compliance Permit application.
- B. **Application Requirements.**
1. *Application Filing.* An applicant files a Zoning Compliance Permit application with the Planning Department on a form provided by the Planning Department.
  2. *Application Timing.* An applicant may file a Zoning Compliance Permit application at any time.
  3. *Application Contents.*
    - (a) The Zoning Compliance Permit application must include, at a minimum, the elements listed below.<sup>705</sup>
      - (1) All materials required by the Zoning Compliance Permit application checklist;
      - (2) All materials required by Chapter 18: *Submittal Requirements*;
      - (3) A written description of the nature of the proposed structure, use, or activity, including the extent and location of the structure, use, or activity on the subject lot; and
      - (4) A site plan that depicts all information specified on the Zoning Compliance Permit application checklist.
    - (b) When the Zoning Compliance Permit application is for a temporary use, the application must be accompanied by a site plan depicting, at a minimum, the following items as applicable:
      - (1) Location of the temporary use and associated temporary structures;

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<sup>704</sup> This provision aligns with the timeframe for inactivity after which a nonconforming use shall not be reestablished (see Chapter 14: *Nonconformities & Vested Rights*).

<sup>705</sup> Carries forward ZO Section 20.2.A.1 through A.6. (Application Procedures).

- (2) Location of permanent structures;
  - (3) Location and number of parking spaces;
  - (4) Location of vehicular access(es) to the site;
  - (5) Type, size, and location of all temporary signs associated with the temporary use;
  - (6) Location and description of all temporary lighting;
  - (7) Location of restroom facilities; and
  - (8) Method of solid waste disposal.
- (c) For temporary uses that require zoning compliance approval and where the applicant anticipates minimal or no resulting impact on surrounding properties, the Zoning Administrator may, following a pre-application meeting with the applicant, waive any or all of the site plan submittal requirements. In making a determination in this regard, the Zoning Administrator must consider the factors listed below and provide a written notice of decision to the applicant identifying the basis of the decision:
- (1) Nature of the proposed temporary use;
  - (2) Location of the proposed site;
  - (3) Use of surrounding properties;
  - (4) Capacity of the transportation network to adequately serve the proposed temporary use; and
  - (5) Public safety.
- (d) In accordance with 7.3.7: *Deferral or Waiver of Required Improvements*, as part of the Zoning Compliance Permit application, the applicant may request deferral or a waiver of the improvements required for the proposed development by Chapter 7.
- (1) The Zoning Administrator forwards this request to the Board of Commissioners for action.
  - (2) The Zoning Administrator shall not act on the Zoning Compliance Permit application until the Board has acted on the requested deferral or waiver of the required improvements.

C. **Concurrent Applications.** A Zoning Compliance Permit application may be filed concurrently with:

- 1. A residential construction permit application;
- 2. A commercial construction permit application; or

3. A manufactured home<sup>706</sup> permit application.

#### 12.20.4 COMPLETENESS

- A. Staff evaluates applications for completeness under the standards of 12.1.6: *Sufficiency Review*.
- B. The applicant may pay the required application fee following the sufficiency review, rather than at the time of application submittal. However, staff will not review or act on the application until the fee is paid.
- C. If the applicant does not pay the required application fee within 30 days of the completion of the sufficiency review, the application is considered withdrawn.

#### 12.20.5 NOTICE

A Zoning Compliance Permit application does not require public notice.

#### 12.20.6 DECISION-MAKING PROCESS

- A. **Approval Authority.** The Zoning Administrator renders decisions on Zoning Compliance Permit applications.
- B. **Board of Commissioners Action on Deferral or Waiver of Improvements.** If the applicant requests deferral or a waiver of the improvements required for the proposed development (see 12.20.3B.3(d) above), the first step in the decision-making process is for the Board of Commissioners to review and act on this request. This review may occur concurrently with the Appearance Commission's review.
- C. **Appearance Commission Review.**<sup>707</sup>
  1. The Appearance Commission reviews all Zoning Compliance Permit applications for new non-residential uses and apartment complexes and provides a recommendation for approval or approval with conditions.
  2. The Appearance Commission reviews the elements listed below for compliance with the UDO:
    - (a) Landscape plan;
    - (b) Exterior lighting plan;

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<sup>706</sup> Note the County currently refers to this as a “Residential Mobile Home Permit Application.” The term *mobile home* means a manufactured home built prior to June 15, 1976, the effective date of the Manufactured Home Construction and Safety Standards, 24 CFR Part 3280 (the “HUD Code”). Based on the proposed definitions in Chapter 17: Definitions & Acronyms, the County should replace the term *mobile home* with manufactured home since *manufactured home* is more inclusive/expansive.

<sup>707</sup> N.C.G.S. [§ 160D-960](#) establishes the powers and duties of appearance commissions. The statute does not authorize an appearance commission to have approval authority for development applications.

- (c) Parking area design;
  - (d) Signs;
  - (e) Building elevations; and
  - (f) Preliminary grading plan.
3. In addition to its compliance review, the Appearance Commission may recommend changes to the Zoning Compliance Permit application it feels would improve the aesthetics of the proposed development. However, the applicant is not obligated to comply with any recommendations not otherwise required by the UDO.
- D. Zoning Administrator Action.**<sup>708</sup>
- 1. The Zoning Administrator reviews and approves, approves with conditions, or denies a Zoning Compliance Permit application. The Zoning Administrator considers any changes recommended by the Appearance Commission in its compliance review.
  - 2. If the Zoning Administrator approves the application, they will issue a paper permit to the applicant and provide a copy of the approved site plan. Alternatively, the Zoning Administrator may provide a digital approval.<sup>709</sup>

### 12.20.7 REVIEW CRITERIA

- A. The Zoning Administrator will review the Zoning Compliance Permit application for compliance with the following:
- 1. The application's compliance with applicable provisions of this UDO including:
    - (a) Chapter 2: *Zoning Districts*;
    - (b) Chapter 3: *Use Regulations*;
    - (c) Chapter 4: *Development & Design Standards*;
  - 2. The relationship of the development to adjacent uses in terms of compatibility, access, setbacks, and any other possible negative impacts;
  - 3. The design and location of off-street parking and loading facilities to ensure all such spaces are usable and are safely and conveniently arranged; and
  - 4. The use of landscaping and fencing, walls, or berms to provide adequate screening to shield lights, noise, movement, or activities from adjacent lots where required.
- B. When a Zoning Compliance Permit application includes two or more lots proposed for development as a single, unified site, all setback and perimeter buffer

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<sup>708</sup> Proposed is to delete ZO Section 20.2.B. Right to Appeal, which states that if the Zoning Administrator does not act upon the application within 15 days of submittal, the applicant may appeal to the BOA.

<sup>709</sup> Carries forward a portion of ZO Section 20.2.A. Application Procedure.

requirements apply only to the exterior lot lines of the unified development site and not to internal lot lines within the unified site.

- C. The Zoning Administrator shall only issue a Zoning Compliance Permit when the proposed use, activity, or development conforms with the provisions of this UDO, except when the Administrator receives a written order from the Board of Adjustment in the form of an administrative appeal or variance as provided by this Chapter.

### 12.20.8 SCOPE OF APPROVAL

Approval of a Zoning Compliance Permit application is considered authorization to proceed with:

- A. Application for or issuance of a certificate of occupancy for establishment of the proposed use;
- B. Application for or issuance of a building permit for the proposed construction or sign installation; and
- C. Application for or issuance of land development permits as required by Chapter 8: Watershed Protection, Chapter 9: Stormwater Management, Chapter 10: Soil Erosion & Sedimentation Control, and Chapter 11: Flood Damage Prevention, as applicable.

### 12.20.9 APPEALS<sup>710</sup>

The applicant may appeal the Zoning Administrator's decision as provided in 12.2: *Appeals of Administrative Decisions*.

### 12.20.10 APPLICATION WITHDRAWAL & REAPPLICATION

- A. **Application Withdrawal.** An applicant may withdraw their Zoning Compliance Permit application at any time by written notice to the Planning Department or by not paying the required application fee within 30 days of completion of the sufficiency review.
- B. **Reapplication.** An applicant may resubmit a denied or withdrawn Zoning Compliance Permit application at any time.

### 12.20.11 MODIFICATION OF AN APPROVED APPLICATION

Changes to an approved Zoning Compliance Permit require review through the same procedure as the original application.

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<sup>710</sup> Carries forward a portion of ZO Section 20.2.B. Right to Appeal.



### 12.20.12 RECORDKEEPING

The Zoning Administrator will:<sup>711</sup>

- A. Maintain a record of all Zoning Compliance Permit applications and related materials; and
- B. Provide a copy of any application upon written request by any person.

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<sup>711</sup> Carries forward third sentence of ZO Section 20.2 Certificate of Zoning Compliance with minor revisions to simplify the language.

# CHAPTER 13 REVIEWING & DECISION-MAKING BODIES

## 13.1 ELECTED & APPOINTED BODIES<sup>712</sup>

### 13.1.1 PLANNING BOARD

- A. The Planning Board is an advisory body.
- ~~B.~~ As authorized by N.C.G.S. [§ 160D-301 Planning boards](#), the Planning Board is organized and has the powers assigned by the [Ordinance Establishing a Planning Board for Chatham County, North Carolina](#), as amended, ~~and its Rules of Procedure.~~
- ~~B.C.~~ [The Planning Board periodically adopts Rules of Procedure that supplement the duties and procedures specified in this UDO.](#)
- ~~C.D.~~ In addition to the duties specified in the ordinance and rules referenced in 13.1.1A, above, the Planning Board also has the following duties in the administration and enforcement of this UDO:
1. Provide a recommendation for approval, approval with conditions, or denial on all Major Subdivision Sketch Plan applications (see Sections 12.8 and 12.11);
  2. Provide a recommendation for approval or denial on all Conventional District Rezoning applications (see Section 12.14);
  3. Provide a recommendation for approval, approval with conditions, or denial on all Conditional District Rezoning applications (see Section 12.15); and
  4. Provide a recommendation for approval, approval with modifications, or denial on all UDO Text Amendment applications (see Section 12.18).

### 13.1.2 BOARD OF ADJUSTMENT

- A. **Establishment of Board of Adjustment.** This Subsection establishes the Chatham County Board of Adjustment (BOA) in accordance with N.C.G.S. [§ 160D-302](#).
- B. **Role.** The Board of Adjustment is a decision-making body.
- C. **Rules of Procedure.** The Board of Adjustment periodically adopts Rules of Procedure that supplement the duties and procedures specified in this UDO.

<sup>712</sup> This Section specifies role of each elected and appointed body with respect to UDO approval processes and administration.

**D. Membership.<sup>713</sup>**

1. *Generally.* The BOA consists of five regular members and two alternate members appointed by the Board of Commissioners. All members must be residents of Chatham County.
2. *Regular Members.*
  - (a) The Board of Commissioners must appoint one regular member from each of the five Board of Commissioner districts, unless there are no applicants from a district, or the Board of Commissioners determines that an applicant from another district possesses superior skills and qualifications.
  - (b) If the Board of Commissioner districts are redrawn, modified, or changed such that a regular member of the BOA is no longer a resident of the district they were appointed from, the member shall continue to serve on the BOA until their term expires if they continue to be a resident of Chatham County.
3. *Alternate Members.*
  - (a) The Board of Commissioners appoints alternate members at-large and not from districts.
  - (b) An alternate member may participate in lieu of a regular member who is unable to participate on any matter coming before the BOA and, when so seated, an alternate member has the same powers and duties as a regular member.

**E. Terms.<sup>714</sup>**

1. The regular and alternate members are appointed for three-year staggered terms, but both regular members and alternate members must continue to serve until their successors have been duly appointed and qualified.
2. If a regular or alternate member ceases to be a resident of Chatham County, their term expires on the date a replacement member is duly appointed and qualified.
3. The Board of Commissioners shall fill all vacancies on the BOA.

**F. Powers & Duties.**

1. *Issuance of Subpoenas.* In the exercise of its powers and duties, the BOA through its Chair or, in the Chair's absence, anyone acting as Chair may subpoena witnesses and compel the production of evidence.

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<sup>713</sup> Carries forward a portion of ZO Section 18.1 Board of Adjustment Created with revisions to simplify the text. Removes references to “Board of Adjustment districts” as BOA members can simply be appointed by Board of Commissioner district.

<sup>714</sup> Carries forward a portion of ZO Section 18.1 Board of Adjustment Created.

2. *Appeals of Administrative Decisions.* The BOA has the duty to hear and decide appeals where it is alleged there is error in any decision made by any administrative official in the enforcement of this UDO. [See Section 12.2: *Appeals of Administrative Decisions*]
3. *Variances.* The BOA has the power to vary or modify any of the regulations or provisions of this UDO relating to the construction or alteration of buildings or structures where there are unnecessary hardships in the way of carrying out the strict letter of this UDO. [See Section 12.19: *Variances*]

G. **Meetings.**

1. Meetings of the BOA are held at the call of the Chair or any two other members of the BOA and at such other times as the BOA may determine.
2. The BOA must adopt rules governing its organization and all proceedings coming before the Board, which must be in accordance with N.C.G.S. [§ 160D-308 Rules of procedure](#).<sup>715</sup>
3. All BOA meetings must be open meetings in accordance with the North Carolina Open Meeting law (N.C.G.S. Chapter 143, [Article 33C Meetings of Public Bodies](#)).

H. **Voting.**

1. A BOA member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include:
  - (a) A member having a fixed opinion prior to hearing the matter that is not susceptible to change;
  - (b) Undisclosed ex parte communications;
  - (c) A close familial, business, or other associational relationship with an affected person; or
  - (d) A financial interest in the outcome of the matter.
2. If an objection is raised to a member's participation and that member does not recuse themselves, the remaining members shall by majority vote rule on the objection.

### 13.1.3 APPEARANCE COMMISSION

- A. The Appearance Commission is an advisory body.
- B. The Appearance Commission is organized and has the powers assigned by Chatham County Code [§§ 31.01](#) et seq.

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<sup>715</sup> Replaces current statutory reference in ZO Section 18.2 Meetings (N.C.G.S. § 160D-302 Boards of adjustment) with N.C.G.S. § 160D-308 since § 160D-302 does not address board proceedings.

- C. In addition to the duties specified in [§§ 31.01](#) et seq., the Appearance Commission also has the following duties in the administration and enforcement of this UDO:
1. To provide applicants for Conditional District Rezoning with recommendations for changes to landscape plans, exterior lighting plans, parking area designs, signs, and, if provided by the applicant, building elevations (see Section 12.15); and
  2. To provide recommendations for approval or approval with conditions of all Zoning Compliance Permit applications for non-residential uses and apartment complexes (see Section 12.20).

#### 13.1.4 ENVIRONMENTAL REVIEW ADVISORY COMMITTEE

- A. The Environmental Review Advisory Committee (ERAC) is an advisory body.
- B. The ERAC is organized and has the powers assigned by the [Chatham County Citizen Advisory Committees Policy](#) and [Addendum A](#) thereto, as amended.
- C. In addition to the duties specified in the policy referenced in 13.1.4B, above, the ERAC has the duty to review and provide comments on Environmental Impact Assessments when required by Chapter 12: *Procedures*. [See Section 18.4: *Environmental Impact Assessment*]

## 13.2 ADMINISTRATIVE BODIES<sup>716</sup>

### 13.2.1 CENTRAL PERMITTING & INSPECTIONS DIRECTOR

In the administration and enforcement of this UDO, the Central Permitting & Inspections Director has the duty to participate on the Technical Review Committee.

### 13.2.2 COUNTY MANAGER

In the administration and enforcement of this UDO, the County Manager has the duty to serve as Floodplain Administrator, as specified in Chapter 11: *Flood Damage Prevention*, unless the Manager designates another staff person to serve in this role.

### 13.2.3 ENVIRONMENTAL HEALTH DIRECTOR

The Environmental Health Director has the following duties in the administration and enforcement of this UDO:

- A. Review and provide recommendations related to private water supply systems;

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<sup>716</sup> This Section specifies the role of each administrative body with respect to UDO administration and approval processes. The definition of each of these bodies (other than TRC) includes “or their designee.” This allows for internal delegation of responsibilities without having to amend the UDO.

- B. Review and provide recommendations related to on-site wastewater (septic) systems;
- C. Participate on the Technical Review Committee; and
- D. Issue permits or approvals for the operation of certain land uses, including mobile food units, food service establishments, lodging facilities, childcare facilities, and swimming pools. [See Division of Environmental Health website]

#### 13.2.4 ENVIRONMENTAL QUALITY DIRECTOR

In the administration and enforcement of this UDO, the Environmental Quality Director has the duty to participate on the Technical Review Committee.

#### 13.2.5 FIRE MARSHAL

The Fire Marshal has the following duties in the administration and enforcement of this UDO:

- A. Enforce the provisions in Section 4.3: *Fire Protection*; and
- B. Participate on the Technical Review Committee.

#### 13.2.6 FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator has the following duties in the administration and enforcement of this UDO:

- A. Administer and enforce Chapter 11: *Flood Damage Prevention*; and
- B. Participate on the Technical Review Committee.

#### 13.2.7 MANAGEMENT INFORMATION SYSTEMS DIRECTOR

In the administration and enforcement of this UDO, the Management Information Systems Director has the duty to assist the Planning Director in updating the County's spatial databases entitled "Zoning" and "Zoning Overlays," which the County maintains as part of its geographic information system (GIS).

#### 13.2.8 PLANNING DIRECTOR

- A. Unless otherwise specified in the UDO sections or chapters listed below, the Planning Director is not involved in the administration or enforcement of these sections and chapters, which other staff members administer and enforce as described in each chapter:
  1. Section 4.3: *Fire Protection*;
  2. Chapter 8: *Watershed & Riparian Buffer Protection*;
  3. Chapter 9: *Stormwater Management*;
  4. Chapter 10: *Soil Erosion & Sedimentation Control*; and
  5. Chapter 11: *Flood Damage Prevention*.

- B. The Planning Director has the following duties in the administration and enforcement of this UDO:
1. Advise applicants for permits concerning the provisions of this UDO and assist applicants in preparing applications;
  2. Receive and forward to the Planning Board all complete applications that require its review, pursuant to Chapter 12: *Procedures*;
  3. Provide public notice as required by Chapter 12: *Procedures*;
  4. Perform field inspections as needed for individual applications to verify compliance with this UDO;
  5. Provide public information relative to this UDO;
  6. Maintain permanent and current records of matters pertaining to this UDO, including:
    - (a) All original and current zoning maps; and
    - (b) UDO text and map amendments.
  7. Execute any and all reports as the Board of Commissioners may require; and
  8. Coordinate with other County departments and outside agencies as needed in the execution of these duties.

### 13.2.9 STORMWATER ADMINISTRATOR

The Stormwater Administrator has the following duties in the administration and enforcement of this UDO:

- A. Administer and enforce Chapter 9: *Stormwater Management*; and
- B. Participate on the Technical Review Committee.

### 13.2.10 SUBDIVISION ADMINISTRATOR

- A. The Subdivision Administrator is not involved in the administration or enforcement of the UDO sections and chapters listed below, which other staff members administer and enforce as described in each chapter:
1. Section 4.3: *Fire Protection*;
  2. Chapter 8: *Watershed & Riparian Buffer Protection*;
  3. Chapter 9: *Stormwater Management*;
  4. Chapter 10: *Soil Erosion & Sedimentation Control*; and
  5. Chapter 11: *Flood Damage Prevention*.
- B. The Subdivision Administrator has the following duties in the administration and enforcement of this UDO:
1. Advise applicants for permits concerning the provisions of this UDO and assist applicants in preparing applications;

2. Receive, file, and forward to the reviewing and decision-making bodies Major Subdivision Sketch Plan applications (see Sections 12.8 and 12.11);
- ~~3. Receive, review, and act on Major Subdivision Preliminary Plat applications (see Section 12.4);~~
- ~~4.3.~~ Receive, review, and act on Major Subdivision Preliminary Plat and Construction Plan applications (see Sections 12.9 and 12.12);
- ~~5.4.~~ Receive, review, and act on Major Subdivision Final Plat applications (see Sections 12.10 and 12.13);
- ~~6.5.~~ Develop interpretations of ambiguities in this UDO and other issues in accordance with Section 12.17: *UDO Interpretations*;
- ~~7.6.~~ Provide public notice as required by Chapter 12: *Procedures*;
- ~~8.7.~~ Provide public information relative to this UDO;
- ~~9.8.~~ Conduct inspections and perform field inspections as needed for individual applications to verify compliance with this UDO;
- ~~10.9.~~ Maintain permanent and current records and files of any and all matters referred to them;
- ~~11.10.~~ Execute any and all reports as the Board of Commissioners may require;
- ~~12.11.~~ Investigate UDO violations; issue citations, warnings, or notices where such violations exist; follow up on violations until the situation has been properly remedied; and attend court hearings and testify concerning UDO violations;
- ~~13.12.~~ Take any action specified in 15.3.3: *Action by Zoning Administrator or Subdivision Administrator* to ensure compliance with or prevent violations of the UDO;
- ~~14.13.~~ Coordinate with other County departments and outside agencies as needed in the execution of these duties; and
- ~~15.14.~~ Other general requirements the County deems necessary to administer this UDO.

### 13.2.11 TECHNICAL REVIEW COMMITTEE

#### A. **Members.**

1. The Technical Review Committee (TRC) is an administrative committee composed of staff from various departments in Chatham County government and representatives of other local, state, and federal agencies.
2. The TRC may be composed of staff members from the following departments:
  - (a) Central Permitting & Inspections Department;
  - (b) Environmental Health ~~Department~~Division;
  - (c) Planning Department; and
  - (d) Watershed Protection Department.



3. Staff from other departments or outside agencies may be consulted on a case-by-case basis, depending on the complexity of the proposed project.
- B. **Duties.** The Technical Review Committee has the following duties in the administration and enforcement of this UDO:
1. Review and provide recommendations on Major Subdivision Sketch Plan applications;
  2. Review and provide recommendations on Major Subdivision Preliminary Plat applications;
  3. Review and provide recommendations on Major Subdivision Construction Plan applications;
  4. Review and provide recommendations on Major Subdivision Final Plat applications; and
  5. Review and provide recommendations on Conditional District Rezoning applications.

### 13.2.12 WATERSHED PROTECTION DIRECTOR

The Watershed Protection Director has the following duties in the administration and enforcement of this UDO:

- A. Administer and enforce Chapter 8: *Watershed & Riparian Buffer Protection*;
- B. Administer and enforce Chapter 10: Soil Erosion & Sedimentation Control;
- C. Serve as Watershed Administrator (see 8.8.1A: *Watershed Administrator*);
- D. Participate on the Technical Review Committee;
- E. Issue early land-disturbing permits (see 12.7); and
- F. Review and provide comments on environmental documentation and Environmental Impact Assessments when required by Chapter 12: *Procedures*. [See Section 18.3: *General Environmental Documentation* and Section 18.4: *Environmental Impact Assessments*]

### 13.2.13 ZONING ADMINISTRATOR

- A. The Zoning Administrator is not involved in the administration or enforcement of the UDO sections and chapters listed below, which other staff members administer and enforce as described in each chapter:
  1. Section 4.3: *Fire Protection*;
  2. Chapter 8: *Watershed & Riparian Buffer Protection*;
  3. Chapter 9: *Stormwater Management*;
  4. Chapter 10: Soil Erosion & Sedimentation Control; and
  5. Chapter 11: *Flood Damage Prevention*.
- B. The Zoning Administrator has the following duties in the administration and enforcement of this UDO:

1. Advise applicants for permits concerning the provisions of this UDO and assist applicants in preparing applications;
2. Receive, review, and act on Zoning Compliance Permit applications (see Section 12.20);
3. Receive, file, and forward to the Board of Adjustment all complete applications that require its review, pursuant to Chapter 12: *Procedures*;
4. Receive, file, and forward to the Appearance Commission all complete applications that require its review, pursuant to Chapter 12: *Procedures*;
5. Review applications for zoning compliance permits, as needed, to verify compliance with the UDO;
6. Develop interpretations of ambiguities in this UDO and other issues in accordance with Section 12.17: *UDO Interpretations*;
7. Make unlisted use determinations in accordance with 3.2.2: *Classification of New & Unlisted Uses*;
8. Provide public notice as required by Chapter 12: *Procedures*;
9. Provide public information relative to this UDO;
10. Conduct inspections and perform field inspections as needed for individual applications to verify compliance with this UDO;
11. Maintain permanent and current records and files of any and all matters referred to them;
12. Execute any and all reports as the Board of Commissioners may require;
13. Investigate UDO violations; issue citations, warnings, or notices where such violations exist; follow up on violations until the situation has been properly remedied; and attend court hearings and testify concerning UDO violations;
14. Take any action specified in 15.3.3: *Action by Zoning Administrator or Subdivision Administrator* to ensure compliance with or prevent violations of the UDO;
15. Coordinate with other County departments and outside agencies as needed in the execution of these duties; and
16. Other general requirements the County deems necessary to administer this UDO.

### 13.2.14 CONFLICTS OF INTEREST<sup>717</sup>

- A. In accordance with N.C.G.S. [§ 160D-109: Conflicts of interest](#):

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<sup>717</sup> Carries forward ZO Section 8.10 Conflicts of Interest and adds the second paragraph in § 160D-109(c).

1. A staff member shall not make a final administrative decision required by this UDO if:
    - (a) The outcome of that decision would have a direct, substantial, and readily identifiable financial impact of the staff member; or
    - (b) The applicant or other person subject to that decision is a person with whom the staff member has close familial, business, or other associational relationship.
  2. If a staff member has a conflict of interest, the staff person's supervisor or the supervisor's designee must make the final administrative decision.
- B. A staff member shall not be financially interested or employed by a business that is financially interested in a development subject to regulation under this UDO unless the staff member is the owner of the land or building involved.
- C. A staff member or other individual or an employee of a company contracting with Chatham County to provide staff support shall not engage in any work that is inconsistent with their duties or with the interest of Chatham County, as determined by the County.

# CHAPTER 14 NONCONFORMITIES & VESTED RIGHTS<sup>718</sup>

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## 14.1 NONCONFORMITIES

### 14.1.1 PURPOSE<sup>719</sup>

- A. Applying new regulations to existing development can create situations where existing lot dimensions, development density or intensity, land uses, buildings, structures, landscaping, parking areas, signs, or other conditions do not strictly comply with new requirements.
- B. To avoid undue hardship, this Chapter protects and regulates nonconforming lots, site elements, structures, and uses (collectively referred to as “nonconformities”) and specifies the circumstances and conditions under which those nonconformities may continue.
- C. The County finds that nonconformities adversely affect the orderly development and value of other property and should not continue unless brought into compliance with new County regulations over a reasonable period of time. In addition, reinvestment in some properties that do not strictly comply with current regulations can maintain existing neighborhood assets and economic growth and is allowed with appropriate conditions.

### 14.1.2 APPLICABILITY

This Section:

- A. Applies to nonconforming lots, site elements, structures, and uses; and
- B. Does not confer legal nonconforming status to expired approvals or abandoned uses and structures, nor to lots, site elements, structures, or uses established inconsistent with County regulations in effect when the lot, site element, structure, or use was established.

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<sup>718</sup> This is a comprehensive chapter to deal with existing situations, ranging from permits in progress to more comprehensively addressing different types of nonconformities (uses, lots, structures, and site improvements). This Chapter generally carries forward ZO Section 9 *Non-Conforming Situations* with edits as noted in the footnotes. However, ZO Section 9.4.c is not carried forward since its meaning is unclear and, further, this Chapter provides a more comprehensive treatment of nonconformities than the current Zoning Ordinance. The Chapter also proposes to use the term “nonconformities” rather than “non-conforming situations.”

<sup>719</sup> Revises the first paragraph in ZO Section 9 *Non-Conforming Situations* to remove the definition of nonconforming situation (now referred to as a nonconformity), which is established in Chapter 17, and more clearly describe the intent of this Chapter.

- C. Does not prohibit the exercise of any vested right established by common law or statute.

### 14.1.3 AUTHORITY TO CONTINUE

- A. Nonconformities that were otherwise lawful on the effective date of this UDO may continue, subject to the restrictions and qualifications set forth in this Section.<sup>720</sup>
- B. In all cases, the burden of establishing a lawful nonconformity exists is the responsibility of the lot owner or the authorized user of the nonconforming lot, site element, structure, or use.

### 14.1.4 MINOR REPAIRS & MAINTENANCE<sup>721</sup>

Minor repairs to and routine maintenance of property where a nonconformity exists are allowed and encouraged if the minor repair or maintenance does not create a new nonconformity or increase the degree of the existing nonconformity. Changes other than minor repairs and routine maintenance to property where a nonconformity exists may be allowed as provided in this Section.

### 14.1.5 NONCONFORMING LOTS

- A. **Applicability.** This Subsection applies to lots that have less area or width than required by Chapter 2: *Zoning Districts* for the district in which the lot is located.
- B. **Use of Nonconforming Lots.** A nonconforming lot may be used for any use allowed in the zoning district in which the lot is located if the use meets all other applicable requirements, including setbacks and any use-specific standards.<sup>722</sup>
- C. **Building on Subdivision Lots of Record.** Where there exists platted subdivision lots of record, whether conforming or nonconforming according to the UDO, buildings may be situated on said lots according to the setbacks in effect in the Zoning Ordinance at the time of recordation.<sup>723</sup>
- D. **Lots Not Subject to Previous Zoning Ordinance.** If the County's previous Zoning Ordinance did not apply to the subdivision at the time of recordation, any undeveloped lots that were located in an un-zoned area of the county prior to

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<sup>720</sup> Carries forward 9.2 *Continuation of Non-conforming Situations*.

<sup>721</sup> Carries forward the first sentence of 9.4.e [Extension or Enlargement of Non-conforming Situations]. Clarifies the minor repair or maintenance cannot create a new nonconformity or increase the degree of the existing nonconformity. Deletes second sentence (related to major renovations of nonconforming structures since it is redundant to Section 14.5: Nonconforming Structures).

<sup>722</sup> Carries forward ZO Section 9.3 *Non-Conforming Lots of Record* with revisions to simplify the text. Clarifies a nonconforming lot may be used for any allowed use, not just as a "building site," since some uses may not involve a building.

<sup>723</sup> Carries forward the first sentence of ZO Section 9.8 Building on Subdivision Lots of Record with the following changes: replaces "Zoning Ordinance" with "UDO," replaces "requirements" with "setbacks," and deletes the end of the last sentence ("...when zoning becomes applicable").

county-wide zoning adoption must comply with all applicable UDO standards unless the parcel is located in a PUD or a major subdivision.<sup>724</sup>

#### 14.1.6 NONCONFORMING SITE ELEMENTS<sup>725</sup>

- A. **Applicability.** This Subsection applies to developed lots with site elements that do not comply with the requirements of this UDO. “Site elements” are components, other than buildings, an applicant installs or maintains on a lot in conjunction with development and include exterior lighting, landscaping, buffers, open space, parking areas, loading areas, and signs.
- B. **Nonconforming Exterior Lighting.**<sup>726</sup> Nonconforming exterior lighting must be brought into compliance with Section 4.5: *Lighting* when:
1. It is relocated, upgraded, or replaced;
  2. The fixture housing is changed (routine maintenance, including changing the lamp, ballast, starter, photo control, lens, and other required components, is allowed for all existing fixtures); or
  3. Fifty percent or more of the existing light fixtures in a vehicular canopy are upgraded or replaced or the fixture housing is changed.
- C. **Nonconforming Landscaping or Buffers.**<sup>727</sup>
1. Nonconforming landscaping, transitional buffers, or screening of site features must be brought into compliance with Section 4.4: *Landscaping & Screening* when any individual expansion of a structure, including outdoor patio and deck areas, existing prior to the effective date of this UDO, if the expansion increases the structure’s floor area by 25% or more in the IL or IH District or by 50% or more in all other districts.
  2. If the cumulative total of all expansions or alterations of a structure over any consecutive three-year period exceeds the maximum allowed by 14.1.6C.1 above, the nonconforming site element(s) must be brought into full compliance with Section 4.4.
  3. If there is insufficient space on a lot to accommodate the required transitional buffer, the Appearance Commission may approve an alternative buffer plan that meets the intent of 4.4.8: *Transitional Buffers*.

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<sup>724</sup> Carries forward the second sentence of ZO Section 9.8 Building on Subdivision Lots of Record with revisions to require conformance with current UDO standards rather than the “most applicable zoning district within the pre-existing Ordinance.”

<sup>725</sup> This Section establishes rules for the review and redevelopment of sites that are nonconforming as to landscaping, parking, or other development standards.

<sup>726</sup> Carries forward ZO Section 13.17 Nonconformities [Lighting], streamlines the text, and eliminates redundant language.

<sup>727</sup> This matches 4.4.2: Applicability [Landscaping & Screening].

- D. **Nonconforming Open Space.** Since Section 6.1: *Tree Preservation & Other Open Space* only applies to new developments, existing developments with nonconforming open space do not have to comply with Section 6.1.
- E. **Nonconforming Parking or Loading Facilities.**<sup>728</sup> Nonconforming parking or loading facilities must be brought into compliance with Section 4.6: *Parking & Loading* when:
1. The principal use changes; or
  2. A structural alteration or other addition to a principal structure produces an increase in parking demand.
- F. **Nonconforming Signs.**
1. *On-Premises Signs.* Any permanent, on-premises sign may be replaced, repaired, or relocated on the property, if the replaced, repaired, or relocated sign does not exceed the size (square footage) or height of the original sign.<sup>729</sup>
  2. *Off-Premises Signs (Billboards).* Pursuant to 4.7.11B, all legally established billboards existing within the jurisdiction of Chatham County on the effective date of this UDO are nonconforming signs. Nonconforming billboards may remain in use and may be repaired, reconstructed, and relocated as provided in 4.7.11: *Billboards*.
  3. *Temporary Signs.* All nonconforming temporary signs must be removed within 90 days of the effective date of this Chapter.

#### 14.1.7 NONCONFORMING STRUCTURES<sup>730</sup>

- A. **Applicability.**<sup>731</sup> This Section applies to any lawfully constructed structure that:
1. Does not meet the dimensional standards (e.g., setbacks, height, density, or gross floor area) in Chapter 2: *Zoning Districts* for the district in which the structure is located; or
  2. Is located within a perimeter or right-of-way buffer required by Section 4.4: *Landscaping & Screening*.
- B. **Changes to a Nonconforming Structure.**
1. *Alteration of a Nonconforming Structure.* Except as provided for historic structures in 14.1.7B.3 below, physical alteration of a nonconforming structure is allowed if it does not result in greater nonconformity with respect to

<sup>728</sup> This matches 4.6.2: Applicability [Parking & Loading].

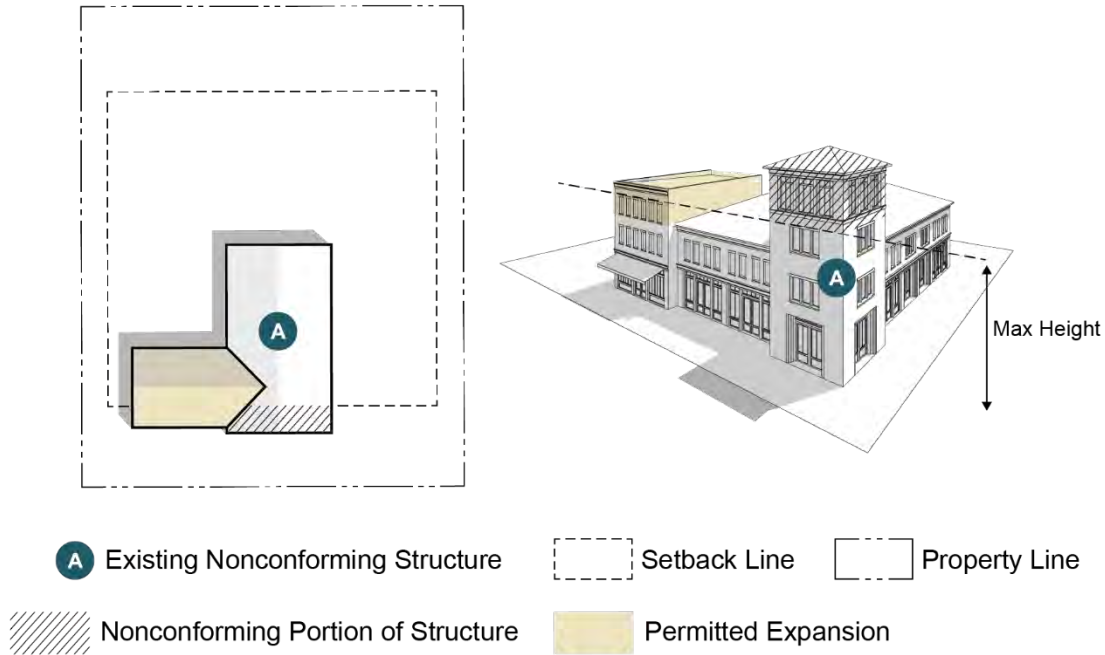
<sup>729</sup> Carries forward ZO Section 9.4(f) *Non-conforming Signs* [Extension or Enlargement of Non-conforming Situations]. The other relevant section, ZO Section 15.2 *Non-conforming Signs*, is simply a cross-reference to ZO Section 9.

<sup>730</sup> This Section carries forward rules for the continuation, expansion, alteration, and reestablishment of structures that are nonconforming as to the district dimensional standards.

<sup>731</sup> Note Section 4.2: Building Design only applies to new structures, so existing buildings that do not meet the building design standards are not considered nonconforming.

dimensional standards such as yard requirements, height limitations, built upon area, or density requirements.<sup>732</sup>

**Figure 14.1.7-1: Alteration of a Nonconforming Structure**



2. *Damage or Destruction of a Nonconforming Structure.* Except as provided for historic structures in 14.1.7B.3 below, any nonconforming structure that is destroyed or damaged to an extent equal to 60% or less of the taxed value of the structure by fire, flood, explosion, earthquake, winds, war, riot, act of nature, or any other act not under the control of the owner, may be reconstructed and used as before, if:<sup>733</sup>
  - (a) The nonconformity is not increased or extended; and
  - (b) A Zoning Compliance Permit and building permit are received within two years of the event.
3. *Historic Structures Exception.*
  - (a) Any nonconforming structure built 75 or more years ago that is listed on the National Register of Historic Places, either as an individual site or part of a district, is not subject to the limitations in this Paragraph 14.1.7B. An historic, nonconforming structure may be:

<sup>732</sup> Carries forward ZO Section 9.4.d with minor revisions to state the requirement in the positive (“...is allowed...”) rather than the negative (“...is unlawful...”).

<sup>733</sup> Carries forward 9.5 Reconstruction Limitations.



- (1) Altered in any way that maintains its historical integrity, even if it results in greater nonconformity with respect to dimensional standards; and
  - (2) Following damage, repaired or reconstructed and used as before even if the damage exceeds 60% of the taxed value of the structure.
- (b) The owner of any nonconforming structure built 75 or more years ago that is not listed on the National Register of Historic Places may be eligible for this exception if:
- (1) The owner submits a request to the Chatham County Historical Association (CCHA) for a recommendation as to whether the exception should apply; and
  - (2) The Zoning Administrator finds the exception is necessary to maintain the structure's historic integrity. In making this determination, the Zoning Administrator shall consider the CCHA's recommendation but is not bound by it.
- C. **Change of Use in a Nonconforming Structure.**<sup>734</sup> A conforming use may be established or reestablished in a nonconforming structure if the use complies with all applicable UDO provisions, including Section 4.6: *Parking & Loading* and Section 12.20: *Zoning Compliance Permits*.

#### 14.1.8 NONCONFORMING USES<sup>735</sup>

- A. **Applicability.** This Section applies to any lawfully established use that does not meet the requirements in Chapter 3: *Use Regulations*.
- B. **Continuation of Nonconforming Uses.** A nonconforming use may continue if it remains otherwise lawful. Any change to a nonconforming use must be made in accordance with this Chapter.
- C. **Limited Uses.**<sup>736</sup> A use that is nonconforming because it was a permitted use at the time of establishment and now is a limited use in the zoning district pursuant to Chapter 3: *Use Regulations*:
- 1. May continue; and
  - 2. Shall not be relocated, expanded, enlarged, or increased in intensity without first receiving limited use approval through issuance of a Zoning Compliance

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<sup>734</sup> Carries forward a portion of 9.6 Change in Kind of Non-conforming Use with revisions to streamline the language and state the requirement in the positive ("the use complies...") rather than the negative ("no other provisions of this Ordinance for the establishment of new uses is violated").

<sup>735</sup> This Section carries forward rules for the continuation, expansion, and reestablishment of uses that are prohibited in a district or that would require discretionary review under the new regulations.

<sup>736</sup> These provisions are new.

Permit. [See ~~Chapter 12: Procedures Section~~ 12.20: *Zoning Compliance Permits*]

D. **Extension of Nonconforming Use.**<sup>737</sup>

1. A nonconforming use may be extended through any portion of a completed building.
2. A nonconforming use may be extended on the same lot to:
  - (a) Additional buildings, including new buildings; and
  - (b) Land outside the original building.
3. A nonconforming use may be extended to cover more land than was occupied or manifestly designed and arranged to be occupied by that use when it became nonconforming, if:
  - (a) It is not extended to additional lots; and
  - (b) All applicable UDO standards are met (e.g., setbacks, and buffers).

E. **Change of Nonconforming Use.**<sup>738</sup>

1. A nonconforming use may be changed only to a conforming use. Thereafter, the property may not revert to a nonconforming use.
2. If a nonconforming use and a conforming use or any combination of nonconforming uses exist on one lot, the use made of the property may be changed only to a conforming use.

F. **Changes to a Structure Containing a Nonconforming Use.** A conforming structure containing a nonconforming use can be altered and the nonconforming use extended as provided in 14.1.8D: *Extension of Nonconforming Use*.

G. **Discontinuance of a Nonconforming Use.**<sup>739</sup>

1. When active operation or occupancy of a nonconforming use is discontinued, regardless of the purpose or reason, for a consecutive period of 365 days, the property involved may thereafter be used only for conforming uses.
2. This Paragraph does not apply to a nonconforming use located in a structure undergoing reconstruction in accordance with 14.1.7B.2: *Damage or Destruction of a Structure Containing a Nonconforming Use*, above.

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<sup>737</sup> Carries forward ZO Section 9.4.a but deletes “[n]ew buildings are allowed provided they meet the zoning district requirements or the zoning district requirements of their type of actual use, whichever is more stringent.” Clarifies a nonconforming use may be extended *on the same lot*.

<sup>738</sup> Carries forward a portion of 9.6 Change in Kind of Non-conforming Use.

<sup>739</sup> Carries forward 9.7 *Discontinuance of Non-conforming Uses* with minor edits to simplify the language.

3. For purposes of determining whether a right to continue a nonconforming use is lost pursuant to this Paragraph, all of the buildings, activities, and operations maintained on a lot are generally considered as a whole.
  - (a) For example, the failure to rent one apartment in a nonconforming apartment building for 365 days does not result in a loss of the right to rent that apartment thereafter if the apartment building as a whole is continuously maintained.
  - (b) For example, if three buildings with nonconforming retail uses are located on a lot zoned R1 and the nonconforming use ceases to operate in all three buildings for a consecutive period of 365 days or more, the nonconforming retail use cannot be reestablished after the 365-day period.
4. However, when a nonconforming use is maintained in conjunction with a conforming use, cessation of operation or occupancy of the nonconforming use for the period specified in 14.1.8F: *Changes to a Structure Containing a Nonconforming Use* terminates the right to maintain it thereafter.

## 14.2 PERMIT CHOICE & VESTED RIGHTS<sup>740</sup>

### 14.2.1 FINDINGS & PURPOSE

- B. County approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. Therefore, it is necessary and desirable to provide for the establishment of certain vested rights in order to:
  1. Ensure reasonable certainty, stability, and fairness in the development regulation process;
  2. Secure the reasonable expectations of landowners; and
  3. Foster cooperation between the public and private sectors in land use planning and development regulation.<sup>741</sup>
- C. Vested rights balance the right of property owners to reasonably rely on official governmental acts and the County's obligation to reasonably respond to community changes and needs through revisions to this UDO.
- D. By this Section, Chatham County recognizes and commits to protect vested rights as created by N.C.G.S. [§ 160D-108](#) and other applicable law.

<sup>740</sup> Carries forward ZO Sections 19.12 Vested Rights and Permit Choice and 19.13 *Vested Rights and Site Specific Vesting Plans* with minor formatting edits and text revisions for clarity (e.g., replacing "local government" with "Chatham County;" deleting "unless expressly provided by the local government" since the UDO text incorporates the State statute as written).

<sup>741</sup> [This Paragraph 1.9.A is from N.C.G.S. § 160D-108\(a\).](#)

### 14.2.2 DEFINITIONS

For the purposes of this Section:

- A. “Development permit” has the meaning specified in N.C.G.S. [§ 143-755\(e\)\(2\)](#); and
- B. “Land development regulation” has the meaning specified in N.C.G.S. [§ 143-755\(e\)\(3\)](#).

### 14.2.3 PERMIT CHOICE<sup>742</sup>

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

### 14.2.4 ESTABLISHMENT OF VESTED RIGHTS<sup>743</sup>

- A. The establishment of a vested right under any subsection of this Section does not preclude vesting under one or more other subsections of this Section or vesting by application of common law principles.
- B. A vested right, once established as provided for in this Section or by common law, precludes any action by Chatham County that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

### 14.2.5 EFFECT OF LAND DEVELOPMENT REGULATIONS AMENDMENTS ON VESTED RIGHTS

Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

- A. Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with N.C.G.S. [§ 143-755](#);
- B. Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with N.C.G.S. [§ 143-755](#);
- C. A site-specific vesting plan pursuant to N.C.G.S. [§ 160D-108.1](#).
- D. A multi-phased development pursuant to 14.2.9: *Continuing Review*.

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<sup>742</sup> Carries forward a portion of ZO Section 19.12: *Vested Rights and Permit Choice*. This text is from N.C.G.S. [§ 160D-108\(b\)](#).

<sup>743</sup> Carries forward a portion of ZO Section 19.12: *Vested Rights and Permit Choice* with minor formatting edits and text revisions for clarity.

- E. A vested right established by the terms of a development agreement pursuant to N.C.G.S. [§ 160D-403](#).

#### 14.2.6 DURATION OF VESTING

- A. Upon issuance of a development permit, the statutory vesting granted by 14.2.4: *Establishment of Vested Rights* for a development project is effective upon filing of the application in accordance with N.C.G.S. [§ 143-755](#), for so long as the permit remains valid pursuant to law.
- B. Unless otherwise specified by this Section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced.
- C. For the purposes of this Section, a permit is issued either in the ordinary course of business of Chatham County or by Chatham County as a court directive.
- D. Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this Section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months.
- E. The statutory vesting period granted by this Section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months.
- F. The 24-month discontinuance period is automatically tolled during the pendency of any Board of Adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

#### 14.2.7 MULTIPLE PERMITS FOR DEVELOPMENT PROJECT

- A. Subject to 14.2.6: *Duration of Vesting*, where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit.
- B. This provision applies only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit.
- C. This Subsection does not limit or affect the duration of any vested right established under 14.2.6: *Duration of Vesting*.
- D. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

#### 14.2.8 MULTI-PHASED DEVELOPMENT

- A. A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development.

- B. A right that has been vested as provided for in this Subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

### 14.2.9 CONTINUING REVIEW

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

### 14.2.10 PROCESS TO CLAIM VESTED RIGHT

- A. A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Zoning Administrator in accordance with Section 12.17: *UDO Interpretations*, who shall make an initial determination as to the existence of the vested right.
- B. The decision of the Zoning Administrator may be appealed in accordance with Section 12.2: *Appeals of Administrative Decisions*. On appeal, the existence of a vested right shall be reviewed de novo.
- C. In lieu of seeking such a determination or pursuing an appeal, a person claiming a vested right may bring an original civil action as provided by N.C.G.S. [§ 160D-1403.1](#).

### 14.2.11 MISCELLANEOUS PROVISIONS

- A. The vested rights granted by this Section run with the land except for the use of land for outdoor advertising governed by N.C.G.S. [§ 136-131.1](#) and N.C.G.S. [§ 136-131.2](#), in which case the rights granted by this Section run with the owner of a permit issued by the North Carolina Department of Transportation.
- B. Nothing in this Section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred.
- C. Except as expressly provided in N.C.G.S. [§ 160D-108](#), nothing in this Section shall be construed to alter the existing common law.

### 14.2.12 SITE-SPECIFIC VESTING PLAN

- A. A site-specific vesting plan consists of a plan submitted to Chatham County in which the applicant requests vesting pursuant to this Section, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property.
- B. The plan may be in the form of any of the following plans or approvals:
  - 1. A subdivision plat;
  - 2. A special use permit;
  - 3. A conditional district zoning plan; or
  - 4. Any other land-use approval designation as may be utilized by Chatham County.

- C. The plan must include:
  - 1. The approximate boundaries of the site;
  - 2. Significant topographical and other natural features affecting development of the site;
  - 3. The approximate location on the site of the proposed buildings, structures, and other improvements;
  - 4. The approximate dimensions, including height, of the proposed buildings and other structures; and
  - 5. The approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.
- D. What constitutes a site-specific vesting plan under this Section that would trigger a vested right shall be finally determined by Chatham County pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval.
- E. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained.
- F. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

#### **14.2.13 ESTABLISHMENT OF VESTED RIGHT**

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

#### **14.2.14 APPROVAL AND AMENDMENT OF PLANS**

- A. If a site-specific vesting plan is based on an approval required by a local development regulation, Chatham County shall provide whatever notice and hearing is required for that underlying approval.
- B. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this Section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by N.C.G.S. [§ 160D-602](#) shall be held.
- C. Chatham County may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare.
- D. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. Chatham

County shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval.

- E. A site-specific vesting plan is deemed approved upon the effective date of Chatham County's decision approving the plan or another date determined by the governing board upon approval.
- F. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and Chatham County as follows:
  - 1. Any substantial modification must be reviewed and approved in the same manner as the original approval; and
  - 2. Minor modifications may be approved by staff, if such are defined and authorized by this UDO.

#### 14.2.15 CONTINUING REVIEW

- A. Following approval or conditional approval of a site-specific vesting plan, Chatham County may make subsequent reviews and require subsequent approvals to ensure compliance with the terms and conditions of the original approval, if these reviews and approvals are not inconsistent with the original approval.
- B. Chatham County may, pursuant to N.C.G.S. [§ 160D-403\(f\)](#), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

#### 14.2.16 DURATION AND TERMINATION OF VESTED RIGHT

- A. A vested right for a site-specific vesting plan remains vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the local government.
- B. Notwithstanding the provisions of 14.2.16A above, a local government may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the local government and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with 14.2.12: *Site-Specific Vesting Plan*.
- C. Upon issuance of a building permit, the provisions of N.C.G.S. [§ 160D-1111](#) and N.C.G.S. [§ 160D-1115](#) apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this Section is outstanding.
- D. A right vested as provided in this Section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.



**14.2.17 SUBSEQUENT CHANGES PROHIBITED; EXCEPTIONS**

- A. A vested right, once established as provided for in this Section, precludes any zoning action by Chatham County that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:
1. With the written consent of the affected landowner;
  2. Upon findings, by ordinance after notice and an evidentiary hearing, that natural or human-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan;
  3. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by Chatham County, together with interest as provided under N.C.G.S. [§ 160D-106](#). Compensation shall not include any diminution in the value of the property which is caused by the action;
  4. Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by Chatham County of the site-specific vesting plan or the phased development plan; or
  5. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, in which case Chatham County may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.
- B. The establishment of a vested right under this Section does not preclude the application of overlay zoning or other development regulations that impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new regulations become effective with respect to property that is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this Section.
- C. Notwithstanding any provision of this Section, the establishment of a vested right does not preclude, change, or impair the authority of Chatham County to adopt and enforce development regulations governing nonconforming situations or uses.

**14.2.18 MISCELLANEOUS PROVISIONS**

- A. A vested right obtained under this Section is not a personal right, but attaches to and runs with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.
- B. Nothing in this Section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this Section, nothing in this Section shall be construed to alter the existing common law.
- C. In the event a local government fails to adopt a development regulation setting forth what constitutes a site-specific vesting plan triggering a vested right, a landowner may establish a vested right with respect to property upon the approval of a zoning permit, or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice.

# CHAPTER 15 ENFORCEMENT

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## 15.1 PURPOSE

This Chapter establishes the:

- A. Procedures to enforce compliance with this UDO and to mandate corrections for violations of this UDO or conditions of a development approval issued under this UDO; and
- B. The remedies and penalties available to Chatham County to enforce compliance with this UDO.

## 15.2 VIOLATIONS

### 15.2.1 GENERALLY

Any person who violates the provisions of this UDO is subject to the remedies and penalties it provides.

### 15.2.2 TYPES OF VIOLATIONS

The following activities, acts, failures to act, and conditions are violations of this UDO and will be enforced using the penalties and remedies provided by this Chapter, the [Chatham County Code](#), and any requirements or limitations of North Carolina law:

- A. **Development or Use Without Permit or Approval.** Any activity not authorized by the acquisition of all required permits, approvals, certificates, and authorizations required by this UDO;
- B. **Development or Use of Land Inconsistent With This UDO.** Any activity inconsistent with any zoning, subdivision, development, landscaping, sign, or general regulation of this UDO or any amendment to it;
- C. **Development or Use Inconsistent With Conditions of Approval.** Any activity inconsistent with any term, condition, or qualification placed by the County upon a required permit, certificate, rezoning, plan or plat approval, or other form of authorization granted by the County to allow the use, subdivision, development, placement of signs, or other activity upon land or improvements of land;<sup>744</sup>

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<sup>744</sup> Carries forward and augments ZO Section 5.6 *Non-Compliance with [Conditional] District Conditions*, ZO Section 17.3 *Violations (SUPs)*, and ZO Section 23.3 *Violations of an Approved Special Use Permit*.

- D. **Making a Lot or Yard Nonconforming.** Reducing or diminishing any lot area, lot width, or setback so the lot or yard is smaller than prescribed by the requirements of this UDO;<sup>745</sup>
- E. **Increasing the Intensity of Use.** Increasing the intensity or density of use of any land or structure, except in accordance with the procedural and substantive requirements of this UDO;
- F. **Deficient Landscaping and Site Improvements.** Failing to install or maintain any landscaping, screening, or site improvements required by this UDO;
- G. **Removal of Vegetation in Buffers.** The unauthorized removal or disturbance of vegetation from required buffers, except in accordance with Section 4.4: *Landscaping & Screening*. This excludes riparian buffers, which are subject to the provisions in Chapter 8: *Watershed & Riparian Buffer Protection*;
- H. **Disrupting Notice.** Removing, defacing, obscuring, or interfering with any notice posted or made pursuant to this UDO;
- I. **Failing to Comply with a Stop Work Order.** Continuing construction or other site work on any development, building, or structure on any land or site after service of a Stop Work Order issued by the County;
- J. **Displaying a Temporary Sign Longer Than Permitted.** Displaying a temporary sign for longer than allowed by the associated approval;
- K. **Unauthorized Changes to Zoning Map.** Any change in zoning district boundaries on the Zoning Map not made in conformance with the procedures set forth in [Chapter 12: Procedures Sections 12.14: Rezoning \(Conventional Districts\) and 12.15: Rezoning \(Conditional Districts\)](#);
- L. **Conveyance of Land Without Approved Plat.** The sale or transfer of land by reference to, exhibition of, or any other use of a plat showing a subdivision of land before the plat has been properly approved under these regulations and recorded in the office of the Register of Deeds. The description by metes and bounds in the instrument of transfer or other documents used in the process of conveying land does not exempt the transaction from these regulations;<sup>746</sup>
- M. **Recording of Unapproved Non-Exempt Plat.** The recording by the Register of Deeds of a plat of any subdivision when the County has not approved the plat in the manner prescribed by this UDO;<sup>747</sup>
- N. **Recording of Unapproved Exempt Plat.** The recording by the Register of Deeds of a plat of any subdivision or division of land when the Planning Department has not reviewed and confirmed the subdivision is exempt from these regulations and the owner has also certified the subdivision is exempt from this UDO;<sup>748</sup>

<sup>745</sup> Carries forward ZO Section 8.3 *Reduction of Lot and Yard Areas Prohibited*.

<sup>746</sup> Carries forward SR Section 1.14.A *Prohibited Acts, Enforcement, and Penalties*.

<sup>747</sup> Carries forward a portion of SO Section 1.14.B [Prohibited Acts, Enforcement, and Penalties].

<sup>748</sup> Carries forward a portion of SO Section 1.14.B [Prohibited Acts, Enforcement, and Penalties].

- O. **Issuance of Permits for Unapproved Lots.** The issuance of permits for the construction of any building or structure located on a lot or other division of land that was not properly created and approved, as provided by this UDO;<sup>749</sup>
- P. **Authorization to Extend, Connect, or Construct Utilities to Serve Unapproved Lots.** The authorization to extend, connect, or construct any public or private facilities or services to a lot or other division of land that was not properly created and approved, as provided by this UDO;<sup>750</sup>
- Q. **Violation of County-Enforced State Law.** Failure to comply with any State law delegated to local governments for enforcement purposes in lieu of the State; and<sup>751</sup>
- R. **Other Acts.** Any other act prohibited by this UDO or the failure to perform any act required by this UDO is a violation under this Section and is punishable under this UDO.

## 15.3 ENFORCEMENT PROCEDURES<sup>752</sup>

### 15.3.1 RESPONSIBILITY FOR ENFORCEMENT

- A. Except as provided in 15.3.1B, 15.3.1C, and 15.3.1D, below, the Zoning Administrator and Subdivision Administrator are responsible for enforcing all provisions of the UDO.
- B. The Fire Marshal is responsible for enforcing Section 4.3: *Fire Protection*. County Code [Chapter 93: Fire Prevention and Protection](#) specifies enforcement procedures.
- C. The Director of Public Utilities is responsible for enforcing 7.3.4: *Utilities* and 7.3.6: *Water Supply*.
- D. Enforcement procedures for the UDO chapters listed below is specified within the text of the respective chapter:
  1. Chapter 8: Watershed & Riparian Buffer Protection (see Section 8.9: Enforcement);
  2. Chapter 9: *Stormwater Management* (see Section 9.8: Violations & Enforcement);
  3. Chapter 10: *Soil Erosion & Sedimentation Control* (see Section 10.14: *Inspections & Investigations*); and
  4. Chapter 11: *Flood Damage Prevention* (see Section 11.3: *Administration*).

<sup>749</sup> Carries forward a portion of SO Section 1.14.C [Prohibited Acts, Enforcement, and Penalties].

<sup>750</sup> Carries forward a portion of SO Section 1.14.C [Prohibited Acts, Enforcement, and Penalties].

<sup>751</sup> This Paragraph carries forward a portion of the first sentence in ZO Section 21 Penalty for Violations.

<sup>752</sup> This Section specifies responsibility for enforcement actions, notification, cure periods, and enforcement actions.

### 15.3.2 NOTICE OF VIOLATION<sup>753</sup>

- A. If the Zoning Administrator or Subdivision Administrator identifies a violation of any of the provisions of this UDO they are responsible for enforcing pursuant to 15.3.1: *Responsibility for Enforcement*, they must provide a written Notice of Violation to the person(s) specified in 15.3.2B, below. The notice must:<sup>754</sup>
1. Indicate the nature of the violation;
  2. Specify the UDO section(s) violated;
  3. Include the date(s) of the violation;
  4. Order the person to immediately cease the violation, or order the action necessary to correct the violation and establish the number of days within which the person must correct the violation;
  5. Specify that a second citation will incur a civil penalty, if applicable; and
  6. Advise the person of their right to appeal to the Board of Adjustment as provided in Section 12.2: *Appeals of Administrative Decisions*.
- B. The Zoning Administrator or Subdivision Administrator shall provide the Notice of Violation to the holder of the development approval and the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail.
1. The Zoning Administrator or Subdivision Administrator may provide notice by similar means to the occupant of the property or to the person undertaking the work or activity.
  2. The person providing the Notice of Violation shall certify to the local government that the notice was provided, and the certification shall be deemed conclusive in the absence of fraud.<sup>755</sup>
- C. The Zoning Administrator or Subdivision Administrator may post a Notice of Violation on the subject property.

### 15.3.3 ACTION BY ZONING ADMINISTRATOR OR SUBDIVISION ADMINISTRATOR<sup>756</sup>

- A. The Zoning Administrator or Subdivision Administrator may:
1. Order discontinuance of illegal use of land, buildings, or structures;

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<sup>753</sup> Carries forward and consolidates SR Section 1.14.D, a portion of ZO Section 20.1 Zoning Administrator, and ZO Section 21 Penalty for Violations. Changes “Planning Department to “Subdivision Administrator.” This Paragraph is consistent with § 160D-404 Enforcement.

<sup>754</sup> Paragraph (1)(c) and (1)(d) incorporate JYCO Section 111.09(D)(1).

<sup>755</sup> This new sentence is from § 160D-404(a).

<sup>756</sup> Carries forward a portion of ZO Section 20.1 Zoning Administrator, adds “Subdivision Administrator” to reflect the consolidation of zoning and subdivision regulations into a UDO and changes “shall” to “may” since these actions are optional based on the type of violation.

2. Order removal of illegal buildings or structures or additions, alterations, or structural changes thereto;
3. Take any action authorized by 15.4: *Remedies & Penalties*; or
4. Take any other action authorized by this UDO and governing law to ensure compliance with or prevent violations of its provisions.

#### 15.3.4 INSPECTIONS AUTHORIZED<sup>757</sup>

- A. In accordance with N.C.G.S. [§ 160D-403\(e\)](#), Chatham County staff may inspect work undertaken pursuant to a development approval to ensure the work is being completed in accordance with applicable State and local laws and the terms of the approval.
- B. In exercising this power, staff are authorized to enter any premises within Chatham County's jurisdiction at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. The holder of the development approval or the current landowner of the property must provide the appropriate consent for inspection of areas not open to the public. If the holder of the development approval or the current landowner does not consent, staff must secure an appropriate inspection warrant.

#### 15.3.5 IMMEDIATE ENFORCEMENT

If the Zoning Administrator or Subdivision Administrator determines that a delay would seriously threaten the effective enforcement of this UDO or pose a danger to the public health, safety, or welfare, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this Chapter.<sup>758</sup>

## 15.4 REMEDIES & PENALTIES

### 15.4.1 GENERALLY<sup>759</sup>

The County may use one, all, or any combination of the following remedies and penalties to enforce compliance with this UDO.

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<sup>757</sup> Carries forward a portion of ZO Section 20.1 Zoning Administrator and changes "administrative staff" to "Chatham County staff." Minor revisions in C.2. to limit the use of passive voice.

<sup>758</sup> Carries forward last paragraph of ZO Section 21 *Penalty for Violations* and JYCO Section 111.09(D)(2). This language is from N.C.G.S. [§ 160D-403\(f\)](#), with minor revisions to limit passive voice and additions as noted in the footnotes.

<sup>759</sup> Carries forward the last sentence of the eighth paragraph of ZO Section 21 *Penalty for Violations* with minor revisions.

### 15.4.2 ISSUANCE OF A STOP WORK ORDER

- A. When ongoing development violates this UDO in a manner specified in 15.2: *Violations*, the Zoning Administrator or Subdivision Administrator may issue a written Stop Work Order to the person conducting the work.
- B. The Stop Work Order must describe the work that must cease, the reason the work must cease, and the action(s) necessary to lawfully resume work.
- C. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the County that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud.
- D. The issuance of a Stop Work Order by a staff member may be appealed to the Board of Adjustment as provided in Section 12.11: *Appeals of Administrative Decisions*. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal.
- E. If the person conducting the work violates the Stop Work Order, the County may immediately assess a fine of \$500 per day for each day the work continues.<sup>760</sup>

### 15.4.3 WITHHOLDING ACCEPTANCE OF APPLICATIONS<sup>761</sup>

- A. The County may decline to accept any application specified in Chapter 12: *Procedures* or other chapter of the UDO until the lot owner resolves all UDO violations related to the lot and pays all related fines. In instances where the action proposed in the application would resolve the violation, the County may accept and process the application.
- B. The County may decline to accept any application specified in Chapter 12: *Procedures* or other chapter of the UDO when the subject property was timbered in violation of development regulations, and the timber harvest results in the removal of all or substantially all of the trees that were protected under County regulations governing development of the property. The County may decline to accept the application for:
  1. Up to three years after the completion of the timber harvest; or
  2. Up to five years after the completion of the timber harvest if the harvest was a willful violation of County regulations.

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<sup>760</sup> Last sentence of SR Section 1.14.F [*Prohibited Acts, Enforcement, and Penalties*]

<sup>761</sup> These provisions are new.



#### 15.4.4 WITHHOLDING OF A DEVELOPMENT APPROVAL<sup>762</sup>

- A. The County may deny or withhold all development approvals or other forms of authorization on any building, structure, land, or improvements upon land on which there is an uncorrected UDO violation. The County shall not issue the development approval until all violations are resolved and any fines levied are paid.
- B. In instances where the issuance of the authorization would resolve the violation, the County may, instead of withholding or denying an authorization, grant the authorization.
- C. In instances where evidence of a violation is noted after the acceptance, processing, and/or issuance of a permit or other authorization, all activity with regards to the processing of the application, including inspections, shall cease until the lot is brought into compliance and all fines levied are paid.
- D. In situations where a property for which any development approval is sought was timbered in violation of development regulations, and the timber harvest results in the removal of all or substantially all of the trees that were protected under County regulations governing development of that tract, the County may withhold the development approval for:
  - 1. Up to three years after the completion of the timber harvest; or
  - 2. Up to five years after the completion of the timber harvest if the harvest was a willful violation of County regulations.
- E. This Section applies regardless of whether the current owner or applicant is responsible for the violation in question.

#### 15.4.5 REVOCATION OF DEVELOPMENT APPROVAL<sup>763</sup>

- A. **Generally.**
  - 1. The Zoning Administrator or Subdivision Administrator may, in accordance with this Section, revoke a development approval issued by staff.
  - 2. When an appointed or elected body issued the development approval, review and approval of any revocation of that development approval must follow the same review process required for issuance of the development approval, including any required notice or hearing. [See Chapter 12: *Procedures*]
- B. **Basis for Revocation.** The decision-making body may revoke a development approval at any time prior to the completion of the use, building, structure, development, site improvement, or subdivision for which the development approval

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<sup>762</sup> Carries forward SR Section 1.14.G [Prohibited Acts, Enforcement, and Penalties] in Paragraph D; other paragraphs are new provisions.

<sup>763</sup> This Section allows revocation of a permit if the applicant provided materially incorrect information, if the applicant fails to comply with a condition, or if the County issued the permit or approval in error.

was issued, when the decision-making body determines one or more of the following conditions is present:

1. The development substantially departs from the approved application, plans, specifications, or conditions required under the terms of the permit;<sup>764</sup>
2. The applicant or their agent refuses or fails to comply with the requirements of any applicable local development regulation or any State law delegated to the County for enforcement purposes in lieu of the State;
3. The applicant secured the approval using false statements, misrepresentations, or materially incorrect information;<sup>765</sup> or
4. The County mistakenly issued the development approval in violation of an applicable State or local law.

C. **Notice of Revocation.**

1. The County must notify the applicant in writing of the revocation or the intent to consider revocation of the development approval. The notice must specify the reason for the revocation or the intent to consider revocation.
2. If an appointed or elected body issued the development approval, the notice must also specify the date, time, and location of the meeting at which the appointed or elected body will consider revocation.
3. When notice of revocation or the intent to consider revocation is served, all further construction, use, or development of the lot must cease.

D. **Appeal of Revocation.**

1. The revocation of a development approval by a staff member may be appealed to the Board of Adjustment as provided in Section 12.2: *Appeals of Administrative Decisions*.
2. The revocation of a development approval by an appointed or elected body may be appealed as provided in Chapter 12: *Procedures* for the particular type of development approval.
3. If an appeal is filed regarding a UDO development regulation adopted pursuant to N.C.G.S. Chapter 160D, the provisions of [§ 160D-405\(f\)](#) regarding stays applies.

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<sup>764</sup> Adds “conditions required under the terms of the permit” to the statutory language.

<sup>765</sup> Adds “materially incorrect information” to the statutory language.

### 15.4.6 CIVIL CITATIONS<sup>766</sup>

- A. **Generally.** If the holder of the development approval or the landowner of the property involved, as applicable, fails to obey a Notice of Violation, the Zoning Administrator or Subdivision Administrator may issue a civil citation.
- B. **Service of Citation.**
1. The Zoning Administrator or Subdivision Administrator must serve this citation:
    - (a) Directly on the person who received the Notice of Violation, their duly designated agent, or their registered agent if the violator is a corporation; and
    - (b) Either in person or posted in the United States mail service by first class mail addressed to the last known address of the person who received the Notice of Violation as contained in the records of the County or obtained from the person at the time of issuance of the Notice of Violation.
  2. The person who received the Notice of Violation is deemed to have been served upon the mailing of the civil citation.
- C. **Payment of Citation.** The civil citation shall direct the recipient to pay the citation to the Chatham County Planning Department within 15 days of the date of the citation, or alternatively to pay the citation by mail.
- D. **Additional Citations.** The violation for which the citation is issued must have been corrected by the time the citation is paid, otherwise the County may issue further citations.
1. Citations may be issued for each day the offense continues until the violation is corrected.
  2. Each day's continuing violation of any provision of this UDO is a separate and distinct offense. This means that on the 16th day of non-compliance, civil penalties will accrue on a daily basis as long as the violation continues.
- E. **Civil Penalties.** The civil penalty, if not paid to the Planning Department within 15 days of the issuance of a citation, may be recovered by the County in a civil action in the nature of debt.
1. Civil penalties will be assessed in the amount of \$50.00 per day for the first violation.

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<sup>766</sup> Carries forward and consolidates JYCO 111.99(B) [Penalty], SR Section 1.14.F [Prohibited Acts, Enforcement, and Penalties] and the third, fourth, and fifth paragraphs of ZO Section 21 Penalty for Violations with minor revisions to limit the use of passive voice. Replaces the term “violator” with “the holder of the development approval or the landowner of the property involved” and “the person who received the Notice of Violation” for consistency with 15.3.2: Notice of Violation.

2. If the same violation occurs on the same property within six years after the initial violation is remedied, a civil penalty in the amount of \$100.00 per day automatically applies.
3. If the same violation occurs on the same property within six years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200.00 per day automatically applies.
4. If the same violation occurs on the same property within six years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500.00 per day automatically applies.
5. Civil penalties will continue to accrue until compliance has been met on the property.
6. The Zoning Administrator and Subdivision Administrator may waive the escalation of the penalty if the violator is working to correct the violation in good faith and has made tangible progress during the grace period.

### 15.4.7 INJUNCTIONS & ORDERS OF ABATEMENT

#### A. **Injunctions.**<sup>767</sup>

1. The County may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction ordering the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
2. The County may enjoin illegal subdivision, transfer, or sale of land by action of injunction. The illegal subdivision, transfer, or sale of land is a misdemeanor punishable by a fine or by imprisonment for a term not exceeding 30 days, as provided in N.C.G.S. [§ 160D-807](#).<sup>768</sup>
3. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

#### B. **Orders of Abatement.**<sup>769</sup> The County may seek an order of abatement as a part of the judgment in the case. An order of abatement may direct that:

1. Buildings or other structures on the property are closed, demolished, or removed;
2. Fixtures, furniture, or other movable property is removed from buildings on the property;
3. Junk is removed from illegal junk yards;<sup>770</sup>

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<sup>767</sup> Carries forward the seventh paragraph of ZO Section 21 Penalty for Violations with minor revisions to streamline the language.

<sup>768</sup> Carries forward SR Section 1.14.E [Prohibited Acts, Enforcement, and Penalties].

<sup>769</sup> Carries forward the eighth paragraph of ZO Section 21 Penalty for Violations.

<sup>770</sup> Carries forward a portion of JYCO Section 111.99(C) [*Penalty*].

4. Improvements or repairs are made; or
5. Any other action necessary to bring the property into compliance with this UDO.

C. **Failure to Comply.**

1. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, they may be cited for contempt, and the County may execute the order of abatement.
2. If the County executes an order of abatement, the County shall place a lien on the property for the cost of executing the order of abatement in the nature of a mechanic's and material man's lien.
3. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order.
  - (a) The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge.
  - (b) Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction therewith.

#### 15.4.8 OTHER REMEDIES<sup>771</sup>

- A. In addition to the penalties set out above, any provision of this UDO may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- B. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the County for equitable relief that there is an adequate remedy at law.

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<sup>771</sup> Carries forward the sixth paragraph of ZO Section 21 Penalty for Violations.

# CHAPTER 16 RULES OF INTERPRETATION & MEASUREMENT

## 16.1 GENERAL RULES OF INTERPRETATION

- A. This Section, County Code [§ 10.02: Interpretation](#), and County Code [§ 10.06: Rules of Interpretation](#) establish rules for interpreting this UDO.
- B. In their interpretation and application, the provisions of this UDO are considered the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare.<sup>772</sup>
- C. For purposes of interpreting this UDO, the following definitions of word use apply:<sup>773</sup>
1. Words used in the present tense include the future tense;
  2. Words used in the singular include the plural and words in the plural include the singular, unless the natural construction of the wording indicates otherwise;
  3. Words of one gender include the other genders and firms, partnerships, and corporations;
  4. The words “shall” and “must” are mandatory;
  5. The words “may,” “should,” and “encouraged” are permissive;
  6. The term “structure” includes the term “building;”
  7. The term “lot” includes the terms “plot,” “parcel,” and “tract;”
  8. The phrase “used for” includes “designed for,” “intended for,” “maintained for,” and “occupied for;”
  9. The words “such as,” “includes,” “including,” and “for example” mean “including, but not limited to” or “by way of example and not limitation,” unless otherwise provided;
  10. The term “person” includes the terms “association,” “company,” “corporation,” “firm,” “individual,” “organization,” and “partnership;” and
  11. Words not defined in this UDO have the definition prescribed in the common dictionary.
- D. This UDO contains [headings](#), tables, illustrations, and graphics designed to assist the reader in understanding the provisions of this UDO. To the extent there is any

<sup>772</sup> Carries forward and consolidates SR Section 1.6 Interpretation and the first sentence in ZO Section 25 *Interpretation, Purpose, and Conflict*.

<sup>773</sup> Carries forward and consolidates ZO 7.1. General Purpose and SR 2.2: Meaning of Common Words.

inconsistency between the text of this UDO and any tables, illustrations, or graphics, the text controls.

- E. Where this UDO allows or requires an act on the part of an "owner," "lot owner," or "property owner" and a particular lot or tract of land is owned by several persons, whether in, partnership, joint venture, or other form of joint ownership, the act shall be taken on behalf of, and with the express consent of, all such persons.
- F. Any reference to a statute, provision of the Chatham County Code, other laws or regulations, reference documents, technical manuals, or other documents refer to the most recent versions of those documents, including any amendments or updates to the statute, County Code, law, regulation, or other document.
- G. In computing any period of time, refer to [§ 10.12: Reasonable Time; Computing Time](#) unless specifically provided in this UDO.

## 16.2 CONFLICTING PROVISIONS<sup>774</sup>

### A. **Conflicting Provisions in This UDO.**

- 1. Except as provided in 16.2A.2, below, when one UDO standard conflicts with another UDO standard, whichever provisions are more restrictive or impose higher standards control unless otherwise specified.<sup>775</sup>
- 2. All standards in the CD-AC, Activity Center, and CD-NC, Neighborhood Center, Conditional Districts control over conflicting provisions in other sections of the UDO.

### B. **Conflicts With Other Statutes, Ordinances, or Regulations.**

- 1. *Stricter Standards in This UDO.* When this UDO requires a greater width or size of yards or courts, requires a lower height of a building or fewer number of stories, requires a greater percentage of a lot to be left unoccupied, or imposes higher standards than are required in any other statute or local ordinance or regulation, the UDO standards control.<sup>776</sup>
- 2. *Stricter Standards in Other Statutes, Ordinances, or Regulations.*
  - (a) When stricter standards appear in other statutes, ordinances, rules, regulations, or other provision of law applicable to Chatham County, this UDO is not intended to interfere with, annul, or abrogate them.<sup>777</sup>

<sup>774</sup> This Section describes how to resolve conflicts in County Codes, or between the UDO and state law or administrative procedures, federal law, or private restrictions. Carries forward and consolidates ZO Section 25 *Interpretation, Purpose, and Conflict*, SR 1.7 Conflict with Public Provisions, SR 1.8 Conflict with Private Provisions, and SR 7.6 Zoning or Other Regulations.

<sup>775</sup> Generally carries forward the second sentence of SR 1.7 Conflict with Public Provisions.

<sup>776</sup> This text is from N.C.G.S. § 160D-706(a) and is consistent with the second sentences of ZO Section 25 *Interpretation, Purpose, and Conflict* and SR 1.7 Conflict with Public Provisions.

<sup>777</sup> Carries forward the first sentence of SR 1.7 Conflict with Public Provisions.

- (b) When regulations made under authority of N.C.G.S. Chapter 160D, [Article 7: Zoning Regulation](#) require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Article govern.
- (c) When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of N.C.G.S. Chapter 160D, [Article 7: Zoning Regulation](#), the provisions of that statute or local ordinance or regulation govern.<sup>778</sup>

**C. Conflicts With Private Restrictions.<sup>779</sup>**

- 1. This UDO does not interfere with or abrogate or annul any easements, covenants, restrictions, or other agreements between parties.<sup>780</sup>
- 2. Where this UDO is more restrictive or imposes higher standards than a private restriction, this UDO controls.
- 3. Where a private restriction is more restrictive or imposes higher standards than this UDO, the private restriction controls if properly enforced by a person having the legal right to enforce the restrictions. The County does not enforce private restrictions.

**16.3 INTERPRETATION OF ZONING MAP & WATERSHED AREA BOUNDARIES**

**16.3.1 INTERPRETATION OF ZONING MAP<sup>781</sup>**

**A. Generally.**

- 1. The Zoning Administrator may authorize periodic changes to the boundaries of the Official Zoning Map in conformance with this Subsection. Interpretations of zoning district boundaries may be appealed to the Board of Adjustment (see Section 12.2: *Appeals of Administrative Decisions*).

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<sup>778</sup> This text is from N.C.G.S. § 160D-706(a).

<sup>779</sup> This Paragraph is consistent with ZO Section 25 *Interpretation, Purpose, and Conflict* and SR 1.8 *Conflict with Private Provisions*.

<sup>780</sup> Carries forward a portion of the second sentence of ZO Section 25 *Interpretation, Purpose, and Conflict* and a portion of the first sentence of SR 1.8 *Conflict with Private Provisions*.

<sup>781</sup> Carries forward ZO Section 6.3 *Interpretation of Boundaries* with minor edits. Changes “Planning Director” to “Zoning Administrator.”



2. If the specific location of a zoning district boundary cannot be determined from application of the rules in this Subsection to the Official Zoning Map, the Zoning Administrator shall determine the boundary by scaling the mapped boundary's distance from other features shown on the map.
3. A boundary shown on the Official Zoning Map as approximately parallel to, or as an apparent extension of, a feature described below shall be construed as being actually parallel to, or an extension of, the feature.

**B. Boundaries That Follow Lot Lines.**

1. A boundary shown on the Official Zoning Map as following a lot line or parcel boundary shall be construed as following the lot line or parcel boundary as it actually existed at the time the zoning boundary was established, as shown on maps submitted or used when the boundary was established.
2. If, after the establishment of the zoning boundary, a minor property line adjustment is made, such as a legally recorded boundary change, the zoning boundary shall be construed to move with the lot line or parcel boundary if the adjustment is less than 10 feet.

**C. Boundaries That Follow Natural Features.**

1. Where the ordinance establishing a zoning boundary identifies the boundary as following a particular natural feature such as a ridgeline; contour line; river, stream, lake, or other water course; or reflects a clear intent that the boundary follow the feature, the boundary shall be construed as following that feature as it actually exists.
2. If, after the establishment of the boundary, such natural feature should move as a result of natural processes (slippage, subsidence, erosion, flooding, sedimentation, etc.), the boundary shall be construed as moving with the natural feature.

**D. Boundaries That Follow Streets or Railroad Lines.**

1. A boundary shown on the Official Zoning Map as approximately following a street or railroad line shall be construed as following the centerline of the street or railroad right-of-way.
2. If, after the establishment of the boundary, the centerline of the street or railroad right-of-way is moved as a result of its widening or a minor realignment (such as at an intersection), the boundary shall be construed with moving with the centerline only if the centerline is moved 25 feet or less.

**E. Boundaries That Split an Existing Lot or Parcel.**

1. If a zoning district boundary splits an existing lot or parcel, the metes and bounds description, if one was submitted at the time the County established the zoning boundary, is used to establish the boundary.
2. If a metes and bounds description was not submitted, the County may require a survey to establish the precise location of the district boundary line. The

regulations for each district apply to the portion of the lot located in that district.<sup>782</sup>

### 16.3.2 INTERPRETATION OF WATERSHED AREA BOUNDARIES

Refer to 8.3.2: *Interpretation and Amendment of Watershed Area Boundaries*.

## 16.4 RULES OF MEASUREMENT<sup>783</sup>

### 16.4.1 PURPOSE

This Section establishes rules for measurement or calculation of UDO standards, such as lot area and height.

### 16.4.2 BUILT-UPON AREA

Paragraph 8.4.1B: *Built-Upon Area* specifies how to calculate built-upon area.

### 16.4.3 DENSITY

#### A. **Generally.**

1. This Subsection describes how to calculate residential density. Chapter 2: *Zoning Districts* regulates this metric in certain zoning districts.
- ~~2. The conditional zoning districts may specify different approaches for calculating maximum density and may also specify a required minimum density. [See Section 2.3: Conditional Districts]~~
- ~~3.2.~~ Density for residential uses is expressed in dwelling units per acre of land.
- ~~4.3.~~ The calculation of maximum density is based on the net land area of all land in a proposed development prior to the dedication of any rights-of-way, public parks, or other public areas.<sup>784</sup> Land area must be based on the most current reliable survey. [See 16.4.10: *Net Land Area*]

#### B. **How to Calculate Maximum Residential Density in Conventional Districts.**

- ~~1. In a conventional district, the calculation of maximum density is based on the gross area of all land in a proposed development. Land area must be based on the most current reliable survey.~~

<sup>782</sup> This Paragraph E.2 is new and clarifies how the boundary is determined when a metes and bounds description was not submitted at the time the County established the zoning boundary.

<sup>783</sup> This Section establishes rules for measurement or calculation of UDO standards, such as lot area and height.

~~<sup>784</sup> Basing the calculation on gross land area is consistent with the measurement of maximum density in CCO Section 6.3 Residential Density (Maximum and Minimum).~~

2. To calculate the maximum number of dwelling units per acre allowed in a development located in a conventional zoning district:
  - (a) Multiply the gross land area by the maximum density standard for the zoning district, if the maximum density is one dwelling unit per acre or more; or
  - (b) Divide the gross land area by the maximum density standard for the zoning district, if the maximum density is less than one dwelling unit per acre.
3. See example calculations in Tables 16.4.3-1 and 16.4.3-2.

**C. How to Calculate Maximum Residential Density in Conditional Districts.**

- 5.1. In a conditional district, the calculation of maximum density is based on the net land area of all land in a proposed development ~~prior to the dedication of any rights-of-way, public parks, or other public areas.~~<sup>785</sup> Land area must be based on the most current reliable survey. [See 16.4.10: Net Land Area]
2. To calculate the maximum number of dwelling units per acre allowed in a development located in a conditional district, multiply the net land area by the maximum density standard for the zoning district. See example calculation in Table 16.4.3-3: Example Calculation of Maximum Density in a Conditional District.

**B.D. How to Calculate Density Bonuses.** Except for density bonuses for additional open space (see 16.4.4), density bonuses are calculated in the same manner as the base density.

**E. Rounding.** When density calculations result in a fraction, the allowed number of dwelling units is always rounded down to the next lowest whole number.

**Table 16.4.3-1: Example Calculation of Maximum Density in a Conventional District (RA)**

<b>District</b>	<b>RA</b>
<b>Dwelling Type</b>	<u>Single-family detached</u>
<b>Density (max)</b>	<u>1 du per 5 ac</u>
<b>Gross Land Area</b>	<u>2,347,651 sf</u>
<b>Example Calculation of Maximum Density</b>	
<u>Step 1: Convert gross land area to acres (1 ac = 43,560 sf)</u>	<u>2,347,651 sf / 43,560 sf = 53.89 ac</u>
<u>Step 2: Since the maximum density is less than 1 du/ac, divide the gross land area (in acres) by the maximum density</u>	<u>53.89 ac / 5 ac = 10.778 = 10 du (rounded)</u>

**Key:** max = maximum allowed | du = dwelling unit | ac = acre | sf = square feet

<sup>785</sup> Basing the calculation on gross land area is consistent with the measurement of maximum density in CCO Section 6.3 Residential Density (Maximum and Minimum).

**Table 16.4.3-2: Example Calculation of Maximum Density in a Conventional District (CB)**

<b>District</b>	CB
<b>Dwelling Type</b>	Apartment complex
<b>Density (max)</b>	8 du/ac
<b>Gross Land Area</b>	1,826,774 sf
<b>Example Calculation of Maximum Density</b>	
Step 1: Convert gross land area to acres (1 ac = 43,560 sf)	$1,826,774 \text{ sf} / 43,560 \text{ sf} = 41.94 \text{ ac}$
Step 2: Since the maximum density is more than 1 du/ac, multiply gross land area (in acres) by the maximum density	$41.94 \text{ ac} \times 8 \text{ du/ac} = 335.52 = 335 \text{ du (rounded)}$

**Key:** max = maximum allowed | du = dwelling unit | ac = acre | sf = square feet

**Table 16.4.3-3: Example Calculation of Maximum Density in a Conditional District**

<b>District</b>	CD-NC
<b>Dwelling Type</b>	Townhouse
<b>Density (max)</b>	<del>8-6</del> du/ac
<b>Gross Land Area</b>	1,001,205 sf
<b>Area of Open Space &amp; Development Boundary Setback</b>	235,224 sf
<b>Net Land Area</b>	765,981 sf
<b>Example Calculation of Maximum Density</b>	
Step 1: Convert net land area to acres (1 ac = 43,560 sf)	$765,981 \text{ sf} / 43,560 \text{ sf} = 17.58 \text{ ac}$
Step 2: Multiply net land area (in acres) by the maximum density	$17.58 \text{ ac} \times \del{8-6} \text{ du/ac} = \del{140-68}105.48 = \del{140-105} \text{ du (rounded)}$

**Key:** max = maximum allowed | du = dwelling unit | ac = acre | sf = square feet

**16.4.4 DENSITY BONUS FOR ADDITIONAL OPEN SPACE**

- A. **Generally.** This Subsection describes how to calculate the density bonus allowed when a conditional district provides more open space than required (see 6.1.10: *Incentive for Providing Additional Open Space*).
- B. **How to Calculate the Density Bonus.** The density bonus is:
  1. Based on the type of dwelling unit(s) provided in the development; and
  2. Calculated using the total acreage of additional open space provided.
- C. **Rounding.** When density bonus calculations result in a fraction, the allowed number of dwelling units is always rounded down to the next lowest whole number.

**Table 16.4.4-1: Example Calculation of Density Bonus for Additional Open Space**

<b>Dwelling Unit Types</b>	<u>Detached single-family and townhouses</u>
<b>Total Site Area</b>	<u>75 ac</u>
<b>Area of Required Open Space (20%)</b>	<u>15 ac</u>
<b>Area of Additional Open Space (5%)</b>	<u>3.75 ac</u>
<b>Example Calculation of Density Bonus</b>	
<u>Step 1: Determine the number of additional du resulting from 1 du/ac density bonus for detached single-family du</u>	<u>3.75 ac x 1 du/ac = 3.75 = 3 additional detached single-family du (rounded)</u>
<u>Step 2: Determine the number of additional du resulting from 2 du/ac density bonus for townhouse du</u>	<u>3.75 ac x 2 du/ac = 7.5 = 7 additional townhouse du (rounded)</u>

**Key:** ac = acres | du = dwelling unit

**16.4.416.4.5 GROSS FLOOR AREA<sup>786</sup>**

- A. **Generally.** This Subsection describes how to measure gross floor area (GFA). Chapter 2: *Zoning Districts* regulates this metric in certain zoning districts, and Chapter 3: *Use Regulations* regulates this metric for certain land uses.
- B. **How to Measure Gross Floor Area.**
  - 1. Gross floor area is measured from the outside perimeter of the exterior walls of the structure and includes all floors in the structure.
  - 2. The floor area of a structure or portion thereof without exterior walls is the useable area under the horizontal projection of the roof or floor above.

**16.4.516.4.6 HEIGHT**

- A. **Generally.** This Subsection describes how to measure building and structure height and allows exceptions for certain structures or elements. Chapter 2: *Zoning Districts* regulates this metric in most zoning districts, and Chapter 3: *Use Regulations* regulates this metric for certain land uses.

<sup>786</sup> This Subsection is consistent with the North Carolina Building Code definition of floor area, gross ([Section 202 Definitions](#)).

B. **How to Measure Height.** The height of a structure is the vertical distance measured from grade plane to the average height of the highest roof surface.<sup>787</sup> The North Carolina Building Code defines “grade plane.”<sup>788</sup>

C. **Exceptions.**<sup>789</sup>

1. The projections listed in Table 16.4.5-1: *Exceptions to Maximum Building and Structure Height* are exempt from the height limitations of this UDO to the extent established below if they meet all North Carolina Building Code requirements.
2. These projections may be erected in accordance with other regulations or ordinances of Chatham County or of other jurisdictions, such as the Federal Aviation Administration (FAA).

<b>Table 16.4.5-1: Exceptions to Maximum Building and Structure Height</b>	
<b>Type of Structure or Projection</b>	<b>Height (max)</b>
Architectural features not intended for human occupancy, including ornamental cupolas and domes, spires, belfries, and steeples <sup>790</sup>	No max
Chimneys and smokestacks	No max
Derricks, conveyors, aerial lifts, and similar structures	No max
Masts and similar structures	No max
Parapet walls <sup>791</sup>	4 ft above the roof
Power transmission towers	No max
Radio and television towers	No max
Roof-mounted flagpoles	6 ft above the highest point of the roof
Silos and grain elevators	No max

<sup>787</sup> This is the definition of height from the North Carolina Building Code.

<sup>788</sup> The North Carolina Building Code defines grade plane as “[a] reference plan representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building between the structure and a point six feet from the building.”

<sup>789</sup> Carries forward current exceptions to height in ZO Section 8.8. Height Limitation Exceptions and the requirement to comply with the N.C. Building Code. Adds new allowances for parapet walls and solar energy systems, level 1 (in accordance with the proposed accessory use regulations in 3.5.9).

<sup>790</sup> The Zoning Ordinance exempts “cupolas and domes not intended for residential purposes” from the height limit, as well as “church spires” and belfries. Proposed here is to expand the exception to any architectural feature not intended for human occupancy to provide a more equitable exception for these types of building features.

<sup>791</sup> This is a new exception.

**Table 16.4.5-1: Exceptions to Maximum Building and Structure Height**

Type of Structure or Projection	Height (max)
Solar energy systems, level 1 <sup>792</sup>	No max
Water towers	No max
Wireless telecommunications facilities	See Section 3.8

**Key:** max = maximum allowed | ft = feet

**16.4.6 16.4.7 LOT AREA**

- A. **Generally.** This Subsection describes how to calculate lot area. Chapter 2: *Zoning Districts* regulates this metric in most conventional zoning districts, and Chapter 3: *Use Regulations* regulates this metric for certain land uses.
- B. **How to Calculate Lot Area.**
  - 1. The area of a lot:
    - (a) Is calculated in square feet by multiplying the lot depth by the lot width;
    - (b) May include the area of abutting riparian buffers, in accordance with N.C.G.S. § 143-214.23A(f); and
    - (c) Does not include any portion of a street right-of-way.
  - 2. When a lot is irregularly shaped, the calculation method varies based on the lot shape and the information available. [See [www.mathopenref.com/polygonirregulararea.html](http://www.mathopenref.com/polygonirregulararea.html)]

**16.4.7 16.4.8 LOT DEPTH**

- A. **Generally.** This Subsection describes how to measure lot depth. The UDO does not regulate this metric, but it is used to calculate lot area. [See 16.4.7: *Lot Area*]
- B. **How to Measure Lot Depth.** The depth of a lot is the average horizontal distance between the front and rear lot lines, measured generally parallel to the side lot lines.

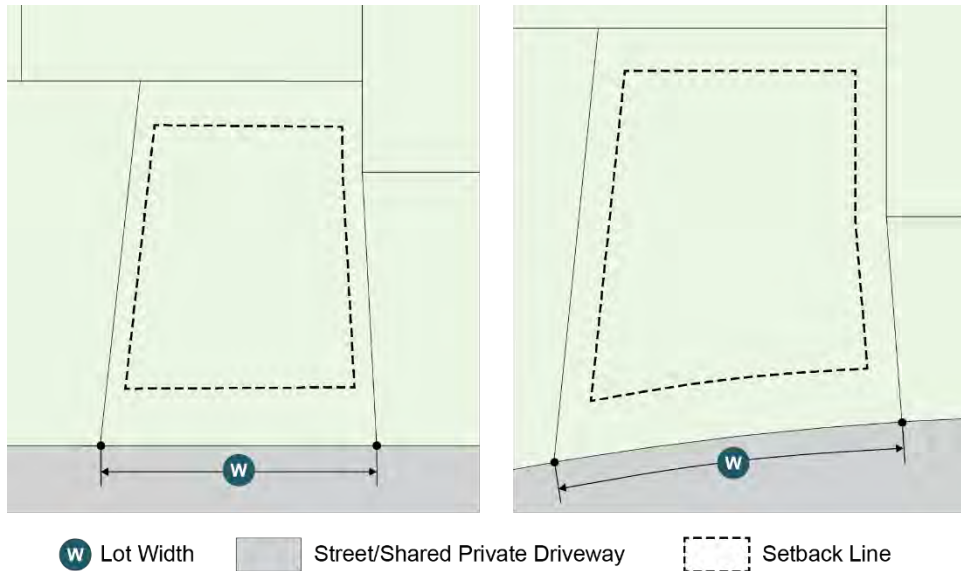
**16.4.8 16.4.9 LOT WIDTH**

- A. **Generally.** This Subsection describes how to measure lot width. Chapter 2: *Zoning Districts* regulates this metric in all conventional districts.
- B. **How to Measure Lot Width.**
  - 1. As shown in Figure 16.4.9-1: *Minimum Lot Width*, the width of a lot is the horizontal distance between the side lot lines, measured:

<sup>792</sup> This new exception is intended to encourage the use of roof-mounted solar collectors. Alternatively, the County could consider allowing a limited encroachment beyond the maximum height (e.g., 5 to 15 feet).

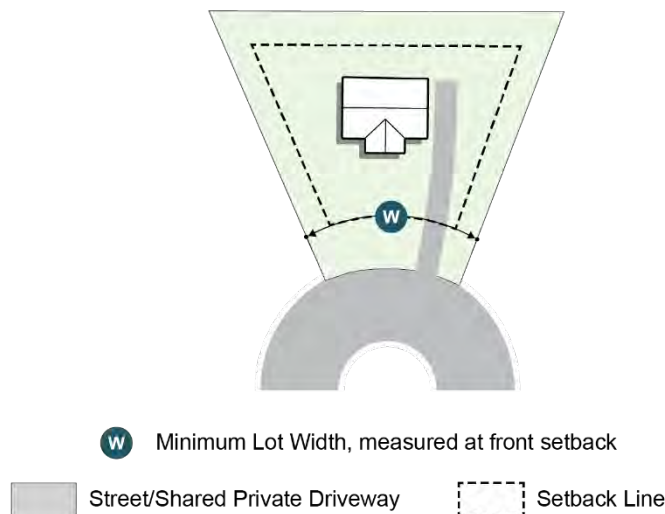
- (a) Parallel to the front lot line; or
  - (b) In the case of a curvilinear street, parallel to the chord of the arc between the intersection of the side lot lines and the front lot line.
2. The zoning district minimum lot width must be met at the front lot line, except as specified in 16.4.9C: *Lots on Cul-de-Sacs*, below.

**Figure 16.4.9-1: Minimum Lot Width**



- C. **Lots on Cul-de-Sacs.** For lots located on a cul-de-sac, the zoning district minimum lot width must be met at the front setback for the district. See Figure 16.4.9-2: *Minimum Lot Width on a Cul-de-Sac Lot*. The lot must be at least 30 feet wide at the front lot line.

**Figure 16.4.9-2: Minimum Lot Width on a Cul-de-Sac Lot**





**D. Flag Lots.**

1. The “flagpole” portion of a flag lot must be at least 30 feet in width but does not have to meet the minimum lot width required by Chapter 2: *Zoning Districts* for the district in which the lot is located. The “flagpole” is the narrow portion of the lot that provides access from the road to the main body of the lot.
2. The main body of a flag lot must have the minimum width required by the zoning district.

**16.4.916.4.10 NET LAND AREA**

- A. **Generally.** This Subsection describes how to measure net land area. Net land area is used in the calculation of residential density in conditional zoning districts (see 16.4.3: *Density*).
- B. **How to Calculate Net Land Area.** Net land area is calculated by taking the gross land area (based on the most current reliable survey) of the proposed development and subtracting the following areas:
  1. Tree Save Area and other open space required by Section 6.1; and
  2. Development Boundary Setback areas in conditional districts; and
  3. ~~Transitional buffers required by Subsection 4.4.84.4.7.~~

**16.4.1016.4.11 SETBACKS**

- A. **Generally.** This Subsection describes how to measure yards and setbacks. Chapter 2: *Zoning Districts* and Chapter 3: *Use Regulations* regulate these metrics.
- B. **Required Yards Cannot Overlap.** Required yards provided for one structure cannot be used to meet yard requirements for another structure.<sup>793</sup>
- C. **All Use Components Must Meet Setbacks.** All components of a principal or accessory use must meet the setback distances specified in the UDO for the particular use, except for encroachments as allowed by 16.4.11F: *Encroachments*.<sup>794</sup>
- D. **How to Measure Setbacks.** Setbacks are measured from the lot line to the closest projection of any portion of a building or structure, except for encroachments as allowed by 16.4.11F: *Encroachments*.

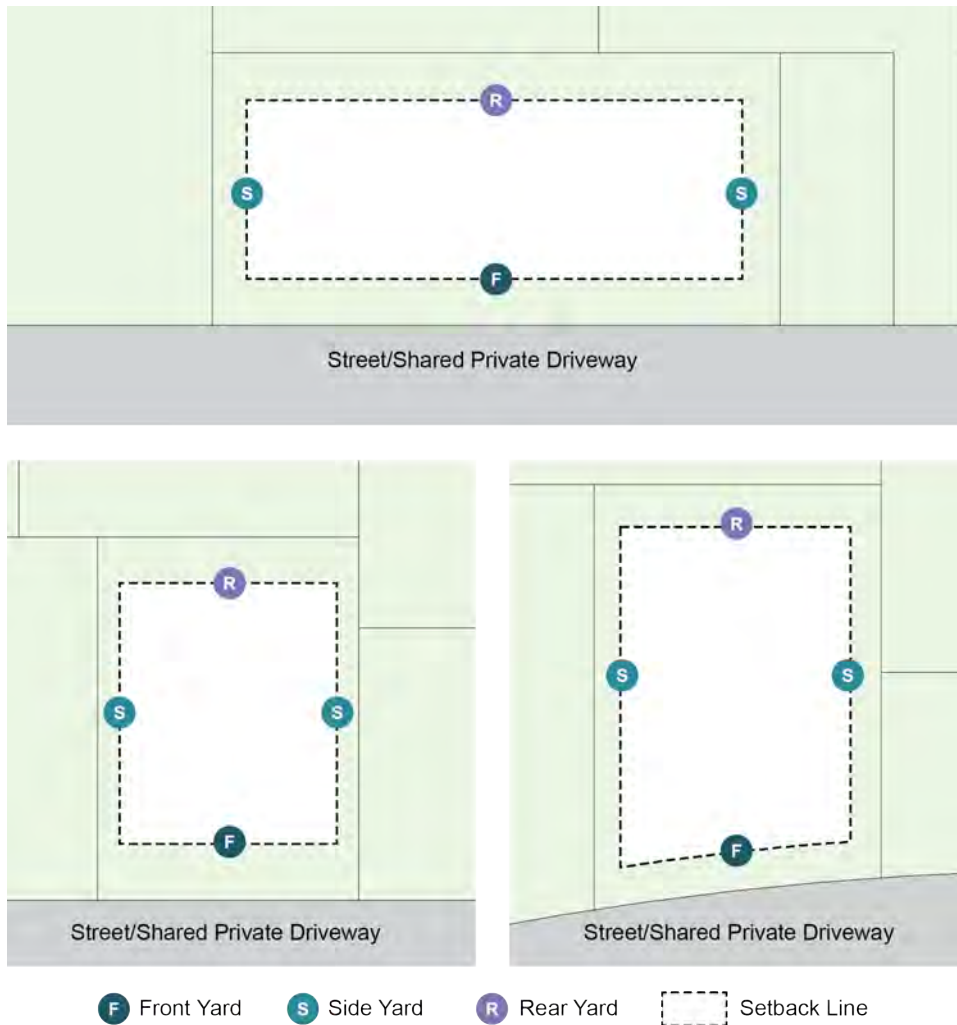
<sup>793</sup> Carries forward the first sentence of ZO Section 8.2 Open Space Requirements with edits to simplify the text.

<sup>794</sup> This clarification is included due to changes proposed in the use-specific standards for certain uses. For example, the current use table allows “flea markets and rummage sales conducted either within a building or outdoors provided that no principal building or sales area shall be located in the required yard.” Chapter 3: *Use Regulations* does not carry forward these conditions, thus the need for clarification here.

E. **General Location of Yards and Setback Lines.** Figure 16.4.11-1: *General Location of Yards and Setback Lines* illustrates yards and setback lines on typical lots.

1. *Front Yard Defined.* A front yard is an open, unoccupied space on a lot (except for encroachments as allowed by 16.4.11F: *Encroachments*) that generally faces a street and extends across the entire width of a lot between the side lot lines.
2. *Side Yard Defined.* A side yard is an open, unoccupied space (except for encroachments as allowed by 16.4.11F: *Encroachments*) that extends from the front lot line to the rear lot line.
3. *Rear Yard Defined.* A rear yard is an open, unoccupied space (except for encroachments as allowed by 16.4.11F: *Encroachments*) that generally is parallel to the front yard and extends across the entire width of a lot between the side lot lines.

**Figure 16.4.11-1: General Location of Yards and Setback Lines**



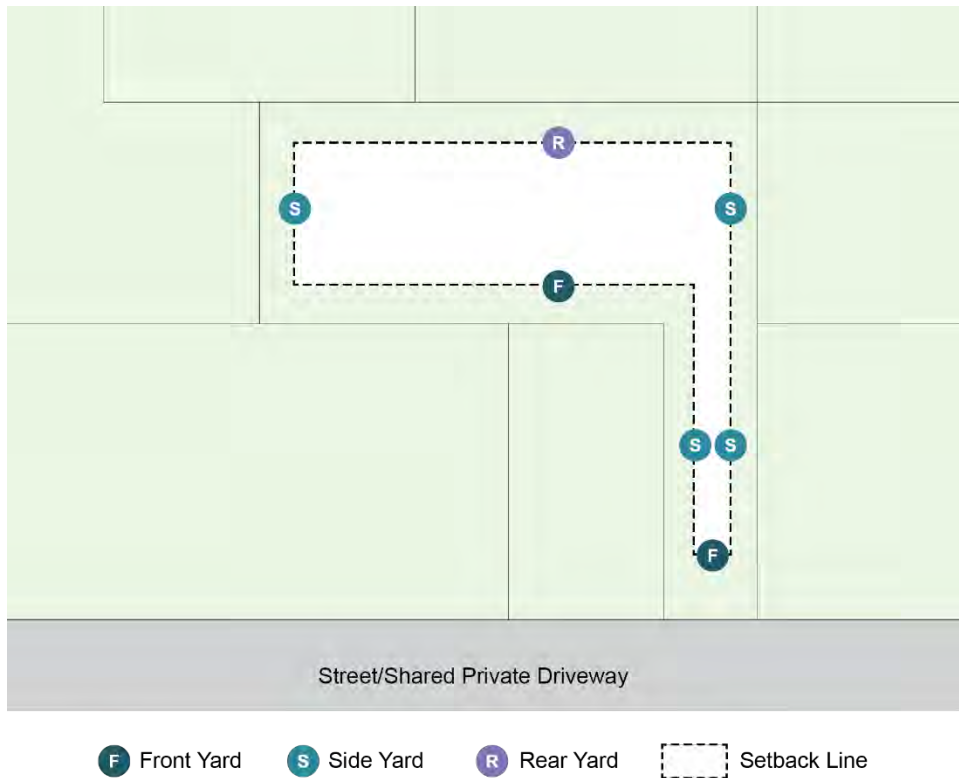
4. *Double Frontage Lots.* For double frontage lots, the front setback requirements apply along both streets as illustrated in Figure 16.4.11-2: *Typical Location of Yards and Setback Lines on a Double Frontage Lot.*

**Figure 16.4.11-2: Typical Location of Yards and Setback Lines on a Double Frontage Lot**



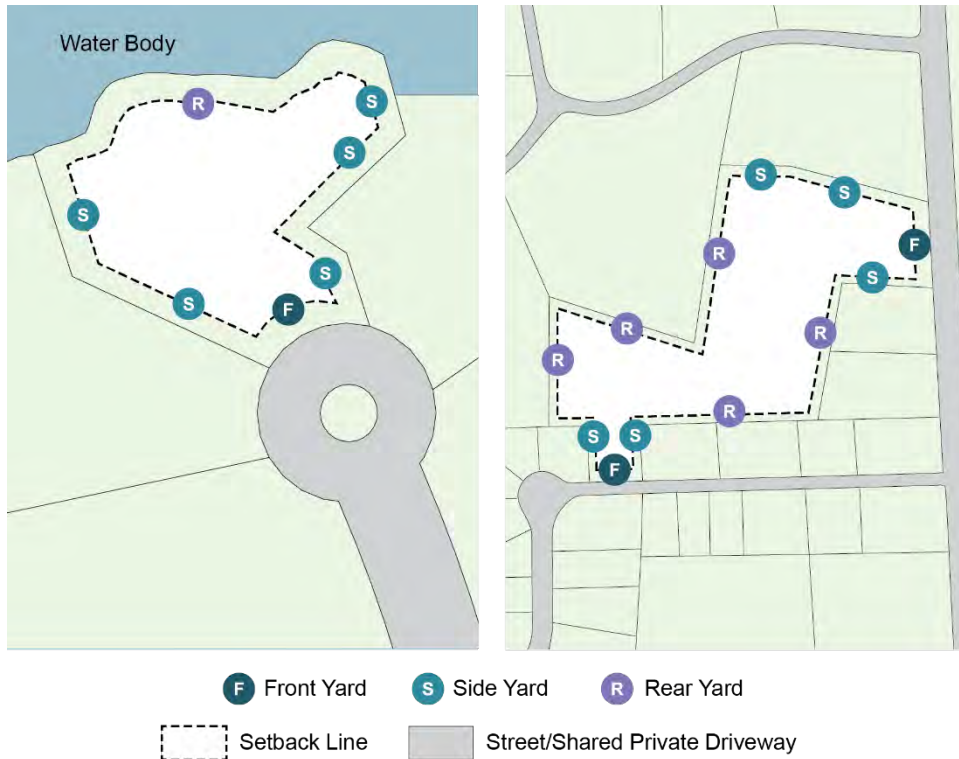
5. *Flag Lots.* The “flagpole” portion of a flag lot must meet setbacks, as shown in Figure 16.4.11-3: *Typical Location of Yards and Setback Lines on a Flag Lot.*

**Figure 16.4.11-3: Typical Location of Yards and Setback Lines on a Flag Lot**



6. *Irregularly Shaped Lots.* Figure 16.4.11-4 shows the location of yards and setback lines on two irregularly shaped lots. These are provided for reference only; the Zoning Administrator determines the location of yards and setback lines on irregularly shaped lots in accordance with 16.4.11G: *Determinations and Interpretations.*

**Figure 16.4.11-4: Example Locations of Yards and Setback Lines on Irregularly Shaped Lots**



**F. Encroachments.<sup>795</sup>**

1. Every part of a required yard must remain open and unobstructed from its lowest level to the sky, except for the encroachments allowed by Table 16.4.11-1: *Allowed Encroachments into Required Yards and Setbacks*.
2. “Required yard” means that portion of any yard constituting the minimum area required in any zoning district but excluding that portion of the yard in excess of the minimum required area.
3. In addition, certain structures may be placed in the required yard area as specified in Chapter 3: *Use Regulations*.

**Table 16.4.11-1: Allowed Encroachments into Required Yards and Setbacks**

Feature	Yard(s) Where Encroachment is Allowed	Encroachment (max)	Setback From Lot Line(s) (min)
Balconies (uncovered)	Any yard	4 ft	10 ft

<sup>795</sup> Carries forward ZO Section 8.2 Open Space Requirements. Allows encroachments for additional features, including minor accessory uses and structures, protective awning, hood, or overhang above a doorway, and ramps for ADA accessibility.

**Table 16.4.11-1: Allowed Encroachments into Required Yards and Setbacks**

<b>Feature</b>	<b>Yard(s) Where Encroachment is Allowed</b>	<b>Encroachment (max)</b>	<b>Setback From Lot Line(s) (min)</b>
Bay windows	Any yard	24 in	3 ft
Chimneys, flues	Side	1/3 of the width of the side yard or 24 in, whichever is less	--
Eaves, windowsills	Side	1/3 of the width of the side yard or 24 in, whichever is less	--
Minor accessory uses and structures <sup>1</sup>	Any yard	No max	0 ft
Open or lattice enclosed fire escapes, fireproof outside stairways, balconies opening upon fire towers, and similar structures	Any yard, if placed so as not to obstruct light and ventilation	5 ft	--
Open, uncovered decks	Any yard	1/3 of the width of the yard	3 ft
Protective awning, hood, or overhang above a doorway	Any yard	3 ft	--
Ramps, lifts, and other mechanisms for ADA accessibility	Any yard	No max	--
Utility connections, mechanical units	Any yard	No max	3 ft

**Key:** max = maximum allowed | min = minimum required | ft = feet | in = inches | -- = not applicable

<sup>1</sup> See 3.4: Accessory Uses & Structures

- G. **Determinations & Interpretations.** When making determinations or, if necessary, interpretations under this Subsection, the Zoning Administrator shall consider the following characteristics of the lot and surrounding lots:
1. The orientation of existing or proposed buildings containing the principal use;
  2. The orientation of adjacent buildings and other buildings along the street;
  3. Means of gaining safe access;
  4. The relative dimensions of the lot and yards;
  5. Delivery of services to the lot, including mail and trash collection;
  6. Setbacks on surrounding lots; and
  7. Other features related to site design and safe circulation.

**16.4.1116.4.12 USE SEPARATION****A. Generally.**

1. This Subsection describes how to measure the minimum required distance between certain limited and conditional district land uses and other land uses or zoning districts.
2. Depending on the regulated use, Chapter 3: *Use Regulations* specifies a minimum separation distance between the new regulated use and:
  - (a) The same type of existing use;
  - (b) Certain zoning districts; and/or
  - (c) Certain sensitive land uses, such as residential uses.

**B. Measurement of Separation Distance.** Unless otherwise specified in Chapter 3: *Use Regulations* for the particular use, measurements are taken in a straight line from the nearest portion of the lot line where the new regulated use is proposed to:

1. The nearest portion of the lot line where the existing regulated use is located; and
2. The nearest portion of the lot line or zoning district boundary line of the uses and districts from which the regulated use must be separated.

**16.4.1216.4.13 VISUAL SCREENING****A. Generally.** This Subsection describes how to measure the percentage of visual screening provided by vegetation, a fence, or a wall. Section 4.4: *Landscaping & Screening* regulates this metric.**B. Definition of Visual Screen.** A “visual screen” is an imaginary vertical plane extending from the established grade to a height of six feet, of which a percentage of the vertical plane is required to be visually screened (opaque).**C. How to Calculate Visual Screening Provided by a Fence or Wall.**

1. A visual screen is the surface area of the solid portion of a fence or wall as a percentage of the total visual screen area, based on the fence or wall being viewed from a perspective perpendicular to the fence or wall.
2. Visual screening is measured for each fence or wall section between vertical supports.

**D. How to Calculate Visual Screening Provided by Vegetation.**

1. A visual screen is the surface area of the “solid space” provided by the vegetation as a percentage of the total visual screen area, based on the vegetation being viewed from a perspective perpendicular to the vegetation.
2. Visual screening is measured:
  - (a) For each 20 linear feet of vegetation; and
  - (b) In the winter.

3. Vegetation must achieve the required visual screen percentage within two growing seasons.



# CHAPTER 17 DEFINITIONS & ACRONYMS

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## 17.1 ACRONYMS<sup>796</sup>

### (A, B, C)

**BMP:** Best Management Practice

**BUA:** Built-upon area

### (D, E, F)

**DBH:** Diameter at breast height

**ETJ:** [Extraterritorial jurisdiction](#)

**FAA:** Federal Aviation Administration

**FC:** Footcandle

**FCC:** Federal Communications Commission

### (G, H, I)

**GFA:** Gross floor area

**HID:** High intensity discharge lighting

**HUD:** United States Department of Housing & Urban Development

**IESNA:** Illuminating Engineering Society of North America

### (J, K, L)

**LID:** Low Impact Development

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<sup>796</sup> This new section defines acronyms used in the UDO.

## (M, N, O)

**NCDEQ:** North Carolina Department of Environmental Quality

**N.C.G.S:** North Carolina General Statutes

**NPDES:** National Pollutant Discharge Elimination System Permit

**NTS:** Not to scale

## (P, Q, R)

~~**PUD:** Planned unit development~~

**RV:** Recreational vehicle

## (S, T, U)

**SCM:** Stormwater control measure

**SES:** Solar energy system

**SWCC:** Soil & Water Conservation Commission

~~**TPP:** Tree Protection Plan~~

~~**TSA:** Tree save area~~

**UDO:** Unified Development Ordinance

## (V, W, X, Y, Z)

## 17.2 DEFINITIONS<sup>797</sup>

For the purpose of this Ordinance, certain words and terms used are defined as herein indicated. Words and terms used in this Ordinance have their commonly accepted, dictionary meaning unless specifically defined in this Chapter or the context in which they are used in this UDO clearly indicates otherwise.

### (1, 2, 3, 4, 5...)

**1-year, 24-hour storm:** The surface runoff resulting from a rainfall lasting 24 hours of an intensity expected to be equaled or exceeded on the average of once in 1 year, and of a duration that will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

**401 Certification:** The state certification required pursuant to Section 401 of the Clean Water Act (33 U.S.C. 1341) that the proposed activity for which an applicant is seeking a federal permit or approval will not degrade Waters of the State or otherwise violate water quality standards (See 15A North Carolina Administrative Code 2H.0500).

**404 Permit:** A federal permit required pursuant to Section 404 of the Clean Water Act before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities).

### (A)

**Abandoned Sign:** These are signs or parts of signs which advertise or pertain to a business, product, service, commodity, or purpose which no longer exists or that has not been in use for 180 days or more.

**ABC Store:** A retail establishment licensed by the State of North Carolina to sell liquor for off-premises consumption.

**Access Trail:** Pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.

**Accessory Building:** A detached subordinate building the use of which is incidental to that of the principal building and located on the same lot therewith.

**Accessory Dwelling Unit:** A second dwelling unit, such as a garage apartment, that is located on the same lot as the principal dwelling unit. An accessory dwelling unit may be

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<sup>797</sup> This Section carries forward, consolidates, revises, and adds definitions for terms and phrases used in the UDO. It includes current code sections: ZO Sections 7: *Definitions*, 13.2: Illuminating Engineering Society of North America (IESNA) Cutoff Classifications (Lighting), 13.3 Definitions (Lighting), and 15.1 Definitions (Signs); CCO Section 13: Definition of Terms; and SR Sections 2.1: Meaning of Words Generally and 2.3: Meaning of Specific Words and Terms. This Chapter shows changes to current definitions.

located within the principal dwelling, in a separate building, or in a recreational vehicle dwelling.

**Accessory Structure:** A detached subordinate structure, the use of which is incidental to that of the principal structure and located on the same lot therewith.

**Accessory Use:** Any use that is clearly incidental, secondary, and/or supportive of a principal use.

**Adjacent:** Having a common border such as a lot line or street right-of-way.

**Administrative Decision:** Decisions made in the implementation, administration or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this ordinance.

**Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

**Adult Cabaret:** A business operating in a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specified sexual activities or specified anatomical areas for observation by patrons therein.

**Adult Escort:** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person for the purpose of participating in, engaging in, providing, or facilitating Specified Sexual Activities.

**Adult Escort Agency:** A person or business that furnishes, offers to furnish, or advertises to furnish adult escorts as one of its business purposes for a fee, tip, or other consideration.

**Adult Media Store:** A business: (a) Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, as defined in this article; or (b) Having as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

**Adult Merchandise:** Any product dealing in or with explicitly sexual material as characterized by matter depicting, describing, or relating to Specified Sexual activities or Specified Anatomical Areas.

**Adult Mini Motion Picture Theater:** An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating

to specified sexual activities or specified anatomical areas. A booth shall not mean a theater, movie house, playhouse, or a room or enclosure or portion thereof that contains more than 600 square feet.

**Adult Motel:** A hotel, motel, or similar commercial establishment that offers accommodation to the public for any form of consideration and: (a) Provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; and has a sign visible from the public rights-of-way that advertises the availability of this adult type of photographic reproductions; or (b) Offers a sleeping room for rent for a period of time that is less than six hours; or (c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve hours.

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

**Adult Patron:** Any person who is physically present on the premises of a sexually oriented business and who is not an owner, employee, agent, subcontractor, or independent contractor of said business, or any entertainer or performer at said business.

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

**Affordable Housing:** A dwelling unit that is deed restricted to remain available at specified rents or sales prices to households meeting specified income limits.

**Agricultural:** See [Agriculture](#).

**Agricultural Processing, Storage, and/or Support Services:** Establishments employed by the agriculture and forestry industries that perform activities associated with the processing, storage, production, and distribution of forest and agricultural products. Use examples include abattoirs; establishments where crops are cleaned, shelled, fumigated, cured, sorted, packed, cooled, or stored; distribution hubs for locally and regionally-produced food; and establishments that perform crop-related services, such as dusting, spraying, plowing, fertilizing, seed bed preparation, planting, and cultivating.

**Agriculture:** For purposes of this Ordinance the terms "agriculture," "agricultural," and "farming" refer to all of the following:<sup>798</sup>

- A. The cultivation of soil for production and harvesting of crops including, but not limited to, fruits, vegetables, sod, flowers, and ornamental plants;
- B. The planting and production of trees and timber;

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<sup>798</sup> This definition is revised to reflect the current definition of "agriculture" in N.C.G.S. [§ 106-581.1](#): Agriculture defined.

- C. Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing;
- D. Aquaculture as defined in [N.C.G.S. § 106-758](#);
- E. The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation;
- F. A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain; and
- G. When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm.

~~**Agricultural Area:** A type of open space in which a tract of land is used for agriculture and is permanently protected for agricultural use by homeowners' association ownership, deed restriction, or agricultural conservation easement. Examples include agricultural conservation areas required by Section 5.4.3: Agricultural Subdivisions. Agricultural areas may contain agricultural structures, such as barns and sheds, and multi-use paths to accommodate pedestrians, bicyclists, and equestrians.~~

**Agritourism:** Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.<sup>799</sup>

**Aircraft:** A device that is used or intended to be used for flight in the air.<sup>800</sup>

**Airport:** An area of land or water used or intended to be used for the landing and takeoff of aircraft and includes its buildings and facilities, if any.<sup>801</sup>

<sup>799</sup> This definition is from N.C.G.S. [§ 160D-903\(a\)](#). It appears in current ZO Section 3: Bona Fide Farm Exempt and is carried forward here instead. Note the statutory definition includes "hunting, fishing, [and] equestrian activities," which are not included in current ZO Section 3.

<sup>800</sup> This definition is from [14 CFR Part 1: Definitions and Abbreviations](#).

<sup>801</sup> This definition is from [FAA Advisory Circular 150/5300-19](#).

**Airport Facilities.** For purposes of Chapter 8: *Watershed & Riparian Buffer Protection* only, this term as defined at 15A NCAC 02B .0610(1).<sup>802</sup>

**Airport, Private-Use:** An airport available for use by the owner only or by the owner and other persons authorized by the owner.<sup>803</sup> For the purposes of this definition, airport includes heliports, helistops, vertiports, gliderports, ultralight flightparks, manned balloon launching facilities, or other aircraft landing or takeoff areas.<sup>804</sup>

**Alley:** A narrow access way along the rear property line of parcels that provides vehicle access and allows for services such as garbage collection, but that is not intended for general traffic circulation.

**Amusements, Indoor:** A use classification for commercial facilities offering sports, recreation, and entertainment activities that primarily occur inside a building, including game arcades, billiard halls, bowling centers, skating rinks, fitness and recreational sports centers, and fitness and dance studios. Such facilities may also engage in retail sales of specialty products and services and provide ancillary indoor activities such as restaurants, concessions, and locker rooms. Indoor amusements do not include indoor shooting ranges.

**Amusements, Outdoor:** A use classification for commercial facilities offering sports, recreation, and entertainment activities that primarily occur outside a building, including tennis courts, basketball courts, swimming pools, miniature golf courses, zip line facilities, skate parks, frisbee golf courses, water parks, velodromes, batting cages, and climbing wall facilities. Such facilities may also engage in retail sales of specialty products and services and provide ancillary indoor activities such as restaurants, concessions, and locker rooms.

**Animal Husbandry, Specialized:** The use of land for the raising and keeping of animals, fowl, reptiles, etc. that are not general livestock or poultry and not classified as a bona fide farm. Specialized animal husbandry farming includes but is not limited to the following: fur-bearing animal farms, game bird farming and animal farms, wild animal farms, aviaries, snake, alligator and frog farms, laboratory animal farms, worm farms, and fish farms.

**Animal Unit:** A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

**Animated Sign:** Any sign using flashing or intermittent lights, sound, color changes or other mechanical or electrical means to give motion to the sign or the impression of motion or movement to the sign or any sign with visible moving, revolving or relocating parts.

**Apartment:** A dwelling unit located in a [multi-family building](#) or in a [mixed use building](#).

**Apartment Building:** Same as [Multi-Family Building](#).

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<sup>802</sup> This replaces the definition in the WPO, which applies only for riparian buffer permitting purposes. Because it is a lengthy definition and is of limited applicability, the definition in the WPO has been replaced with a reference to the updated definition in the NC Administrative Code.

<sup>803</sup> This definition is from [14 CFR Part 157: Notice of Construction, Alteration, Activation, and Deactivation](#).

<sup>804</sup> The second sentence in this definition is from [14 CFR Part 157: Notice of Construction, Alteration, Activation, and Deactivation](#).

**Apartment Complex:** A grouping of two or more multi-family buildings.

**Appearance Commission:** An advisory commission appointed by the Board of Commissioners. [See 13.1.3: *Appearance Commission*]

**Applicant:** The owner of land proposed to be subdivided or their representative. Consent shall be required from the legal owner of the premises prior to the Board of Commissioners or staff granting final approval of a subdivision plat. See also [Subdivider](#).

**Architect:** A person certified and currently licensed to practice architecture in North Carolina. This includes landscape architects.

**Area Median Family Income:** The average family income for different family sizes in an area as published annually by the U.S. Department of Housing and Urban Development.

**Artisan Workshop:** An establishment where articles of artistic quality or effect or handmade workmanship are produced. Examples include candle making, furniture making, glass blowing, weaving, pottery making, woodworking, sculpting, painting, and other similar activities.

**Attached Sign:** An attached sign is an on-premises sign that is permanently affixed to a building or structure. Types of attached signs include wall signs, projecting signs, awning and canopy signs, window signs, and freestanding canopy signs.

**Auto Wrecking:** A commercial activity that provides open storage, disassembling, or salvaging for more than two junked motor vehicles.

**Automobile Graveyard:** Any tract of land, establishment, or place of business that is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts for profit. An automobile graveyard includes any tract of land, establishment, or place of business upon which more than six motor vehicles that cannot be operated under their own power and that are not actively being restored to operable condition are kept or stored for profit for a period of 15 days or more.<sup>805</sup>

**Automobile Service Station:** A commercial establishment that provides one or more types of maintenance services for motor vehicles. This definition includes facilities offering tune-ups or minor repairs, tire service, manual or automatic washing facilities, and similar services.<sup>806</sup> This definition does not include gas stations.

**Awning:** A structure made of cloth, metal, or other material affixed to a building in such a manner that it shades windows or doors below but is not a constructed canopy.

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<sup>805</sup> This definition is carried forward from the Junk Yard Control Ordinance. The threshold timeframe is reduced from 90 days to 15 days for consistency with N.C.G.S. [§ 136-143\(1\)](#).

<sup>806</sup> These use examples are from ZO Section 10.13, Table 1: Zoning Table of Permitted Uses.



**(B)**

**Backlight:** For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the opposite direction of the intended orientation of the luminaire. For luminaires with symmetric distribution, backlight will be the same as front light.<sup>807</sup>

**Bank or Financial Institution:** An establishment that provides commercial banking, investment banking, consumer lending, credit, or similar financial services to an individual or business.

**Bankfull Discharge.** The flow of water which fills a stable alluvial channel to the elevation of the active floodplain. This discharge is morphologically significant because it identifies the bankfull elevation. On average, bankfull discharge occurs every 1.5 years in frequency.

**Bankfull Elevation.** The elevation where flooding occurs on an active floodplain. This elevation may or may not be the top of bank.

**Banner Sign:** A sign of lightweight fabric or similar material which is attached to a pole or a building, structure, or vehicle by any means. Flags are not considered banners.

**Bed and Breakfast Home:** A business located in a private, owner-occupied home that offers overnight guest accommodations and serves one or more meals only to overnight guests of the home.<sup>808</sup>

**Bed and Breakfast Inn:** A business that offers overnight guest accommodations and serves one or more meals only to overnight guests. Inns advertise, have business licenses, comply with government ordinances, pay all appropriate taxes, post signs, and meet all applicable local and state requirements.<sup>809</sup>

**Beneficial Fill:** A fill activity to level or bring an area to grade for the beneficial purpose of stabilizing the land or improving the land use potential using only inert debris waste.<sup>810</sup>

**Best Management Practice (BMP):** A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

**Bicycle Pathways:** Bike lanes, paths, and trails that provide a safe and accessible place for people to bike throughout the neighborhood.

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<sup>807</sup> This new definition is from the Joint International Dark-Sky Association – Illuminating Engineering Society [Model Lighting Ordinance](#) (MLO).

<sup>808</sup> This definition is revised to generally align with the definition in [N.C.G.S. § 130A-247](#) (Part 6. Regulation of Food and Lodging Facilities). The other standards are carried forward in Chapter [43: Use Regulations](#).

<sup>809</sup> This definition is revised to generally align with the definition in [N.C.G.S. § 130A-247](#) (Part 6. Regulation of Food and Lodging Facilities). The other standards are carried forward in Chapter [43: Use Regulations](#).

<sup>810</sup> This definition is from [15A NCAC 13B .0562](#).

**Billboard:** A permanent, freestanding, off-premises sign or sign structure upon which copy is placed on a poster or panel and mounted on a pole or metal structure, including the following typical configurations:

- A. Wood posts or pole supports with dimensional lumber as the secondary support (A-frame) with a wood or metal catwalk and a single display panel;
- B. A steel A-frame constructed with angle iron or steel supports with metal framing, catwalk, and a single display panel;
- C. A multi-mast structure constructed with steel poles, I-beam or equivalent as primary support, with a catwalk, and a single display panel; or
- D. A monopole structure constructed with tubular steel support, tubular steel framing, metal catwalk, and a single display panel with a concrete foundation.

**Block:** A tract of land bounded by visible physical boundaries such as streets, public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

**Board of Adjustment:** The Chatham County Board of Adjustment, which is the board appointed by the Board of Commissioners in accordance with N.C.G.S. [§ 160D-302: Boards of adjustment](#). [See 13.1.2: *Board of Adjustment*]

**Board of Commissioners:** The Chatham County Board of Commissioners.

**Board of Commissioners Chair or Chairperson:** The person elected by the Chatham County Board of Commissioners to lead the Board or their designee.

**Bona Fide Farm:** The use of land for bona fide farm purposes.

**Bona Fide Farm Purposes<sup>811</sup>:** Any activity including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in [N.C.G.S. § 106-581.1](#), except as provided in [N.C.G.S. § 106-743.4](#) for farms that are subject to a conservation agreement under [N.C.G.S. § 106-743.2](#). Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation.

**Bond:** Any form of security, including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Planning Department.

**Brewery:** An establishment that commercially produces less than 6,000,000 barrels<sup>812</sup> of malt beverages, as defined in [N.C.G.S. § 18B-101\(9\)](#), per year. Such facilities include all aspects of production and may include administrative offices and a tap room. A brewery may be

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<sup>811</sup> This definition is revised to align with [N.C.G.S. § 160D-903\(a\)](#). The four types of evidence considered sufficient to establish that a property is being used for bona fide farm purposes are addressed in Section 1.4: *Applicability*. Note the list of evidence now excludes “farm identification number,” which was removed from the statute in 2017.

<sup>812</sup> This figure is derived from the Brewers Association definition of the craft beer industry market segments “microbrewery” and “regional brewery.”

established in conjunction with a restaurant. A brewery that produces more than 6,000,000 barrels per year is considered “Beverage Manufacturing” (NAICS 312), which is categorized as a **Light Industrial Use**.

**Buffer:** An area of natural or planted vegetation measured landward from the normal pool elevation of impounded structures, the bank of each side of streams, the right of way of streets or boundary lines. See also [Riparian Buffer](#).

**Building:** Any structure used or intended for supporting or sheltering any use or occupancy.<sup>813</sup>

**Building Code:** The North Carolina State Building Code as adopted by the [North Carolina Building Code Council](#).

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

**Building Line:** A line that represents the minimum distances a building or structure must be placed from a lot line in accordance with this UDO. Includes the term setback line.

**Build Out:** The point at which all allowable residential, commercial, and civic structures in a development have been built and certified for occupancy.

**Built-Upon Area:** Built-upon area means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle (except as exempted by State law).<sup>814</sup>

**Burial Site:** [See Cemetery](#).

**Business and Facilities Support Services:** Establishments offering specialized sales and support services used in the conduct of commerce. These services may include employment services, copying and printing services, advertising and mailing services, building maintenance services, management and consulting services, protective services, equipment rental and leasing, and sales and service of office equipment and supplies.

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<sup>813</sup> N.C.G.S. [§ 160D-706\(b\)](#) prohibits a local government from using a definition of *building* that differs from the definition of the term “in another statute or rule adopted by a State agency, including the Building Code Council or Residential Code Council.” This definition is from the North Carolina Building Code.

<sup>814</sup> This definition is from the 2023 WSWP Model Ordinance and is consistent with N.C.G.S. [§ 143.214.7 \(b2\)](#).

**(C)**

**Campground:** See [Recreation Camps & Grounds](#).

**Candela per Square Meter:** A unit for measurement of luminous intensity (candelas) per unit area for signs, expressed in SI units as cd/m<sup>2</sup>, and in English units as foot lamberts. Sometimes also expressed as “nits,” a colloquial reference to SI units. It can be measured by means of a luminance meter.

**Canopy:** A permanent structure, not enclosed and not retractable, 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.

**Caretaker’s Residence:** A dwelling unit located on the same lot as a principal non-residential use that is occupied an employee of the business who resides on-site for security, monitoring, and/or property management purposes.

**Cemetery:** Land used for the interment of human or animal remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof.<sup>815</sup>

**Certificate of Occupancy:** A document issued by the Chatham County [Director of Building Inspectors and Central Permitting](#) ~~Building Inspector~~ certifying compliance with all applicable state and local laws and authorizing occupancy of a building or structure.

**Chair or Chairperson of the Board of Commissioners:** See [Board of Commissioners Chair or Chairperson](#).

**Channel:** A natural water-carrying trough eroded vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

**Chatham County Code:** The [Code of Chatham County, North Carolina](#). This Unified Development Ordinance is a component of the Chatham County Code.

**Childcare:** As defined in N.C.G.S § 110-86, a program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.

**Childcare Center:** An arrangement where, at any one time, three or more preschool-age children or nine or more school-age children receive childcare. This does not include arrangements classified as a [Family Childcare Home](#).<sup>816</sup>

<sup>815</sup> This definition is from the Carroll County, MD, Zoning Regulations ([§ 158.002](#)) and is consistent with the definition in the [North Carolina Cemetery Act](#).

<sup>816</sup> This definition is from [10A NCAC 09 .0102](#) (Child Care Rules).

**Childcare Center Located in a Residence:** A childcare center located in a dwelling unit that is licensed to provide care for up to 12 children when any child present is of preschool age or up to 15 children when all children are school-age.<sup>817</sup>

**Church:** See [Place of Worship](#).

**Cigar Bar:** This term is defined in N.C.G.S [§ 130A-492](#) Definitions (Article 23 – Smoking Prohibited in Public Places and Places of Employment).

**Civic Use:** A place for public use or gatherings. Examples include public open spaces such as parks and plazas, as well as schools, libraries, community centers, and athletic facilities.

**Cluster Development:** The grouping of buildings in order to conserve land and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land. Conservation subdivisions and compact subdivisions, as provided for in Chapter 5: *General Subdivision Standards*, are deemed to be cluster developments under Chapter 8: *Watershed & Riparian Buffer Protection*.

**Coliving Dwelling Unit:** A portion of a building containing private living spaces and shared common areas such as a kitchen, laundry room, and lounge area. Each private living space includes a bedroom but may or may not include a private bathroom. Private living spaces do not include cooking facilities. A coliving dwelling unit contains a maximum of six private living spaces. Typically, private living spaces within a coliving dwelling unit are leased on an individual basis. A coliving dwelling unit is located in a multi-family dwelling or in a mixed use building.

**College or University:** A post-secondary educational institution that is a constituent institution of The University of North Carolina, a community college under the jurisdiction of the State Board of Community Colleges, or a privately owned and operated institution that offers undergraduate or post-graduate degrees.

**Commercial Area:** Any area where the primary use involves an occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

**Commercial Kitchen, Caterer, & Banquet Services:** Kitchen facilities for the preparation or catering of food to be served off-site and ancillary offices and other support facilities. This definition includes ghost kitchens, commissary kitchens, and delivery-only restaurants.

**Commercial Message:** A sign that advertises businesses, organizations, goods, products, or services.

**Common Area:** All areas, including private streets, conveyed to an owners' association in a townhouse development, residential development, or owned on a proportional undivided basis in a condominium.

**Common Plan of Development:** A group of two or more buildings constructed, planned, and developed with a unified design including coordinated parking and service areas, and

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<sup>817</sup> This definition is derived from the North Carolina Department of Health and Human Services Division of Child Development and Early Education handout "[Child Care Centers: Basic Information for Potential Providers](#)."

may include associated out parcels. Shopping centers are examples of common plans of development.

**Communications & Information:** A use classification for establishments that produce or distribute information, including publishing, motion picture and sound recording, television and radio broadcasting, media streaming and distribution services, and information services industries. These establishments may include radio or television broadcasting towers as an accessory use.

**Community Garden:** Any piece of land used for the cultivation of fruits, flowers, vegetables, ornamental plants, honey, and/or eggs by more than one person or family. Community gardens may produce food for individual consumption or for sale, may be designed for beautification of the community, and may be used for educational purposes (from Public Health Law Center "Community Garden Policy Reference Guide"). Community gardens shall not be used to raise or keep livestock or domesticated animals, except for honeybees, chickens (excluding roosters), and ducks.

**Community Water System:** A private water company formed by a developer to serve a new subdivision.

**Community Sewage System:** A private sewer system including collection and treatment facilities established by a developer to serve a new subdivision.

**Complete Streets:** An approach to designing and operating interdependent, multi-modal transportation networks that safely accommodate access and travel for all users. [See NCDOT Complete Streets Policy and related materials]

**Composting Facility:** For purposes of Chapter 9 of this Ordinance only, a facility in which only stumps, limbs, leaves, grass, and untreated wood collected from land clearing or landscaping operations is deposited.

**Comprehensive Plan:** One or more documents adopted by the Chatham County Board of Commissioners in accordance with N.C.G.S. § 160D-501: *Plans* to set forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of Chatham County.

**Concealed Wireless Facility:** Any tower, ancillary structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two types of concealed facilities:

- A. Antenna Attachments, including painted antenna and feed lines to match the color of a building or structure, faux windows, dormers, or other architectural features that blend with an existing or proposed building or structure and
- B. Freestanding. Freestanding concealed towers usually have a secondary, obvious function which may include church steeple, bell tower, clock tower, light standard, flagpole, or tree.

**Conditional Zoning District:** A zoning district in which the development and the use of the property included in the district is subject to the predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property.

**Condominium:** A form of property ownership whereby the owner gains ownership of an interior space within a building. The building structure, the land under the building, and all of the surrounding land is commonly owned by all the inhabitants on a proportional basis.

**Congregate Care Facility:** A facility providing shelter and services for ambulatory individuals at least 55 years of age who by reason of their age, functional impairment, or infirmity may require meals, housekeeping, and personal care assistance. Congregate Care Facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.

**Conservation Easement:** A legal agreement between a landowner and a qualified conservation overseer such as a land trust or government agency that permanently limits a property's use in order to protect its natural, agricultural, and/or historic features.

**Conservation Subdivision:** A net density approach where lot sizes are reduced and the land that is saved through such reductions is preserved as open space on separate lots maintained in perpetuity.

**Construction Plan:** This map is similar to the Preliminary Plat, but is more refined and detailed in certain cases where outside agency permits required minor changes. This plan will be submitted with outside agency permits issued.

**Continuing Care Retirement Community:** A facility in which a provider provides continuing care to an individual. "Continuing care" is the furnishing to an individual other than an individual related by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services, under a contract approved by the Department of Insurance of North Carolina in accordance with N.C.G.S. Chapter 58, [\*Article 64: Continuing Care Retirement Communities\*](#) effective for the life of the individual or for a period longer than one year.<sup>818</sup>

**Convalescent Home:** See [Nursing Home](#).

**Convenience Store:** A small retail establishment that typically sells a limited range of prepackaged food and beverage items, household goods, and personal care items to customers who generally purchase only a few items at a time.

**County:** Chatham County, North Carolina, or the governing body of.

**Corner Lot:** A lot abutting two or more streets at their intersection. The front of the lot shall be the portion on the highest order road, or when road types are equal, the length with the most frontage. Where there are equal frontage portions the owner shall designate the front.

**Corner Store:** A small retail or service business located on a corner lot at the street level.

**Cottage Court:** A type of residential development comprised of a group of small, cottage dwellings arranged around a shared courtyard that is visible from the street.

**Cottage Dwelling:** A detached house dwelling located in a cottage court.

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<sup>818</sup> This definition is derived from [N.C.G.S. § 58-64-1\(1\)](#) and (3).

**Critical Area:** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined at 15A NCAC 02B .0202.<sup>819</sup>

**Cul-de-sac:** A street with only one end open to traffic and the other end being permanently terminated and a vehicular turn-around provided for the safe and convenient reversal of traffic movement. Length is measured from the center point of the turn-around to the center line of the connecting non-cul-de-sac street.

**Cultural Resource Area:** A type of open space that includes areas of historical, cultural, or archaeological significance, including cemeteries.

## (D)

**Data Processing, Web Hosting, & Related Services:** This use classification comprises establishments primarily engaged in providing computing infrastructure, data processing services, Web hosting services (except software publishing), and related services, including streaming support services (except streaming distribution services). Data processing establishments provide complete processing and specialized reports from data supplied by clients or provide automated data processing and data entry services. Examples include application hosting, cloud storage services, computer data storage services, computing platform infrastructure provision, infrastructure as a service (IaaS), optical scanning services, platform as a service (PaaS), video and audio technical streaming support services, and web hosting.<sup>820</sup>

**Day Care Center:** A facility that provides custodial care to people not related to the operator, whether for compensation, reward, or otherwise, during part of any 24-hour period; that does not include residential continuous care; and that is certified or licensed by the North Carolina Department of Health & Human Services.

**Dead-End Street:** A local access street that connects to another street at only one end.

**Dedication:** The object or the act of an owner offering property or property rights to the public. Since a transfer of property rights is involved, dedications must be made by written recorded instruments.

**Density:** The total number of dwelling units allowed per acre of land.

**Detached House Dwelling:** A residential building, other than a manufactured home, that contains one principal dwelling unit and is not attached to another principal dwelling unit.

**Developer:** The owner of land proposed to be subdivided or developed or their authorized agent.

**Development:** The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of

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<sup>819</sup> Updated to replace detail criteria with reference to state regulations.

<sup>820</sup> This definition is from the 2022 North American Industry Classification System (NAICS) Manual (518210 Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services).



land into two or more parcels, or any land-disturbing activity that adds to or changes the amount of impervious or partially impervious cover on a land area or that otherwise decreases the infiltration of precipitation into the soil. When appropriate to the context, “development” refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation activity, when part of other operations or activates, is not development. Reference to particular operations is not intended to limit the generality of this item.

**Development Approval:** An administrative or quasi-judicial approval made pursuant to this UDO that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to N.C.G.S. Chapter 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.<sup>821</sup>

**Diffuse Flow:** Non-concentrated, low velocity flow of storm water runoff that is spread out or distributed evenly along the same elevation. Diffuse flow prevents or reduces scour and erosion and provides for increased ground contact for infiltration and pollutant removal.

**Diffusing Panel (lens):** A translucent material covering the lamps in a luminaire in order to reduce the brightness by distributing the light flux over an extended area.

**Direct Illumination:** Lighting involving luminaries that distribute 90 to 100% of the emitted light in the general direction of the surface to the illuminated. The term usually refers to light emitted in a downward direction.

**Director of Public Utilities:** The administrative head of the Chatham County Public Utilities Department or their designee.

**Distillery:** An establishment that commercially produces a maximum quantity of 125,000 cases<sup>822</sup> of spiritous liquor, as defined in N.C.G.S. [§ 18B-101\(14\)](#), per year. Such facilities include all aspects of production and may include administrative offices and a tasting room. A distillery may be established in conjunction with a restaurant. A distillery that produces more than 125,000 cases per year is considered “Beverage Manufacturing” (NAICS 312), which is categorized as a [Light Industrial Use](#).

**District:** Any section of the zoning jurisdiction in which zoning regulations are uniform.

**District 1, Division of Highways:** The Division of Highways of the North Carolina Department of Transportation; both agency and persons.

**Ditch.** An excavated (artificial) channel that is typically dug through inter-stream divide areas. A ditch may exhibit hydrological or biological characteristics similar to perennial or

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<sup>821</sup> This definition is from N.C.G.S. [§ 160D-102\(13\)](#).

<sup>822</sup> This figure is derived from the definition of “micro-distillery” in the South Carolina Alcoholic Beverage Control Act [SC Code [§ 61-6-1095\(A\)](#)]. North Carolina law does not include a similar definition.

intermittent streams. For the purposes of this Chapter 9 of this Ordinance, a ditch is not considered to be an ephemeral, intermittent, or perennial stream.

**Double Front Lot:** A continuous (through) lot that is accessible from both streets upon which it fronts.

**Drive-Through or Drive-In Service.** A facility designed to permit customers of an establishment to obtain or consume goods or receive services while remaining inside a motor vehicle. Curbside drop-off and pick up, where customers use off-street parking spaces to wait for goods to be loaded or unloaded from their vehicle, are not considered a drive-through or drive-in service.

**Dwelling:** A building that contains one or two [dwelling units](#) (duplex) on the same parcel of land, used, intended, or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.<sup>823</sup>

**Dwelling Unit:** A single unit providing complete, independent living facilities for a single family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.<sup>824</sup>

**Duplex:** See [Two-Family Dwelling](#).

## (E)

**Easement:** A right that one party has in or over the land of another party. Easements can be made to accommodate utilities, access, spray irrigation, conservation, or other purposes.

**Electric Vehicle Charging Point:** A public or private parking space that is served by battery charging equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.<sup>825</sup>

**Level 1 Electric Vehicle Charging Point:** A Level 1 EV Charging Point provides charging through a 120 volt (V), alternating-current (AC) plug. Level 1 is considered as slow charging. Level 1 charging equipment is standard on vehicles and therefore does not require the installation of charging equipment. The most common place

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<sup>823</sup> N.C.G.S. [§ 160D-706\(b\)](#) prohibits a local government from using a definition of *dwelling* that is inconsistent with the definition of the term “in another statute or rule adopted by a State agency, including the Building Code Council or Residential Code Council.” This definition is from the North Carolina Building Code and includes edits (adds “(duplex) on the same parcel of land”) that will take effect on January 1, 2025.

<sup>824</sup> N.C.G.S. [§ 160D-706\(b\)](#) prohibits a local government from using a definition of *dwelling unit* that is inconsistent with the definition of the term “in another statute or rule adopted by a State agency, including the Building Code Council or Residential Code Council.” This definition is from the North Carolina Building Code and includes edits (“a single family” replaces “one or more persons”) that will take effect on January 1, 2025.

<sup>825</sup> This definition is from the [Municipal EV Readiness Toolkit](#) prepared by the Southern Maine Planning & Development Commission and the Maine Clean Communities Coalition.

for Level 1 charging is at the vehicle owner's home and is typically conducted overnight.

**Level 2 Electric Vehicle Charging Point:** A Level 2 EV Charging Point provides charging through a 240V, AC plug and requires installation of home charging or public charging equipment. These units require a dedicated 40 amp circuit. Level 2 chargers are commonly found in residential settings, public parking areas, places of employment and commercial settings.

**Level 3 Electric Vehicle Charging Point:** A Level 3 EV Charging Point provides charging through a 480V, direct-current (DC) plug. Due to their high cost and extremely high power draw, Level 3 chargers are typically found in commercial or industrial locations rather than residential.

**Electric Vehicle Charging Station:** An establishment primarily engaged in the transfer of electric energy to electric vehicles. An electric vehicle charging station contains more than one electric vehicle charging point, and may also offer retail sale of food and convenience items and/or car wash facilities. An electric vehicle charging station is similar to a gas station, but does not dispense flammable or combustible liquids or gases used as fuel.

**Electronic Message Center (EMC):** A sign capable of displaying words, symbols, figures, or images, changeable electronically or mechanically by remote or automatic means. Examples of an EMC include digital displays using light emitting diodes (LED).

**Emergency Operations Facility:** A use classification for fire stations, police stations, and emergency medical services facilities operated by a local government agency.

**Emergency Shelter:** A facility in which individuals or families live on a temporary basis. Emergency shelters typically provide services for residents, such as counseling and mentoring, and may include accessory facilities including offices and dining facilities. Transitional housing can support individuals and families in a variety of circumstances, including people experiencing homelessness, victims of domestic violence, and people needing refuge from extreme weather events (e.g., storms, flooding, extreme temperatures).

**Environmental Health Director:** The administrative head of the Environmental Health Division of the Chatham County Public Health Department or their designee. [See 13.2.3: *Environmental Health Director*]

**Environmental Impact Assessment:** A document that must be prepared for any proposed development project that is subject to and meets the criteria in 18.4: *Environmental Impact Assessments* that discusses the potential environmental impact of the proposed project and the methods proposed to mitigate or avoid significant adverse environmental impacts.

**Environmental Impact Statement:** A document that must be prepared pursuant to the National Environmental Policy Act of 1969, or the North Carolina Environmental Policy Act of 1971, regarding proposed federal or certain State actions respectively that significantly affect the quality of the human environment.

**Environmental Review Advisory Committee:** The advisory body set up by the Board of Commissioners. [See 13.1.4: *Environmental Review Advisory Committee*]

**Equestrian Area:** A type of open space in which a tract of land is used for equestrian activities and is permanently protected for equestrian use by homeowners' association ownership, deed restriction, or agricultural conservation easement. Equestrian areas generally consist of pastureland or meadows and may include structures such as barns, stables, riding and show rings, and similar accessory structures and wooded areas that include riding trails and multi-use paths to accommodate pedestrians, bicyclists, and equestrians.

**Equestrian Center:** A commercial facility designed and intended to be used for the conduct of equestrian events. Equestrian events include exhibition, training, educational, recreational, therapeutic, and competition activities involving horses. An equestrian center may include complementary services such as a riding school, farrier, vet, tack shop, or equipment repair.

**Equine:** Connected or related to horses, donkeys, mules, or other members of the taxonomic family Equidae.

**Equine Stable:** A facility where equines are kept or raised, which may include areas for boarding, training, and riding.

**Events Center:** A venue to allow for various gatherings such as weddings, receptions, arts and crafts shows, corporate meetings, outdoor movies (no drive ins), etc. and which can be indoor or outdoor or a combination thereof.

**Exempt Subdivision:** See 5.2.6: *Exempt Subdivisions* and 12.5: *Exempt Subdivisions*.

**Expedited Review:** See 5.2.5: *Expedited Review* and 12.6: *Minor Subdivisions*.

**Existing Development:** Those projects that are built or those projects that at a minimum have established a vested right as of the effective date of this ordinance based on at least one of the following criteria:

- A. Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;
- B. Having an outstanding valid building permit as authorized by N.C.G.S. § 160D-102; or
- C. Having an approved site specific or phased development plan as authorized by N.C.G.S. § 160D-102.<sup>826</sup>

**Existing Lot (Lot of Record):** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance. ~~[WPO]~~

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<sup>826</sup> Carries forward current definition in the WPO with updates for clarity and to conform to statutory changes.

**Extraterritorial Jurisdiction:** A limited area beyond the corporate limits of a city in which the city may exercise the powers granted to cities by the North Carolina General Statutes. [See N.C.G.S. § 160D-202]

## (F)

**Façade, Primary:** The front side of a building that faces a street.

**Façade, Secondary:** Any side of a building with a pedestrian entry that is not the front or rear of the building and that faces either an interior street, parking area, or a publicly accessible open space.

**Family:** One or more persons occupying a dwelling unit and living as a single household.

**Family Care Home:** A home, as defined by [N.C.G.S. § 160D-907](#) with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities.

**Family Childcare Home:** A licensed childcare facility within a principal residence to care for five or fewer preschool age children and an additional three school age children. This includes preschoolers living in the home, but the provider's own school age children are not counted. Family childcare home operators must reside at the location of the family childcare home.<sup>827</sup>

**Family Subdivision:** One or more divisions of a tract of land to:

- A. Convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives of direct lineage, or to the surviving spouse, if any, of any deceased lineal descendant, as a gift or for nominal consideration, but only if no more than one parcel from such tract is conveyed by the grantor to any one relative or such relative's surviving spouse; or
- B. Divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will. ~~This provision shall apply only where the grantor or decedent already owned the land so divided upon the effective date of this UDO.~~

**Farm:** Singularly or jointly owned land, parcel, or contiguous parcels on which agricultural operations are conducted as the primary use. Agricultural operations include, but are not limited to, cultivation of crops, the husbandry of livestock, and forestry.

**Farmers' & Artisans' Market:** A temporary retail facility that is open to the public and at which vendors sell farm products, value-added farm products, prepared foods, or handcrafted goods.

**Farming:** See [Agriculture](#).

**Farming, Indoor:** A facility where field crops or products such as vegetables, fruits, nuts, grain, honey, flowers, and trees are produced entirely inside a building.

<sup>827</sup> This definition is derived from [10A NCAC 09 .0102](#) (Child Care Rules).

**Farming, Outdoor:** A lot used for agricultural production of field crops or products such as vegetables, fruits, nuts, grain, honey, flowers, and trees.

**Farmstand:** A small, typically open-air structure from which agricultural and value-added agricultural products are sold. A farmstand may be a temporary (seasonal) or permanent accessory structure.

**Fee in Lieu:** A fee charged to a developer in place of requiring the dedication of land to help offset the cost of new development on public infrastructure such as roads, schools, recreational facilities, and fire stations.

**Fee Simple:** An absolute ownership interest in a given tract of land.

**Fence:** A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal, or similar material used as a boundary or means of protection or confinement, but not including a hedge or other natural growth.

**Final Plat:** The map or plan of record of a subdivision and any accompanying material, as described in these regulations.

**Fire Marshal:** The administrative head of the Fire Marshal's Office of the Chatham County Central Permitting & Inspections Department or their designee. [See 13.2.5: *Fire Marshal*]

**Fixture:** An assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

**Flag:** A piece of fabric or other flexible material, with distinctive colors and patterns, customarily mounted on a pole or similar freestanding structure, or on a pole mounted on a building.

**Flashing Sign:** A sign illuminated by direct or indirect artificial light that flashes on and off in regular or irregular sequence, including but not limited to strobe light.

**Flea Market:** A building or outdoor area in which stalls or sales areas are rented or provided for individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique, and may include the sale of new or used goods by businesses or individuals who are generally engaged in a retail trade.

**Flood Hazard Area:** The minimum area of the floodplain that, on average, is likely to be flooded once every one hundred years (i.e., that has a one percent chance of being flooded each year) as identified on the most current Flood Insurance Rate Map Chatham County, North Carolina Unincorporated Area as referenced in Chapter 11: *Flood Damage Prevention*.

**Flood Lamp:** A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

**Flood Light:** A form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

**Floodplain Administrator:** The Chatham County Manager or their designee. [See 13.2.6: *Floodplain Administrator*]

**Food Pantry:** A facility primarily dedicated to providing food and related services to individuals and families experiencing food insecurity. This includes the distribution of packaged or non-perishable food items as well as the preparation and serving of meals. The facility may have designated areas for food storage, meal preparation, and dining and may offer additional support services related to nutrition, health, and social assistance.<sup>828</sup>

**Freestanding Sign:** A permanent on-premises sign supported by its own structure apart from a building and secured in the ground.

**Frontage:** That side of a lot abutting on a street.

**Fueling Position:** An area at a gas station for fueling one vehicle. The total number of fueling positions at a gas station is the same as the total number of vehicles that can be fueled simultaneously. For example, at a gas station with two product dispensers (pumps), each with one hose on each side where only one vehicle can be serviced at a time, the number of vehicle fueling positions is four.<sup>829</sup>

**Fully-Shielded Luminaire:** A luminaire constructed and installed in such a manner that all light emitted by the luminaire, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the luminaire's lowest light-emitting part.<sup>830</sup>

**Future Land Use & Conservation Plan:** A map adopted as part of the Comprehensive Plan that graphically depicts the community's vision for the future of Chatham County. It indicates the preferred locations for future development, as well as the type and intensity of such development. It also indicates areas that are valued for their natural and cultural assets, and should therefore be the subject of future conservation efforts. The map is meant to provide a framework for future land use and, as such, serve as a companion to written policies and provide additional guidance with respect to the provision of County services, capital investments, and land development regulations.<sup>831</sup>

## (G)

**Gas Station:** An establishment where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles. A gas station may also offer retail sale of food and convenience items and/or car wash facilities.

**Glare:** The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, to cause annoyance, discomfort, or loss of visual performance and ability.

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<sup>828</sup> This term is not used in the current Zoning Ordinance.

<sup>829</sup> This definition is from the Institute of Transportation Engineers (see <https://www.ite.org/technical-resources/topics/trip-and-parking-generation/independent-variables/>).

<sup>830</sup> This new definition is from the MLO.

<sup>831</sup> From Plan Chatham, p. 44.

**Governmental Sign:** Any sign erected by the federal, state, or county government, including street name and identification signs, warning and directional signs, and public notices.

**Grade:** The slope of a road, street, or other public way, specified in percentage (%) terms.

**Green Roof:** The roof of a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproof membrane. A green roof may also include additional layers, such as a root barrier and drainage and irrigation systems. Pre-planted tray systems with green roof layers combined into small units are considered a green roof, but container gardens with plants in pots are not.

**Green Space:** Natural undeveloped areas such as pastures, farmland, forests, wetlands, and lakes. Green space may also include landscaped perimeters and green landscape reserves along thoroughfares.

**Greenway Trail.** A linear open space area often associated with wildlife corridors or valuable vegetative buffers. A Greenway Trail is located off-street and usually includes an improved surface to allow ease of usage for wheeled, muscle powered vehicles. Improved surfaces are most commonly asphalt, concrete, or crushed stone.<sup>832</sup>

**Grocery Store:** A retail establishment in which the majority of the building's floor area is devoted to the sale of food products, including fresh fruits and vegetables, dairy products, and meats, for home preparation and consumption. A grocery store is substantially larger and carries a broader range of merchandise than a convenience store.

**Gross Floor Area (GFA):** The area within the inside perimeter of the exterior walls of a building. Gross floor area is measured in accordance with 16.4: *Rules of Measurement*.

**Gross Land Area:** The size of the entire site proposed for development.

**Group Care Home:** A facility licensed by the State of North Carolina, other than a Family Care Home, with support and supervisory personnel that provides room and board, personal care, or habilitation services in a family environment for more than six resident persons with disabilities.

**Guest House, Pool House, or Garage Apartment:** See [Accessory Dwelling Unit](#).

**Gunsmith:** A person who customizes or performs repairs (e.g., by replacing worn or broken parts) on complete weapons or places marks of identification on privately made firearms. This term does include a person who manufactures firearms (i.e., frames or receivers or complete weapons) by completion, assembly, or applying coatings, or otherwise making them suitable for use.<sup>833</sup>

## (H)

**Hazardous Waste:** Any material as defined by 15A NCAC 13A .0106 Identification and Listing of Hazardous Wastes – Part 261 or any substance listed as such in: SARA Section 302,

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<sup>832</sup> This definition is from the Chatham County *Parks & Recreation Master Plan* (2019), p. 222.

<sup>833</sup> This definition is derived from [27 CFR 478.11](#) (Title 27: Alcohol, Tobacco Products and Firearms).



Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 or CWA (oil and hazardous substances) or a RCRA Hazardous Waste that appears on one of the four hazardous wastes lists: (F-List; K-List; P-List or U-List) or exhibits at least one of the four characteristics: ignitability; corrosivity; reactivity or toxicity.

**Health Department:** The agency and person designated to administer local health regulations. This is the Chatham County Health Department.

**Heavy Machinery Sales & Service:** A facility primarily engaged in the sale or rental of new and used heavy-duty machinery and vehicles, such as tractors and bulldozers. The facility may offer heavy machinery repair services and may contain ancillary storage areas.

**Hemp:** The plant *Cannabis sativa* (L.) and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.<sup>834</sup>

**Hemp Product:** Any product made from hemp.

**Hemp-Derived Consumable Product:** A hemp product that is a finished good intended for human ingestion or inhalation that contains a delta-9 THC concentration of not more than 0.3% on a dry weight basis, but may contain concentrations of other hemp-derived cannabinoids in excess of that amount. This term does not include hemp products intended for topical application, or seeds or seed derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.<sup>835</sup>

**Hemp-Derived Cannabinoid Product:** Any phytocannabinoid found in hemp, including delta-9 tetrahydrocannabinol (delta-9 THC), tetrahydrocannabinolic acid (THCA), cannabidiol (CBD), cannabidiolic acid (CBDA), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), cannabicyclol (CBL), cannabivarin (CBV), tetrahydrocannabivarin (THCV), cannabidivarin (CBDV), cannabicitran (CBT), delta-7 tetrahydrocannabinol (delta-7 THC), delta-8 tetrahydrocannabinol (delta-8 THC), or delta-10 tetrahydrocannabinol (delta-10 THC). This term also includes any synthetic cannabinoid derived from hemp and contained in a hemp-derived consumable product.<sup>836</sup>

**High Intensity Discharge Lighting (HID):** High intensity discharge lighting is a bulb type including mercury vapor, metal halide, or high pressure or low-pressure sodium, which glow when an electric current is passed through a gas mixture inside the bulb.

**Holiday/Festive Lighting:** Lighting that is installed with the intent to operate during a designated temporary period of time where a specific theme or event is a focus of attention.

**Home Occupation:** Any activity carried out for financial gain by a resident conducted as an accessory use in the resident's dwelling unit.

**Homeowners' Association:** See [Property Owners' Association](#).

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<sup>834</sup> This definition is from N.C.G.S. [§ 90-87\(13a\)](#) and the federal [Agricultural Improvement Act of 2018](#).

<sup>835</sup> This definition is from North Carolina [House Bill 563](#).

<sup>836</sup> This definition is from North Carolina [House Bill 563](#).

**Hookah:** A device used for smoking tobacco or non-tobacco products through a water filtration system. It typically consists of a bowl for holding the smoking material, a hose through which the smoke is inhaled, and a base filled with water to filter and cool the smoke.

**Hookah Lounge:** An establishment where patrons use hookah devices to consume tobacco or non-tobacco products. In accordance with N.C.G.S. Chapter 130A, [Article 23 – Smoking Prohibited in Public Places and Places of Employment](#), a hookah lounge where patrons consume tobacco products shall not serve food or drinks, including alcoholic beverages.

**Horizontal Plan:** Part of the concept process; it is a map of the site in two dimensions showing where environmental constraints such as, flood zones and access exist, and then the conceptual map of the new development is shown for the site. This differs from a full-blown plan in that simple spatial data (such as those used by the County Geographic Information Systems department) are sufficient, and engineering level data, such as surveyed topography in three dimensions and a higher level of precision are not necessary.

**Hospital:** Any facility, as defined in [N.C.G.S. § 131E-76\(3\)](#), that has an organized medical staff and that is designed, used, and operated to provide health care, diagnostic and therapeutic services, and continuous nursing care primarily to inpatients where such care and services are rendered under the supervision and direction of North Carolina-licensed physicians to two or more persons over a period in excess of 24 hours.

**Hotel (also Motel and Inn):** Structures/buildings with individual rooms for rent that may include suites with kitchenettes for extended stays. A hotel may provide area for eating and drinking establishments, personal service facilities, and conference/event facilities within the principal structure.

**Hunting or Fishing Club:** An establishment that provides outdoor hunting and/or fishing activities or services for a fee, admission charge, or common interest share. A hunting or fishing club may include accessory structures in support of hunting and fishing activities; day use facilities, such as a clubhouse or food and beverage facility; and overnight accommodations.

## (I)

**Illuminance:** The amount of light falling on a surface-measured in lux or footcandles.

**Illuminating Engineering Society of North America (IESNA):** A non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

**Impervious Surface:** Any surface that impedes or prevents natural infiltration of water into the ground, including but not limited to buildings, paved roads, paved parking lots, airport runways, and the like. ~~{ECO}~~

**Incidental Sign:** An incidental sign is a small permanent on-premises sign that is freestanding or attached to a building that is in addition to the primary sign types for the property, such as wall signs and freestanding signs, and that has a height and scale that is subordinate to the primary sign types allowed for the property. Examples of typical incidental signs include house numbers, occupant directories, directional signs, and

parking signs. The list of examples is provided to clarify the regulations and does not limit the content of incidental signs. The County will not review the content of incidental signs.

**Incorporated Area:** A portion of Chatham County that is located within the corporate limits of a municipality.

**Individual Septic System:** A sewage disposal system developed to function on an individual lot basis. A septic tank, ~~seepage tile sewage disposal system~~ nitrification line, or any other approved sewage treatment device.

**Industrial Use, Heavy:** Heavy industrial uses are typically located in the largest facilities in a community. These facilities house complex operations, some of which may be continuous (operated 24 hours a day, seven days a week). Heavy industrial uses include any non-residential use that requires a National Pollutant Discharge Elimination System (NPDES) permit for an industrial or stormwater discharge; or any use that is included in any of the North American Industry Classification System (NAICS) industry sectors listed in the table below.<sup>837</sup> Heavy industrial uses that involve the use or storage of dangerous materials or substances are categorized as restricted industrial uses, even if the NAICS industry sector is included in the table below.

NAICS Codes for Heavy Industrial Uses	
NAICS Code	NAICS Industry Sector
313	Textile Mills
314	Textile Product Mills
321	Wood Product Manufacturing
322	Paper Manufacturing
324	Petroleum and Coal Products Manufacturing
325	Chemical Manufacturing
326	Plastics and Rubber Products Manufacturing
331	Primary Metal Manufacturing
332	Fabricated Metal Product Manufacturing
333	Machinery Manufacturing
336	Transportation Equipment Manufacturing

**Industrial Use, Light:** Light industrial uses are located in facilities typically designed to look and generate impacts like a typical office building, but that rely on special power, water, or waste disposal systems for operation. Noise, odor, dust, and glare of each operation are

<sup>837</sup> This definition is from the City of Wilson, NC Unified Development Ordinance ([Chapter 17: Definitions](#)). However, Wilson's definition includes mining and extraction uses, which are not included here as they are separately regulated in this UDO. Wilson's definition also includes NAICS 311 Food Manufacturing and NAICS 316 Leather & Allied Product Manufacturing, which are instead proposed as light industrial uses (except leather and hide tanning and finishing, which is proposed as a restricted industrial use). Wilson's definition also includes NAICS 327 Nonmetallic Mineral Product Manufacturing, which is proposed to be separately regulated.

completely confined within an enclosed building, insofar as practical. Use examples include facilities for the design, development, and testing of electrical, electronic, magnetic, optical, computer, and telecommunications components in advance of product manufacturing; the assembly of products from parts produced off-site; laundry/dry cleaning plants engaged primarily in high-volume laundry and garment services; carpet and upholstery cleaners; diaper services; commercial laundries; the production of small consumer goods such as clothes, shoes, furniture, consumer electronics, and home appliances; or any use included in any of the North American Industry Classification System (NAICS) industry sectors specified in the table below.<sup>838</sup>

NAICS Codes for Light Industrial Uses	
NAICS Code	NAICS Industry Sector
311	Food Manufacturing
312	Beverage & Tobacco Manufacturing
315	Apparel Manufacturing
316	Leather & Allied Product Manufacturing (excluding NAICS 3161 Leather & Hide Tanning & Finishing)
334	Computer and Electronic Product Manufacturing
335	Electrical Equipment, Appliance, and Component Manufacturing
337	Furniture Manufacturing
339	Miscellaneous Manufacturing

**Industrial Use, Restricted:** Restricted industrial uses involve the use, storage, production, or processing of dangerous materials or substances that present immediate or long-term physical or chemical hazards, such as fire, explosion, corrosion, or toxicity, and that are used or stored in sufficient quantities such that accidental release or explosion may affect life, health, property, or the environment beyond the immediate perimeter of the facility.<sup>839</sup> Use examples include ammunition manufacturing; battery manufacturing; foundries; gas and petroleum processing; industrial chemical manufacturing; paper, cardboard, and building board manufacturing; plastics manufacturing; rodenticide, insecticide, and pesticide mixing plants; soap, detergent, and washing compound manufacturing; tar and waterproofing materials manufacture or any use included in any of the North American

<sup>838</sup> This definition is from the City of Wilson, NC Unified Development Ordinance ([Chapter 17: Definitions](#)). However, Wilson’s definition excludes NAICS 311 Food Manufacturing and NAICS 316 Leather & Allied Product Manufacturing, which are instead listed as heavy industrial uses. Proposed here is to include NAICS 316, except tanning, for consistency with how this use is currently allowed Chatham County. Wilson’s definition includes NAICS 323 Printing and Related Support Activities, which is proposed to be classified in the UDO under “Communications & Information” in the Business, Professional, Scientific, & Technical use group.

<sup>839</sup> This definition is derived from the Lancaster County, SC [Unified Development Ordinance](#) Section 10.3: Use Type Definitions.

Industry Classification System (NAICS) industry sectors specified in the table below if it involves the use of dangerous materials or substances as described above.

NACIS Codes for Restricted Industrial Uses	
NAICS Code	NAICS Industry Sector
313	Textile Mills
3161	Leather & Hide Tanning & Finishing
322	Paper Manufacturing
324	Petroleum and Coal Products Manufacturing
325	Chemical Manufacturing
326	Plastics and Rubber Products Manufacturing

**Inert Debris Landfill:** A landfill containing solid waste that consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.<sup>840</sup> Inert waste includes, but is not limited to: construction and demolition material such as metal, wood, bricks, masonry, and cement concrete; asphalt concrete; and metal.

**Infiltration:** The process of percolating stormwater into the subsoil. ~~ECO~~

**Inpatient Care Facility:** A healthcare facility where patients are admitted and spend at least one night under the care of doctors, nurses, or other healthcare professionals. An inpatient care facility may provide short-term or long-term care for acute conditions, long-term illnesses, mental health disorders, treatment of addiction, or other healthcare needs.

**Interior Lot:** A lot other than a corner lot with frontage on only one street.

**Invasive Plant Species:** A plant that is non-native to the local ecosystem, and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.<sup>841</sup> Species include any tree, shrub, vine, or other plant identified by the [North Carolina Invasive Plant Council](#) as an invasive plant.

## (J)

**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.

**Junk Yard:** Any establishment, place of business, or place that 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 that stores or keeps, for a

<sup>840</sup> This portion of the definition is derived from the definition of inert debris in N.C.G.S. [§ 130A-290\(a\)\(14\)](#).

<sup>841</sup> This portion of the definition is from the [United States Forest Service](#).

period of 15 days<sup>842</sup> or more, junk derived or created as a result of industrial or commercial activity is a junk yard. A junk yard is presumed to have been created when an area of 600 square feet or more of junk is kept or stored at any given place whether for profit or not. Materials enclosed in closed buildings, solid waste containers, or rolling stock (e.g., rail cars, trailer or other containerized body not intended or designed to be self-propelled) are excluded.

**Junked Motor Vehicle:** A motor vehicle that does not display a current license plate and is one of the following:

- A. Partially dismantled or wrecked;
- B. Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- C. More than five years old and appears to be worth less than \$500.00.

## (K)

**Kennel, Boarding:** A facility where dogs, cats, or other household pets are regularly boarded overnight, and where boarding or selling of animals is conducted as a business. This includes the housing, keeping, and boarding of dogs, cats, or other household pets for animal adoption agencies.

**Kennel, Breeding:** A facility where dogs, cats, or other household pets are regularly boarded overnight, and where breeding or selling of animals is conducted as a business.

## (L)

**Lamp:** A generic term for a source of optical radiation (i.e., “light”), often called a “bulb” or “tube.” Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low pressure sodium (LPS) lamps, as well as light-emitting diode (LED) modules and arrays.<sup>843</sup>

**Land Clearing Landfill:** A landfill containing solid waste that is generated solely from land clearing activities.<sup>844</sup> Land areas greater than one-half acre in size, for the deposit of land clearing materials including gravel, rocks, stumps, and soil (not contaminated by petroleum products). Personal home-owners use of inert debris landfill materials (beneficial fill) not to exceed two acres in size are exempt from requiring a special use permit. Commercial inert debris landfills or any that exceed two (2) acres in size will require a Special Use Permit.

<sup>842</sup> The current definition specifies 90 days. However, N.C.G.S. [§ 136-143\(4\)](#) specifies 15 days.

<sup>843</sup> This new definition is from the MLO.

<sup>844</sup> This portion of the definition is derived from the definition of inert debris in N.C.G.S. [§ 130A-290\(a\)\(15\)](#).

**Land-Disturbing Activity:** Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation. [CCO]

**Land Use Plan:** Any [Comprehensive Plan](#) adopted by Chatham County, as well the Chatham-Cary Joint Land Use Plan. [ZO]

**Landfill:** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the North Carolina General Statutes. For purposes of the riparian buffer regulations only (see Chapter 8: *Watershed & Riparian Buffer Protection*), the term does not include composting facilities.

**Laydown & Storage Yard:** Land used temporarily for the storage of equipment, vehicles, machinery, and/or building materials that are intended to be used on an active construction site.

**Life Sciences:** A use classification for establishments that involve activities related to the research, development, and production of biological and medical products, including but not limited to pharmaceuticals, biotechnology, medical devices, and related technologies. These uses typically involve laboratory research, clinical trials, and office space related to scientific and technical activities.

**Life Sciences Product Manufacturing:** The production and assembly of products related to the life sciences use classification. This includes pharmaceuticals, biotechnology products, medical devices, diagnostics, and other scientific or medical products. Facilities engaged in life sciences product manufacturing are involved in the process of transforming raw materials into finished products for medical, scientific, or therapeutic use. A life sciences product manufacturing facility that includes the use of dangerous equipment and/or the use, storage, production, or processing of dangerous materials or substances that present immediate or long-term physical or chemical hazards, such as fire, explosion, corrosion, or toxicity, and that are used or stored in sufficient quantities such that accidental release or explosion may affect life, health, property, or the environment beyond the immediate perimeter of the facility are classified as [Restricted Industrial Uses](#) and subject to all regulations that apply to such uses.

**Light Source:** The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

**Light Trespass:** Light emitted by a lighting installation that falls outside the boundaries of the property on which the installation is sited. This has adverse effects on residents, vehicle operators and pedestrians, the natural environment.

**Land Trust:** A private, non-profit organization that protects natural resources, cultural resources, or affordable housing through land acquisition, conservation easements, and/or education.

**Live-Work Unit:** A building that includes a single dwelling unit and an office, studio, or other non-residential use allowed in the zoning district in which the live-work unit is located. The non-residential use must be operated by the tenant of the dwelling unit.<sup>845</sup>

**Local Road:** See [Rural Road](#).

**Lot:** A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership or for development or both. The word "lot" includes "plot," "parcel," or "tract."

**Lot Area:** The total horizontal area included within lot lines. The area of abutting riparian buffers may be included as lot area (see Section 16.4: *Rules of Measurement*).

**Lot Depth:** The distance along the perpendicular bisector of the lot.

**Lot Improvement:** Physical changes made to raw land and structures on or under the land surface in order to make the land more useable for human activities. Typical improvements in these regulations would include, but not be limited to grading, street pavement, drainage ditches, and street name signs. Certain lot improvements shall be properly bonded as provided in these regulations.

**Lot of Record:** A lot, plot, parcel, or tract recorded in the Office of the Register of Deeds in conformance with the ordinance in effect at the time of recording.

**Lot Width:** The width measured at right angles to its depth at the widest point of the lot.

**Low Impact Development:** See Chapter 9: *Stormwater Management*.

**Lumen:** A quantitative unit used to identify the amount of light emitted by a light source. A lamp is generally rated in lumens.

**Luminaire:** A complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.<sup>846</sup>

## (M)

**Machine Shop:** Establishments primarily engaged in machining metal and plastic parts and parts of other composite materials on a job or order basis. Generally machine shop jobs are low volume using machine tools, such as lathes (including computer numerically

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<sup>845</sup> This definition is consistent with the Building Code. Compare: (1) **Home Occupations:** A live-work unit allows a broader range of commercial uses and more non-residential floor area than a home occupation. In addition, a live-work unit may be designed as a townhouse or with a storefront or other commercial design configuration at the ground level, while a home occupation occurs in a building that is designed as a residence. (2) **Mixed Use Buildings:** A mixed use building allows multiple non-residential uses and dwelling units in the same building, while a live-work unit is limited to a single dwelling unit and a single business. Further, there is no requirement for the non-residential use(s) in a mixed use building to be operated by a tenant of a dwelling unit located in the building.

<sup>846</sup> This new definition is from the MLO.



controlled); automatic screw machines; and machines for boring, grinding, milling, and additive manufacturing.<sup>847</sup>

**Maintained Footcandles:** Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high-pressure sodium and 0.64 for metal halide and mercury vapor.

**Major Collector:** See [Rural Road](#).

**Major Subdivision:** All subdivisions that consist of six or more lots, or any size subdivision requiring any new street, the extension of an existing street, or the creation of any public improvements.

**Major Subdivision, Tier 1:** A major subdivision consisting of at least six but not more than 15 lots.

**Major Subdivision, Tier 2:** A major subdivision consisting of 16 or more lots.

**Major Utility:** All utility facilities other than minor utilities. Includes public utilities serving regional areas and public utility service and storage yards. Examples include, but are not limited to, electrical substations and wastewater treatment plants. This definition excludes public utility transmission lines.

**Major Utility Easements:** Corridors that legally allow for overhead electric utility lines, gas lines, and other utilities.

**Management Information Systems Director:** The administrative head of the Chatham County Management Information Systems Department or their designee.

**Manufactured Home:** A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length; or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the North Carolina [Uniform Standards for Manufactured Homes Act](#).

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width.

"Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own

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<sup>847</sup> This definition is from the 2022 NAICS Manual (NAICS 332710).

chassis that connect on site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width.<sup>848</sup>

**Maximum Extent Practicable:** The degree to which a project meets an adopted standard in which the applicant has undertaken all possible efforts to comply with the standard or to minimize harmful or adverse effects, but full compliance cannot be achieved, and no feasible or practical alternative exists as determined by the Zoning or Subdivision Administrator. Economic considerations may be taken into account but shall not be the overriding factor determining ‘maximum extent practicable.’

**Medical or Diagnostic Laboratory:** An establishment primarily engaged in providing analytic or diagnostic services, including body fluid analysis and diagnostic imaging, generally to the medical profession or to the patient on referral from a health practitioner.<sup>849</sup>

**Medical Office or Clinic:** A use classification that includes physician offices, dentist offices, optometrist offices, chiropractor offices, mental health practitioner offices, urgent care facilities, and similar facilities concerned with the diagnosis, treatment, and care of human beings.

**Millwork:** Establishments primarily engaged in manufacturing hardwood and softwood cut stock and dimension stock (i.e., shapes); wood windows and wood doors; and other millwork including wood flooring. This use does not include artisanal woodworking that occurs in an [Artisan Workshop](#).

**Mining:** An activity that includes any of the following:<sup>850</sup>

- A. The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter;
- B. Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location; or
- C. The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

Mining does not include any of the activities listed in [N.C.G.S. § 74-49\(7\)](#)a through g.

**Minor Arterial:** See [Rural Road](#).

**Minor Collector:** See [Rural Road](#).

**Minor Subdivision:** Any subdivision containing five or fewer lots, fronting on an existing public street.

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<sup>848</sup> This definition is revised to align with [N.C.G.S. § 143-145\(7\)](#).

<sup>849</sup> This definition is from the [2022 North American Industry Classification System \(NAICS\) Manual](#) (p. 526).

<sup>850</sup> This definition is from [N.C.G.S. § 74-49\(7\)](#) [The Mining Act of 1971].

**Minor Utility:** Any above-ground structures or facilities owned by a governmental entity, a nonprofit organization or corporation used in connection with the transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Minor utilities are necessary to support development within the immediate vicinity and involve only minor structures. Examples include, but are not limited to, pump stations, community well houses, and aboveground utility cabinets. Excepted from this definition are Major Utilities.

**Mixed Use Building:** A building that contains a ground floor (and optionally second floor) devoted to non-residential uses and one or more upper floors occupied by one or more dwelling units and/or coliving dwelling units.

**Mixed Use Development:** Two or more buildings that are part of a unified development plan integrating residential and non-residential uses.

**Mobile Food Unit:** Any vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway, or waterway, on which food is prepared, processed, or converted or that is used in selling and dispensing food to customers. Mobile food units must be capable of being mobile at all times during operation. The wheels of the unit may not be removed from the unit at the operating location. Most mobile food units require a commissary for rapidly cooling foods, food washing, overnight storage, and dishwashing facilities.<sup>851</sup>

**Mobile Food Vendor:** A person who operates a mobile food unit.

**Mobile Health Clinic:** A vehicle or trailer equipped to provide medical services and health care directly to individuals at various locations. This service is designed to improve accessibility to healthcare for underserved populations and may include preventive, diagnostic, and treatment services.

**Mobile Home:** A [Manufactured Home](#) constructed prior to June 15, 1976, the effective date of the Manufactured Home Construction and Safety Standards, [24 CFR Part 3280](#) (the “HUD Code”).

**Mobile Retail Unit:** Any vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway, or waterway from which any merchandise other than food or beverages is offered for sale.

**Mobile Retail Vendor:** A person who operates a mobile retail unit.

**Mobile Vending:** A use category that includes the sale of food and/or merchandise from a mobile food unit or mobile retail unit.

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

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<sup>851</sup> This definition is from the Chatham County Public Health Department, Division of Environmental Health, handout [Mobile Food Unit — General Requirements](#).

**Monuments:** Markers placed on or in the land. Metal pins not less than three-fourth (3/4) inches in diameter and 18 inches long or concrete monuments four inches in diameter or square and three feet long.

**Motor Vehicle:** Any vehicle or machine designed or intended to travel over land by self-propulsion.

**Mounting Height:** The height of the photometric center of a luminaire above grade level.

**Multi-Family Building:** A residential building that contains three or more dwelling units and/or coliving dwelling units and is located on a single lot. Such units may be leased separately or developed as condominiums.<sup>852</sup>

**Multi-Tenant Development.** For the purposes of the sign regulations in Section 4.7: *Signs*, a single building or a development with multiple buildings that is under common ownership, management, and control with more than one occupant and whose occupants are distinct users that each occupy a portion of the multi-tenant building or development.

## (N)

**National Pollutant Discharge Elimination System Permit (NPDES):** Authorized by the Clean Water Act, this permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

**Natural Area:** A type of open space in which a tract of land contains undisturbed or minimally disturbed vegetation that is permanently protected from development by homeowners' association ownership, deed restriction, or conservation easement. Examples include woodlands, such as the tree save areas required by Section 6.1: [Tree Preservation & Other Open Space](#). A natural area may contain multi-use paths to accommodate pedestrians, bicyclists, and equestrians, but typically does not contain structures or other improvements.

**Neighborhood Recreation Amenity:** A use classification for facilities offering sports and recreation activities for residents of a neighborhood, including tennis courts, swimming pools, parks, clubhouses, and play fields. Such facilities may also engage in retail sales of specialty products and services and provide ancillary indoor activities such as restaurants, concessions, and locker rooms.

**Non-Commercial Message:** A sign that does not advertise businesses, organizations, goods, products, or services.

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<sup>852</sup> N.C.G.S. § 160D-706(b) prohibits a local government from using a definition of *dwelling* that is inconsistent with the definition of the term "in another statute or rule adopted by a State agency, including the Building Code Council or Residential Code Council." The proposed definition of dwelling is revised to align with the Building Code. It defines *dwelling* as "a building that contains one or two [dwelling units](#)..." For this reason, the term *multi-family dwelling* is changed to *multi-family building*.

**Nonconforming Lot of Record:** A lot of record (not created for the purpose of evading the restrictions of this Ordinance) that does not meet the minimum area and/or lot width requirements of the district in which the lot is located.

**Nonconforming Sign:** Signs that are erected and in place prior the adoption of this ordinance and which do not conform to the provisions of this ordinance are declared nonconforming signs. A sign that is erected and that is in place and which conforms to the provisions of the sign ordinance at the time it is erected, but which does not conform to an amendment to this ordinance enacted subsequent to the erection of said sign is declared a nonconforming sign.

**Nonconforming Site Element:** A site element that does not comply with the requirements of this UDO.

**Nonconforming Structure:** A nonconformity that occurs when the height of a structure or the relationship between an existing structure and other structures or lot lines do not conform to the dimensional regulations applicable to the district in which the lot is located.

**Nonconforming Use:** A nonconformity that occurs when property is used for a purpose or in a manner not permitted by the use regulations applicable to the district in which the property is located.

**Nonconformity:** A nonconforming lot, site element, structure, or use.

**Non-Cul-de-sac Street:** A street with more than one end open to traffic or that may be opened in the future, such as a stub street.

**Non-Discharge Permit:** Permit from the North Carolina Division of Water Quality to allow discharge of processed wastewater onto the land (i.e., such as spray irrigation).

**Nonmetallic Mineral Product Manufacturing:** A use category that includes establishments that transform mined or quarried nonmetallic minerals, such as sand, gravel, stone, clay, and refractory materials, into products for intermediate or final consumption.<sup>853</sup>

**Non-Profit Club:** A building or facility used for social, educational, or recreational purposes operated by an organization that requires membership for participation, is primarily non-profit, and does not render a service that is customarily carried on as a business.

**Non-Residential Subdivision:** A subdivision whose intended use is other than residential, such as commercial, institutional, or industrial. Any subdivision lot whose intended use is for bona-fide farm activities, with no residential component, is included in this definition.

**Normal High Water Mark:** The average or normal limit of a water body's elevation under non-flood conditions. It is the point up to which the water regularly rises during the course of normal flow, excluding extreme events such as floods.

**Normal Pool Elevation:** The natural or design elevation of a perennial water body.

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<sup>853</sup> This definition is the NAICS industry sector definition.

**Nude or A State of Nudity:** The appearance of a human anus, male genitals, or female genitals; or a state of dress which fails to opaquely cover a human anus, male genitals, or female genitals.

**Nude Model Studio:** Any place where a person who appears nude or semi-nude, or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, filmed, or similarly depicted by other persons who pay money or any other form of consideration. Nude Model Studio shall not include a preparatory school licensed by the State of North Carolina or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

**Nursing Home:** An establishment that provides full-time convalescent or chronic care, or both, to persons who are not related by blood or marriage to the operator or who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

## (O)

**Off-Premises Sign:** A sign that advertises businesses, organizations, goods, products, or services that are not located, sold, manufactured, or distributed on or from the premises or facilities where the sign is located.

**Off-Site:** Any premises not located within the area of the property to be developed or subdivided, whether or not in the same ownership of the applicant requesting development plan or subdivision plat approval.

**Official Maps or Plans:** Any maps or plans officially adopted by the Board of Commissioners as a guide to the development of Chatham County. The Zoning Map and Thoroughfare Plan are examples of an official map and plan, respectively.

**Office, Professional:** Establishments intended for the conduct of professional business services by a commercial enterprise. Examples include legal services; accounting, tax, bookkeeping, and payroll services; architectural, engineering, and related services; consulting services; corporate headquarters; graphic, industrial, and interior design services; advertising services; and office and administrative services.

**On-Premises Sign:** A sign that advertises businesses, organizations, goods, products, or services that are located, sold, manufactured, or distributed on or from the premises or facilities where the sign is located.

**Opaque:** A substance or material that cannot be seen through when viewed perpendicularly at the same elevation.

**Open Space:** A tract of land and/or water bodies used for conservation; resource protection; active or passive recreation; civic use; [Tree Save Area](#); greenways and trails; or buffer ~~that qualifies as an open space type under Section~~ **Error! Reference source not found.: Error! Reference source not found.**

**Open Structure:** A structure that is open on all sides and supported by a roof and posts or columns.

**Outdoor Performance Area:** An area permanently dedicated to the public presentation of music, dance, theater, media arts, storytelling, oratory, or other performing arts, whether publicly or privately owned, including but not limited to amphitheaters and similar open or semi-enclosed structures.

**Outdoor Sports Field:** An area designed for recreation (public or privately owned). These areas include, but are not limited to, baseball/softball diamonds, soccer fields, football fields, golf courses, golf driving ranges, tennis courts, racetracks, firearm shooting ranges, and swimming pools.

**Outdoor Storage:** The keeping for more than 24 hours, other than in a fully enclosed building, of any goods, materials, or merchandise on a lot containing a non-residential use other than an outdoor farming use. A “fully enclosed” building includes a roof and walls on all sides, such that materials and activities located within the building are not visible from outside the building except through windows and doors.

**Owner:** A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

## (P)

**Parcel:** See [Lot](#).

**Park:** See [Recreation Area](#).

**Passenger Vehicle:** A motor vehicle, except for motorcycles and mopeds, designed for carrying 10 or fewer passengers and used primarily for the transportation of people.

**Pennant Sign:** A sign made of lightweight plastic, fabric, or other material, whether or not containing a message, suspended from a rope, wire or string, usually in series, designed to move in the wind.

**Perennial Water Body.** A pond or lake that is part of a natural drainageway and is fed by either an intermittent or perennial stream or directly discharges into either an intermittent or perennial stream.

**Permanent Means of Ingress and Egress:** An easement or road that meets the applicable requirements of this Ordinance.

**Perpetuity:** Permanently.

**Person:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board or public or private institution, utility, cooperative, interstate body, or other legal entity.

**Personal Services:** A use category that includes establishments primarily engaged in the provision of frequent or recurrent services of a personal nature. Typical uses include, but are not limited to, beauty and barber shops, nail salons, spas, tanning salons, tattoo studios, body piercing studios, shoe repair shops, tailor shops, dry cleaning pick-up/drop-off stores, and laundromats.

**Pet Day Care Facility:** An establishment primarily engaged in the care of household pets for less than 24 hours at a time. This use does not include veterinary services or commercial kennels.

**Photovoltaic System:** An active solar energy system that converts solar energy directly into electricity.

**Place of Worship:** A building and/or land primarily used by a non-profit organization for organized religious services and supporting uses.

**Planning Board:** The Chatham County Planning Board, which is the board appointed by the Board of Commissioners in accordance with N.C.G.S. [§ 160D-301: Planning boards](#). [See 13.1.1: *Planning Board*]

**Planning Director:** The administrative head of the Chatham County Planning Department or their designee. [See 13.2.8: *Planning Director*]

**Portable Sign:** A sign with a permanent frame and a display area for changeable copy, designed or intended to be relocated and is not permanently affixed to the ground or a structure. This includes signs on wheels, trailers, or any other device that is intended to be moved from one location to another.

**Pottery, Porcelain, & Vitreous China Manufacture:** Establishments primarily engaged in shaping, molding, glazing, and firing pottery, ceramics, plumbing fixtures, and electrical supplies made entirely or partly of clay or other ceramic materials. This use does not include artisanal pottery making that occurs in an [Artisan Workshop](#).

**Preschool:** A school, with an accredited training program and staffed with certified teachers, for children who are not old enough to attend primary school.<sup>854</sup>

**Preliminary Plat:** This is a map and supporting documentation in sufficient detail to satisfy all review requirements and begin the process of applying for outside permits once it is approved. This document follows the Sketch Plan and prepared in conjunction with the Construction Plan in the subdivision process.

**Primary Live Entertainment:** On-Site entertainment by live entertainers that characterizes the establishment, as determined from a pattern of advertising and/or actual performances.

**Principal Arterial:** See [Rural Road](#).

**Principal Building:** A building in which is conducted the principal use of the lot on which it is located.

**Private Sewage Treatment Facility/Sewer:** A privately-operated system to provide a limited number of users, usually residents of one subdivision or development, with the collection and treatment of wastewater.

**Principal Structure:** A structure in which is conducted the principal use of the lot on which it is located.

**Principal Use:** The primary use of a lot or structure, as distinguished from those which by definition or their nature are accessory uses.

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<sup>854</sup> This definition is from the Charleston County Zoning & Land Development Regulations ([Article 12.1](#)).



**Private Street:** An un-dedicated private right-of-way that affords access to abutting properties according to the standards of this ordinance and requires a subdivision streets disclosure statement in accordance with the North Carolina General Statutes.

**Private-Use Airport:** See [Airport, Private-Use](#).

**Professional Office:** See [Office, Professional](#).

**Project:** For purposes of Chapter 8: *Watershed & Riparian Buffer Protection* a proposed development activity for which an applicant is seeking a stormwater permit from the state or other entity/. "Project" excludes any land adjacent to the area disturbed by the project that has been counted as pervious by any other development regulated under a federal, State, or local stormwater regulation. Owners and developers of large developments consisting of many linked projects may consider developing a master plan that illustrates how each project fits into the design of the large development.

**Property Owners' Association:** An incorporated association of the owners in a development formed to manage common open space and stormwater control measures.

**Protected Area:** The area adjoining and upstream of the critical area of WS-IV watersheds. The protected area is defined at 15A NCAC 02B .0202.

**Public Facility:** Any improvement created and/or maintained by a public entity, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

**Public Improvement:** Any drainage ditch, roadway, sidewalk, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or that may affect an improvement for which local government responsibility is established.

**Public Sewer:** A system to provide the public with the collection and treatment of wastewater which shall be owned and operated by a county, municipal government, or service district.

**Public Street:** A dedicated public right-of-way that affords access to abutting property and meets the standards of this Ordinance and the most recent North Carolina Department of Transportation minimum construction standards for subdivision roads.

**Public Water:** A system to provide or furnish water to the public which shall be owned and operated by a county, municipal government, or service district.

## (Q)

**Qualified Conservation Easement Overseer:** A certified, tax-exempt charitable conservation organization or agency eligible to receive and hold conservation easements as approved by the Internal Revenue Service.

**Qualified Individual:** A person certified to perform stream determinations by completing and passing the Surface Water Identification Training and Certification (SWITC) course offered by the N.C. Div. of Water Resources at N.C. State University.

**Quasi-Judicial Decision:** A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when

applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permit extensions, and appeals of administrative determinations.

## (R)

**Readerboard:** A sign or part of a sign on which the copy or symbols change manually through placement of letters or symbols on a panel mounted in or on a track system.

**Reclaimed Water:** Water that as a result of reclamation of wastewater is suitable for direct beneficial use or a controlled use that would not otherwise occur.

**Recreation Area:** An area of land and/or water resources developed for non-commercial active and/or passive recreation pursuits with various human-made features that accommodates such activities. Examples include ballfields, sports courts, playgrounds, saunas, exercise rooms, marinas, and clubhouses. A recreation area may include accessory uses, such as restaurants, concessions, and locker rooms.

**Recreation Camps & Grounds:** Sites with temporary or permanent campsites, shelters, cabins, or other structures designed or intended for overnight occupancy that is operated for recreation, religious, education, or vacation purposes. Recreation camps and grounds include, but are not limited to, residential camps (“summer camps”), vehicle and tent campgrounds, and primitive campgrounds. The non-commercial use of private property for camping activities by the property owner, or by one or more people authorized by the property owner, is not considered a recreation camp or ground and is not regulated by this UDO.

**Recreation Exaction Fee:** A payment in lieu of land dedication paid to Chatham County to defray the cost of providing recreation services to new development.

**Recreational Vehicle (RV):** A vehicle or vehicle type portable structure that can be hauled, towed, or driven, and is typically designed for recreational use (as in camping). This would include, but is not limited to travel trailers, motor homes, camping trailers, campers, and recreational vans. Recreational vehicles are considered domestic vehicles.

**Recreational Vehicle (RV) Dwelling Unit:** A park model recreational vehicle used for permanent habitation. An RV dwelling unit must have a North Carolina Modular Construction Validating Stamp or a HUD Manufactured Housing Label.

**Recreational Vehicle (RV), Park Model:** A vehicle that is built on a single chassis, is 400 sq. feet or less when measured at the largest horizontal projection, is self-propelled or permanently towable by a light duty truck and is generally used as temporary living quarters for recreational, camping, travel, seasonal, and special uses.

**Recycling Center:** A temporary or permanent site at which glass, aluminum cans, paper, plastic, clothes, or similar materials commonly collected for recycling are collected and moved off-site or kept on-site in buildings, storage bins, solid waste containers, truck trailers, and other rolling stock.

**Register of Deeds:** Chatham County Register of Deeds.

**Research & Development (R&D) Facility:** A specialized facility engaged in the systematic investigation and experimental development of new products, processes, or technologies.

An R&D facility is focused on applied research and technological innovation across various fields, including but not limited to life sciences, engineering, information technology, and materials science. An R&D facility may involve both theoretical research and practical experimentation. An R&D facility that includes the use of dangerous equipment and/or the use, storage, production, or processing of dangerous materials or substances that present immediate or long-term physical or chemical hazards, such as fire, explosion, corrosion, or toxicity, and that are used or stored in sufficient quantities such that accidental release or explosion may affect life, health, property, or the environment beyond the immediate perimeter of the facility ~~are~~ is classified as a Restricted Industrial Uses ~~Restricted Industrial Use~~ and subject to all regulations that apply to such uses.

**Reservation:** An obligation to keep property free from development for a stated period of time for the purpose of making the land available for a specified use at a later time.

**Residential Development Sign:** A freestanding sign located near the entrance drive or road to a residential development. An example of a typical residential development sign is one that identifies the name of the development or phase of development, sometimes incorporating architectural or landscape features. The example is provided to clarify the regulations and does not limit the content of residential development signs. The County will not review the content of residential development signs.

**Residential Subdivision:** A subdivision whose intended use is single- or multi-family residential or duplex development.

**Retail Store:** An establishment that forms the final step in the distribution of merchandise. A retail store is organized to sell goods in small quantities to the general public for personal or household consumption, though they may also serve businesses and institutions. Some establishments may further provide after-sales services, such as repair and installation.

**Right-of-Way:** A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a Final Plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-ways intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the owner of the property on which such right-of-way is established.

**Riparian Buffer:** A natural or vegetated area that provides protective distance between a stream, perennial water body or wetland and an adjacent land area. The riparian buffer shall be measured horizontally on a line perpendicular from the top of bank or from the normal pool elevation of a perennial water body or wetland.

**Road Right-of-Way Width:** The distance between property lines measured at right angles to the centerline of the street.

**Roof Line:** The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

**(S)**

**Sales/Service of Agricultural Equipment:** This use includes establishments primarily engaged in retail sales of new and used outdoor power equipment designed for agricultural use, and may include related activities, such as repair services and sales of replacement parts.

**Sanitary Landfill:** A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under [N.C.G.S. § 130A-290](#)~~this Article~~.<sup>855</sup>

**School, Primary or Secondary:** A public, private, or parochial school offering instruction at the elementary, middle, or high school level.

**Self-Service Storage Facility:** Any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such for the purpose of storing and removing personal property. No occupant shall use a self-service storage facility for residential purposes.<sup>856</sup> A self-service storage facility may offer related retail and services, such as the sale of moving supplies or the rental of moving trucks.

**Semi-Nude:** A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

**Setback:** The minimum required horizontal distance between a structure and a lot line. [See Section 16.4: *Rules of Measurement*]

**Sexual Encounter Center:** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between two or more persons when one or more of the persons is in a state of nudity or semi-nude, or activities between two or more persons when one or more of the persons is in a state of nudity or semi-nude.

**Sexually Oriented Business:** An adult arcade, adult media store, adult cabaret, adult motel, adult mini motion picture theater, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or any combination of the foregoing.

**Sheet Flow:** The overland transport of stormwater in a shallow and thin uniform flow.

**Sheet Metal Shop:** An establishment where flat sheets of metal are shaped into three-dimensional objects using techniques such as soldering, brazing, or welding.

**Shooting Range:** An area or structure specially designed for the safe discharge and use of rifles, shotguns, pistols, skeet, trap, or any similar firearm for the purpose of sport shooting or military/law enforcement training.<sup>857</sup>

<sup>855</sup> This definition is from N.C.G.S. [§ 130A-290\(a\)\(31\)](#).

<sup>856</sup> This definition is from [N.C.G.S. § 44A-40\(7\)](#).

<sup>857</sup> This definition is from the Campbell County, VA [Zoning Code](#) (Sec. 22-2.B.83a).

**Shoreline Stabilization.** The in-place stabilization of an eroding shoreline. Stabilization techniques which include “soft” methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of “hard” engineering, such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.

**Short-Term Rental:** An entire dwelling unit or accessory dwelling unit used to provide short-term lodging for periods not to exceed 30 days in exchange for compensation.

**Side Path:** A paved on-road or parallel and adjacent-road pedestrian facility that connects users from residential, civic, social, and employment areas to the greenway network. A side path is bi-directional and physically separated from vehicular travel through vegetated landscape strips, rumble strips, or site furnishings (e.g., streetlights, wayfinding signs, or benches).<sup>858</sup>

**Sidewalk:** A paved portion of a street right-of-way located between the curb or edge of the travel lane and the adjacent lot line intended for use by pedestrians.

**Sign:** Any object, device, display, or structure used to advertise, identify, display, direct, or attract attention to any object, person, institution, organization, business, product, service, event, or location by any means, including but not limited to words, letters, pennants, banners, emblems, trademarks, trade names, insignias, numerals, figures, designs, symbols, fixtures, colors, illumination, or projected images, or any other attention directing device. The term “sign” includes a structure used to support or display a sign.

**Sign Area:** Sign area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof, which will encompass the entire advertising copy area, excluding architectural trim and structural members. In computing area, only one side of a double-faced sign shall be considered.

**Single-Family Detached Dwelling:** A dwelling unit that entirely occupies a separate, individual building.

**Site:** A contiguous area of land, including a lot or lots or a portion thereof, that is included in a development application.

**Site Element:** A component, other than a building, an applicant installs or maintains on a lot in conjunction with development and include exterior lighting, landscaping, buffers, parking areas, loading areas, and signs.

**Sketch Plan:** The initial map and supporting documentation submitted by a subdivision applicant for use by County staff, other agencies, and the public. This map shows general concepts and layout of streets, lots, open space, environmental constraints, and major easements for utilities or other associated common use such as drainage or pedestrian access. The Sketch Plan is less detailed than the Preliminary Plat, which follows sequentially in the subdivision process.

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<sup>858</sup> This definition is from the Chatham County *Parks & Recreation Master Plan* (2019), p. 223.

**Sleeping Unit:** A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.<sup>859</sup>

**Solar Energy:** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

**Solar Energy System (SES):** The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited, to solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. A system fits into one of three system types: Level 1 SES, Level 2 SES, and Level 3 SES.<sup>860</sup>

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

- A. Roof-mounted on any code-compliant structure;
- B. Ground-mounted on an area of up to 50% of the footprint of the primary structure on the lot, but no more than 1 acre;
- C. Covering permanent parking lot and other hardscape areas; and
- D. Building-integrated solar (i.e., shingle, hanging solar, canopy, etc.).

**Solar Energy System, Level 2:** Level 2 SESs are ground-mounted systems not included in Level 1 SESs that meet the area restriction specified below for the zoning district in which the SES is located:

- A. AG, RA, R5, R2, NR, R1, CD-CR, CD-NC: SES ½ acre or less;
- B. OI, RV, NB, CB, RB, RHC, CD-CMU, CD-CN, CD-AC: SES 10 acres or less; and
- C. IL, IH: SES of any size.

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

**Special Event:** A temporary educational, recreational, cultural, or social occurrence, such as a fair, festival, circus, carnival, exhibition, sideshow, race, trade show, flea market, banquet, convention, religious event, arts and crafts show, stage show, athletic event, or other similar activity.<sup>861</sup>

**Special Use Permit:** A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence

<sup>859</sup> N.C.G.S. § 160D-706(b) prohibits a local government from using a definition of *sleeping unit* that differs from the definition of the term “in another statute or rule adopted by a State agency, including the Building Code Council or Residential Code Council.” This definition is the same as that in the North Carolina Building Code.

<sup>860</sup> This definition (and the definitions of the three system types) are from the [Template Solar Energy Development Ordinance for North Carolina](#), developed by a working group led by the North Carolina Clean Energy Technology Center and the North Carolina Sustainable Energy Association.

<sup>861</sup> Most of the examples in this definition are from the current use table (ZO Section 10.13).

establishing compliance with one or more general standards, requiring that judgement and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as “conditional use permits” or “special exceptions.”

**Specified Anatomical Areas:** (1) Less than completely and opaquely covered: human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola; or (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specified Sexual Activities:** Includes any of the following: a) Human genitals in a state of sexual stimulation, arousal, or tumescence; or b) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or c) Sex acts, actual or simulated, including intercourse, oral copulation or sodomy; or d) Masturbation, actual or simulated; or e) Sadomasochistic practices, including, but not limited to: flagellation or torture by or upon a person, clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one clothed or naked; or f) Erotic or lewd touching, fondling, or other contact with an animal by a human being; or g) Human excretion, urination, menstruation, vaginal or anal irrigation.

**Sports Wagering Establishment:** Any permanent place of public accommodation used for the purpose of placing sports wagers, including pari-mutuel wagering on horse races. See N.C.G.S. Chapter 18C, [Article 9: Sports Wagering](#) and [Article 10: Pari-Mutuel Wagering](#).

**Staff:** Chatham County employees.

**Steep Slopes:** Slopes with a grade of 25% or greater.

**Stormwater Administrator:** The Watershed Protection Department Director or their designee. [See 13.2.9: *Stormwater Administrator*]

**Stormwater Control Measure (SCM):** A permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater or a combination thereof.

**Stream:** A body of water flowing in a natural surface channel. Flow may be continuous or only during wet periods.

**Stream, Ephemeral (stormwater):** A physically visible feature in the form of a natural channel that conveys water only in direct response to precipitation during or shortly after precipitation events. For the purposes of Chapter 8: *Watershed & Riparian Buffer Protection*, an ephemeral (stormwater) stream is a well-defined channel that scores a minimum of 10 points on the most recent version of the NCDWQ Stream Identification Form, to distinguish it from an intermittent or perennial stream. (See, most recent version of Identification Methods for the Origins of Intermittent and Perennial Streams, NCDWQ). An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with continuous or intermittent conveyance of water.

**Stream, Intermittent:** A well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous

conveyance of water. For the purposes of this Ordinance, an intermittent stream has a minimum score of “19” on the most recent version of the NCDWQ Stream Identification Form.

**Stream, Perennial.** A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with continuous conveyance of water. For the purposes of this Ordinance, a perennial stream has a minimum score of “30” on the most recent version of the NCDWQ Stream Identification Form.

**Street (Road).** A right-of-way for vehicular traffic that affords the principal means of access to abutting properties. For purposes of this ordinance the following street classifications apply:

- A. *Principal Arterial.* A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as principal arterials.
- B. *Minor Arterial.* A rural link in a network joining cities and larger towns and providing intrastate and inter-county service at relatively high (55 mph) overall travel speeds with minimum interference to through movement. The network would primarily serve through traffic.
- C. *Major Collector.* A street that serves major inter-county travel corridors and traffic generators and provides access to the arterial system. [SR]
- D. *Minor Collector.* A street that provides service to small local communities and links with locally important traffic generators with their rural hinterland.
- E. *Local Road.* A street that primarily provides access to adjacent land and for travel over relatively short distances.

**Street Line:** The legal line between street right-of-way and abutting property.

**Street Sign:** The sign designating the official name and/or number of the street.

**Story:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.

**Stub Street (Stub Out):** A street with one end open to traffic and one end temporarily closed, with a temporary turn around for the safe and convenient reversal of traffic movement. The end that is temporarily closed must have access reserved on site for future extension.

**Structure:** Anything constructed or erected, including but not limited to buildings, that requires location a fixed location on the land or attachment to something having permanent location on the land. [SR]

**Subdivider:** Any person who:

- A. Having an interest in land, causes it, directly or indirectly, to be divided; or



- B. Directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel, site, unit, or plat in a subdivision; or
- C. Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision, of any interest, lot, parcel, site, unit, or plat in a subdivision; and
- D. Is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

**Subdivision:** All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; but the following are excluded from this definition:

- A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased, and the resultant lots are equal to or exceed the standards of this ordinance;
- B. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- C. The public acquisition by purchase of strips of land for the widening or opening of streets;
- D. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the standards of Chapter 8: *Watershed & Riparian Buffer Protection*;
- E. The division of a tract into plots or lots used as a cemetery; and
- F. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

**Subdivision Administrator:** The person or persons designated by the Chatham County Manager to administer and enforce subdivision-related provisions of this Ordinance or the Subdivision Administrator's designee. [See 13.2.10: *Subdivision Administrator*]

**Subdivision Agent:** Any person who represents or acts for or on behalf of a subdivider or developer, in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

**Subdivision Plat:** The final map or drawing, described in these regulations, on which the subdivision may be submitted to the Register of Deeds for recording.

**Surveyor:** A qualified land surveyor registered and currently licensed to practice surveying in the State of North Carolina.

**(T)**

**Taxed Value:** The official value assigned to real property by the Chatham County Tax Assessor for ad valorem tax purposes.

**Technical Review Committee:** A committee composed of staff from various departments in Chatham County government and representatives of other local, state, and federal agencies. Representatives of other outside agencies or groups may be included as well. [See 13.2.11: *Technical Review Committee*]

**Temporary Building or Structure:** Any building or structure of an impermanent nature or that is designed for use for a limited time, including any tent or canopy.

**Temporary Improvement:** Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of any performance bond.

**Temporary Lighting:** Lighting used for a limited duration, but in no case longer than 30 days.

**Temporary Living Quarters Associated With a Special Event:** A temporary facility, including a manufactured home or a recreational vehicle, in which the operator and/or employees of a special event live for the duration of the event.

**Temporary Road.** A road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes or water dependent structures, or to maintain public traffic during construction.

**Temporary Sign:** A sign constructed of cloth, canvas, light fabric, cardboard, wood, wallboard, metal, or other light materials, with or without frames, and displayed for a limited time only. Temporary signs include banners, feather signs, stake signs, and post signs. Examples of common temporary signs include political signs, public demonstration signs, yard sale signs, grand opening signs, contractor signs, real estate signs, and signs that announce a special event. The list of examples does not limit the content of temporary signs. The County will not review the content of temporary signs.

**Tobacco Paraphernalia:** Cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, electronic cigarette cartridges, electronic cigarette liquids, and any other items designed for the preparation, storing, consumption, or use of tobacco products or electronic smoking devices.<sup>862</sup>

**Tobacco Product:** Any manufactured product that contains tobacco or nicotine or is derived from tobacco including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, dissolvable tobacco products, and electronic cigarette cartridges, whether packaged or not. Tobacco product does not include any product that has been approved by the U.S. Food and Drug Administration, pursuant to its

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<sup>862</sup> This definition is from the Dublin, CA Zoning Ordinance ([Chapter 8.43: Tobacco Retailers](#)).

authority over drugs and devices, for sale as a tobacco use cessation product or for other medical purposes and is being marketed and sold solely for that approved purpose.<sup>863</sup>

**Tobacco, Vape, or Hemp Retailer:** A specialized retail establishment primarily engaged (51% or more of gross sales) in the sale and/or distribution of any of the following whether alone or in combination:

- A. [Tobacco products](#);
- B. [Tobacco paraphernalia](#);
- C. Any [hemp-derived consumable product](#) or [hemp-derived cannabinoid product](#);
- D. Any consumable product containing synthetic cannabinoids; or
- E. Any electronic device that delivers nicotine, THC, or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe, vape, or electronic hookah.<sup>864</sup>

**Top of Bank.** For the purposes of this Ordinance, the point on a stream’s cross-section defined by the bankfull elevation or the highest point in elevation immediately adjacent to the stream channel, whichever is greater.

**Townhouse (or Townhome):** A dwelling unit constructed in a group of two or more attached units separated by property lines or assumed property lines based on the location of the double wall or common wall in which each unit extends from foundation to roof and with a yard or street on at least two sides.<sup>865</sup>

**Toxic Substance.** Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

**Trail Management Plan.** A bound document providing details and descriptions of trail design, materials, alignment, management procedures, responsible party and schedule of maintenance activities to ensure adequate trail operations and maintenance in perpetuity. The Plan must include, at a minimum, the following:

- A. Existing site conditions (including the status of the protected area);

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<sup>863</sup> This definition is derived from the definition in the [Vermont Model Zoning Ordinance Regulating the Location of Retail Establishments Selling Tobacco Products](#).

<sup>864</sup> This definition is from the City of Mount Airy Zoning Ordinance, [Section 15.4: Definitions](#).

<sup>865</sup> This definition is from the North Carolina State Building Code: Residential Code, [Section R202: Definitions](#), except that it excludes the term “single family” as a qualifier for “dwelling unit” since that is redundant to the definition of “dwelling unit” and uses the term “street” rather than “public way.” It includes revisions that will go into effect on January 1, 2025 (i.e., two units instead of three; the addition of “or assumed property lines based on the location of the double wall or common wall”).

- B. Needs and purpose (including intended use);
- C. Trail location based on site survey;
- D. Design details;
- E. Justification;
- F. Responsible entity for design, implementation, maintenance and access control;
- G. Short and long-term impacts (e.g., future trail relocations) should be identified; and
- H. Proposed mitigation due to impacts related to water quality and drainage.

**Tree:** A perennial woody plant with single or multiple trunks and few if any branches on its lower part, which at maturity will obtain a minimum six-inch [diameter at breast height \(DBH\) caliber](#).

**Truck Terminal:** A facility for the storage, dispatch, and maintenance of operable trucks and trailers. Truck terminals may be used to transfer goods from one truck to another but shall not be used for long-term storage of goods.

**Two-Family Dwelling (Duplex):** A residential building that contains two dwelling units. A duplex is located on a single lot, with the dwelling units located either side-by-side or stacked one above the other.

## (U)

**Unified Development Ordinance:** The Unified Development Ordinance for Chatham County, North Carolina, which applies to all land lying within Chatham County and outside the municipal limits and extraterritorial jurisdictions of the incorporated municipalities.

**Unincorporated Area:** [A portion of Chatham County that is not located within the corporate limits of a municipality. Areas located within a municipality's extraterritorial jurisdiction \(ETJ\) are unincorporated.](#)

**University:** See [College or University](#).

**Unobstructed:** Free of obstacles that delay, impede or hinder passage and/or access. An unobstructed roadway allows the two-way movement of vehicles, free of on-street vehicular parking and other obstacles.

**Uplight:** For an exterior luminaire, flux radiated in the hemisphere at or above the horizontal plane.<sup>866</sup>

**Usable Land:** See [Lot Area \(Useable\)](#).

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

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<sup>866</sup> This new definition is from the MLO.

**Use, Non-Residential:** Any use other than a residential use (e.g., commercial, retail, office, civic, or institutional use).

**Use, Residential:** Any use that includes only dwelling units and their customary accessory uses, but no other uses.

## (V)

**Variance:** Official permission from the Board of Adjustment or the Watershed Review Board to depart from the requirements of this Ordinance.

**Vehicular Canopy:** A roofed, open, drive-through structure designed to provide temporary shelter for vehicles and their occupants while making use of a business' services.

**Vehicular Travel Way:** Any public street, private street, access easement, or driveway primarily intended to accommodate vehicular access to lots.<sup>867</sup>

**Vested Right:** The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan or an approved phased development plan. [See Chapter 14: *Nonconformities & Vested Rights* and N.C.G.S. [§ 160D-108](#)]

**Visible:** Capable of being seen without visual aid by a person of normal visual acuity.

**Voluntary Agricultural District (VAD):** Contiguous acres (initially) of agricultural land, or forestland, or horticultural land that is part of a qualifying farm or the number of qualifying farms deemed appropriate by the governing board of the county and reviewed by the Agricultural Advisory Board. The purpose of such agricultural districts shall be to increase identity and pride in the agricultural community and its way of life and to increase protection from nuisance suits and other negative impacts on properly managed farms. [See N.C.G.S. [§ 106-738](#) and [§ 106-743](#)]

## (W)

**Walkable:** Community, streetscape, and building design and scale that provide for convenient, safe, comfortable, and visually interesting pedestrian access and mobility.

**Wall Pack:** A type of light fixture typically flush-mounted on a vertical wall surface.

**Water Dependent Structure.** Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

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<sup>867</sup> This definition is new and replaces *right-of-way*. The current Zoning Ordinance regulates the relationship of floodlights and building lighting in relation to “public rights-of-way.” The UDO proposes to regulate these items in relationship to private rights-of-way, access easements, and driveways as well.

**Water Hazard Area:** The area adjacent to continuously flowing waterways and intermittent streams as designated on the most recent USGS quadrangle sheets which due to its proximity to the waterway, soils and/or other topographic information is deemed not suitable for structures or septic fields due to potential water pollution. (Note: This is an historic referenced that may appear on older plats. It is no longer used in the Ordinance after December 2, 2008)

**Water Tower:** A water storage tank, a standpipe, or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

**Watershed.** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake), or alternatively, the geographic region within which water drains to a particular river, stream, or body of water.

**Watershed Protection Director:** The administrative head of the Watershed Protection Department, or their designee. [See 13.2.12: *Watershed Protection Director*]

**Wetlands.** “Waters” as defined by N.C.G.S. [§ 143-212\(6\)](#) and are areas that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do generally include swamps, marshes, bogs, seeps, springs, and similar areas. Wetlands classified as waters of the State are restricted to waters of the United States as defined by 33 CFR 328.3 and 40 CFR 230.3.

**Wholesaling, Warehousing, Flex Space, & Distribution:** A use classification that includes facilities engaged in the storage, wholesale sales, and distribution of manufactured products, supplies, and equipment to be redistributed to retailers, wholesalers, consumers, or otherwise transported off-site. These facilities may include ancillary offices.

**Wildlife Corridor:** An area of land in a relatively natural state that is unimpeded by significant development disturbance, including roads, such that a particular species can travel between core habitats along the corridor.<sup>868</sup>

**Winery:** An establishment that commercially produces a maximum quantity of 50,000 cases of fortified or unfortified wine, as defined in N.C.G.S [§ 18B-101\(7\)](#) and (15), per year. Such facilities include all aspects of production and may include administrative offices and a tasting room. A winery may be established in conjunction with a restaurant. A winery that produces more than 50,000 cases per year is considered “Beverage Manufacturing” (NAICS 312), which is categorized as a [Light Industrial Use](#).

**Wireless Facility or Wireless Facilities:** The set of equipment and network components, exclusive of the underlying Wireless Support Structure, including, but not limited to, Antennas, Accessory Equipment, transmitters, receivers, Base Stations, power supplies, cabling, and associated equipment necessary to provide wireless telecommunications services.

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<sup>868</sup> This definition is from the North Carolina Wildlife Resources Commission's [Green Growth Toolbox](#), Appendix D, page 125.

**Wireless Support Structure:** A freestanding structure, such as a Monopole or Tower, designed to support Wireless Facilities. This definition does not include Utility Poles.

## (X, Y, Z)

**Zoning Administrator and Official:** The person or persons designated by the Chatham County Manager to administer and enforce zoning-related provisions of this Ordinance or the Zoning Administrator's designee. [See 13.2.13: *Zoning Administrator*]

**Zoning District:** Any portion of the area of unincorporated Chatham County in which the regulations are uniform for each class or kind of building. The UDO establishes three types of zoning districts: conventional, conditional, and legacy (see 2.1.2: *Zoning Districts Established*).

**Zoning District, Non-Residential:** A conventional zoning district in which the predominant uses are commercial, civic, or other uses that do not typically include residential dwellings. The following districts are considered Non-Residential Zoning Districts: RV, OI, NB, CB, RB, RHC, IL, and IH.

**Zoning District, Residential:** A conventional zoning district in which the predominant uses are residential dwellings. The following districts are considered Residential Zoning Districts: RA, R5, R2, NR, and R1.

# CHAPTER 18 SUBMITTAL REQUIREMENTS<sup>869</sup>

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## 18.1 GENERAL PROVISIONS

### 18.1.1 PURPOSE

This Chapter establishes the information applications must include to be considered complete for review under Chapter 12: *Procedures*.

### 18.1.2 FORMAT OF APPLICATIONS

- A. **Digital Copies Required.** The applicant shall submit one complete digital copy of all application materials in accordance with the [Digital Document Submission Guidelines](#).
- B. **Paper Copies May Be Required by Staff.** The applicant shall also provide paper copies of all application materials if requested by the Planning Department. Applicants should submit double-sided copies whenever practical.<sup>870</sup>

### 18.1.3 AUTHORIZATION OF AGENT

If an agent of a property owner submits any application on the owner's behalf, the application must include a signed [Authorized Agent for Legal Representation Form or the owner must sign the application](#).

### 18.1.4 APPLICATION CHECKLISTS

The Planning Department maintains application submittal requirements checklists for each type of procedure described in Chapter 12: *Procedures*. Each application must include all elements required by this Chapter, Chapter 12, and the applicable checklist.

### 18.1.5 PERMITS REQUIRED BY OTHER AGENCIES<sup>871</sup>

- A. **Proof of Permits to be Provided With Application.** The applicant for any procedure established in Chapter 12: *Procedures* must submit one complete digital (PDF) copy of all final approvals required from any other local, state, and/or federal permitting agencies. All approvals must be demonstrated to be up-to-date and in effect.
- B. **Permit Not Issued at Time of Application.** In cases where final permitting agency approval has not been rendered at the time a County application is submitted, the applicant shall provide one complete digital (PDF) copy of the application submitted

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<sup>869</sup> See discussion of proposed changes in the [Audit Report](#) (pp.95-97).

<sup>870</sup> Last sentence carries forward a portion of SR 6.1 First Plat.

<sup>871</sup> This Section states that, when a proposed development or use requires approval by another local, state, or federal agency, the applicant must provide proof of such approval (or pending approval) in conjunction with the relevant County application.



to other permitting agencies. Once final approval is received, the applicant shall provide one complete digital (PDF) copy of the permit to County staff prior to the start of operations.

### 18.1.6 FEES<sup>872</sup>

- A. Reasonable fees sufficient to cover the costs of administration, inspection, technical review, publication of notice, and similar matters may be charged to applicants to process the applications for the procedures established in Chapter 12: *Procedures*.
- B. The fee amounts are set forth in the County's annual budget or are established by resolution of the Board of Commissioners.
  1. The Planning Department maintains a [fee schedule](#) for UDO-related applications and other administrative fees.
  2. The Watershed Protection Department maintains a [fee schedule](#) for applications related to Chapter 8: *Watershed Protection*, Chapter 9: *Stormwater Management*, Chapter 10: *Soil Erosion & Sedimentation Control*, and Chapter 11: *Flood Damage Prevention*.
- C. An applicant must pay all applicable fees at the time of application submittal.

## 18.2 HISTORICAL & CULTURAL RESOURCES DOCUMENTATION<sup>873</sup>

- A. **Purpose.** The documentation required by this Section is intended to identify historical and cultural resources on a proposed development site early in the development process so they can be catalogued and preserved, if possible.
- B. **Applicability.** This Section applies to:
  1. Any Major Subdivision Sketch Plan application for a proposed development with 49 or fewer lots that does not require submittal of an Environmental Impact Assessment (see 18.4: *Environmental Impact Assessments*); and
  2. All Minor Subdivision applications.
- C. **Baseline Historical & Cultural Resources Survey Map.** The applications subject to this Section must include a Baseline Historical & Cultural Resources Survey Map that contains:
  1. Tax parcel identification numbers for all parcels making up the subject property and those for all adjacent properties;

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<sup>872</sup> Carries forward and consolidates ZO Section 8.9 Fees and SR Section 1.15 Fees with minor edits to simplify the language.

<sup>873</sup> This new requirement implements recommendations from the Chatham County Historical Association.

2. Locations and approximate extents of known cemeteries or burial sites on the subject property and within 100 feet of all lot lines;
  3. Approximate locations of structures (e.g., buildings, houses, barns, sheds, and other outbuildings) on the subject property; specifically label structures noted on the maps of the North Carolina State Historic Preservation Office database (HPOWEB) and the County's GIS;
  4. The locations of features such as old road traces, foundations, walls, chimneys, wells, water courses, and disturbed areas; and
  5. Old deed and survey/plat references on the map.
- D. **Additional Requirements for Major Subdivision Sketch Plan Applications.** In addition to the Baseline Historical & Cultural Resources Survey Map, all Major Subdivision Sketch Plan applications subject to this Section must include:
1. A short description of the subject property, including significant finds during the field survey, including photos of all items noted on the Baseline Historical & Cultural Resources Survey Map;
  2. The approximate age and conditions of any structures;
  3. Thorough documentation of cemeteries/burial sites, ideally by a professional archaeologist using the N.C. Cemetery Site Form. Alternatively, the applicant may use the [Citizen's Cemetery Form](#). The Chatham County Historical Association can assist with documentation; and
  4. If applicable, describe specific cemetery and burial site protection measures to be employed, including the required cemetery buffer (see Section 6.2: *Cemetery Buffers*), and indicate how the cemetery will be maintained in accordance with Section 6.3: *Long-Term Preservation & Maintenance*.

## 18.3 GENERAL ENVIRONMENTAL DOCUMENTATION

- A. **Applicability.** This Section applies to any Conditional District Rezoning application and any Major Subdivision Sketch Plan application for a proposed development with 49 or fewer lots that does not require submittal of an Environmental Impact Assessment (see 18.4: *Environmental Impact Assessments*).
- B. **General Environmental Documentation Required.** All applications subject to this Section must include the information required by the [General Environmental Documentation Submittal Form](#) developed by the Watershed Protection Department.

## 18.4 ENVIRONMENTAL IMPACT ASSESSMENTS<sup>874</sup>

### 18.4.1 PURPOSE

As authorized by N.C.G.S. [§ 113A-8 Major development projects](#), the County requires Environmental Impact Assessments (EIA) to determine the effect new major developments may have on natural, historical, and cultural resources. EIAs are used as information in the development review process for certain conditional zoning districts and major subdivisions.

### 18.4.2 APPLICABILITY

- A. An Environmental Impact Assessment (EIA) is required in conjunction with any of the application types specified in 18.4.2B.1 through 18.4.2B.4, below, if the proposed development:
  - 1. Consists of 10 or more contiguous acres in extent; and
  - 2. Disturbs 10 or more acres.
- B. The following application types require submittal of an EIA if the proposed development meets the threshold specified in 18.4.2A, above:
  - 1. A Conditional District Rezoning application for a new conditional district;
  - 2. A Conditional District Rezoning application that involves a physical expansion of the project approved under an existing Conditional Zoning District.
    - (a) A physical expansion that is less than 10 contiguous acres in extent or disturbs less than 10 acres is subject to this Section, if substantial work has not begun on the approved project and the expansion together with the approved project will exceed 10 contiguous acres in extent and disturbs 10 or more acres.
    - (b) Physical expansion means the addition of new property or acreage to an area covered by an existing Conditional Zoning District.
    - (c) This requirement also applies to conversions of existing Conditional Use Zoning Districts to Conditional Zoning Districts;
  - 3. A Major Subdivision Sketch Plan application for a non-residential development, excepting bona fide farm activities; and
  - 4. A Major Subdivision Sketch Plan application for a residential development that will include 50 or more lots or 50 or more dwelling units, whether detached or attached single-family residences or in a multi-family structure or structures.

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<sup>874</sup> Carries forward and consolidates ZO Section 11.3 Environmental Impact Assessment and SR Section 6.2.B Environmental Impact Assessment (Additional First Plat Information).

### 18.4.3 EXEMPTIONS

- A. A project for which a detailed statement of the environmental impact of the project is required pursuant to N.C.G.S. [§ 113A-4\(2\)](#) or [42 U.S.C. § 4332\(C\)](#), or for which a functionally equivalent permitting process is required by federal or State law, regulation, or rule, is exempt from the requirement of this Section if a copy of any such detailed statement of environmental impact or of any application(s) for a functionally equivalent permitting process on which an exemption is claimed is provided to the County in conjunction with the application that would otherwise require an EIA.
- B. A project for which no environmental document is required pursuant to N.C.G.S. [§ 113A-12](#) is exempt from the requirements of this Section.

### 18.4.4 EIA SUBMITTAL REQUIREMENTS<sup>875</sup>

The Environmental Impact Assessment document must include the following information, as applicable:

- A. **Proposed Project Description and Need.**
1. Describe the overall project in detail, including all proposed phases;
  2. Provide a project location map showing surrounding areas;
  3. Provide a project site plan showing existing and proposed facilities;
  4. Describe how this project fits into larger plans or connects with adjacent projects;
  5. List and describe any public facilities or public benefits provided by the project;
  6. Discuss the land acreage to be disturbed during each phase;
  7. List square footage and height (in stories) of new buildings;
  8. Describe proposed uses of all buildings and proposed facilities;
  9. Show number of parking spaces in parking lots and decks;
  10. Show areas to be cleared, graded, filled, paved, and landscaped;
  11. Show connections to existing utility and sewer lines or new utilities;
  12. Show wastewater management systems on a map;
  13. Show proposed areas of impervious and semi-pervious surfaces; and
  14. Show and describe any proposed stormwater control devices.
- B. **Alternatives Analysis.**

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<sup>875</sup> This Subsection carries forward the current submittal requirements without edits, since an attorney and the County's Environmental Review Advisory Committee developed the requirements.

1. Discuss and compare all reasonable development alternatives (site selection, facility layout, utilities, stormwater management, construction methods, open space preservation, any other pertinent alternative considerations); and
2. Discuss how the preferred alternative was selected and its benefits relative to other alternatives (including a no-build alternative, if applicable).

C. **Existing Environment and Project Impacts.**

1. *Generally.* For each resource topic below, describe:
  - (a) Existing resources and conditions;
  - (b) Anticipated direct impacts (short-term construction impacts, and long-term operation impacts);
  - (c) Discuss how potential impacts to the resource will be avoided and minimized through alternative selection, design strategies, construction methods, and long-term maintenance procedures;
  - (d) For unavoidable impacts, describe whether any compensatory mitigation is planned or required.
2. *Geography.*
  - (a) Discuss the geographic setting, geology, and topography of the project area and adjacent areas;
  - (b) Provide a topographic map of the property and surrounding area, use the County GIS website topography (2-foot contour interval) data at a scale appropriate for the project size (e.g., 1 inch = 100 feet).
  - (c) Identify any 100-year floodplains (FEMA Special Flood Hazard Areas) on or adjacent to the property. If present, provide an appropriate-scale map of these flood-prone areas defined by the [N.C. Floodplain Mapping Program](#);
  - (d) Show areas that will be graded or filled and provide estimated cut/fill volumes; and
  - (e) If the project includes pond or dam work, show areas that will be flooded.
3. *Soils and Prime Farmlands.*
  - (a) Identify dominant soils in the project area (County GIS or NRCS website) and show on a map;
  - (b) Discuss any soil constraints (fill, wetland soils, septic suitability, slopes, etc.), and indicate those areas on a map;
  - (c) Describe any soil disturbance or contamination expected as a result of this project;
  - (d) If contamination is expected, discuss containment plans and procedures;

- (e) If soil will be relocated, specify the number of square yards/feet to be moved and its relocation site;
  - (f) Describe runoff management plans for the project;
  - (g) If soil disturbance is proposed, describe the off-site impacts expected from this activity;
  - (h) Provide a map of any prime or unique farmland soils in the project or service areas, and include references used to make this determination; and
  - (i) Describe impacts to prime or unique farmland soils, including acreage estimates of lost farmland soils and retained farmland soils.
4. *Land Use.*
- (a) Provide a map showing current use of land on the site and surrounding properties;
  - (b) Discuss how the current land use fits into the surrounding area (conservation, development, ecological function, etc.);
  - (c) Provide the current zoning of the project site and the surrounding area;
  - (d) Discuss how the proposed uses fit into the intended land use of the area (e.g., conservation, development, ecological function, quality of life); and
  - (e) Indicate whether zoning or local land use plans will need to be changed after project completion.
5. *Existing Natural Resources.*
- (a) Depict on a map riparian buffers (locations and widths), wetlands, ponds, watercourses (with name and direction of flow), and special flood hazard areas;
  - (b) Provide a copy of the State and Federal reports regarding wetlands and stream delineations;
  - (c) Provide a copy of the County report regarding riparian buffer delineations; and
  - (d) Provide a table of all anticipated temporary and permanent impacts to existing natural water resources and riparian buffers and discuss how the potential impacts will be avoided and minimized through alternative selection design strategies, construction methods, and long-term maintenance procedures. For unavoidable impacts, describe proposed mitigation.
6. *Public Lands and Scenic, Recreational, and State Natural Areas.* Provide a map of County or municipal parks, scenic, recreational, or state natural areas (SNHAs, State or Federal Forests, etc.) on or adjacent to the site/project area.

7. *Areas of Archaeological or Historical Value.*<sup>876</sup>
- (a) Include the Baseline Historical & Cultural Resources Survey Map described in 18.2: *Historical & Cultural Resources Documentation*;
  - (b) Discuss any archaeological or historical studies of the project location and provide relevant references;
  - (c) Describe and identify on a map any structures (e.g., walls, buildings, etc.) on the site and provide estimated ages of those structures;
  - (d) Provide a full description of the on-site field reconnaissance survey conducted for the entire site by a qualified expert (e.g., a cultural resource firm);
  - (e) Indicate the approximate age and conditions of any existing structures;
  - (f) Describe through field notes, measurements, and digital photos any items (or remains of any items) identified during the field survey, or during the title search and/or aerial photo analysis, as well as any other items of potential historic or cultural interest, such as graves, evidence of Native American habitation, old foundations, walls, road traces, disturbed sites, etc.;
  - (g) If the project area includes cemeteries or burial sites, include complete documentation of those sites on the State Cemetery Site Form;
  - (h) Describe all impacts to any archaeological or historical resources in the proposed project area;
  - (i) Describe, if applicable, specific measures to be employed to protect and maintain cemeteries and burial sites, including buffers, fencing, signs, etc. A certified professional archaeologist should determine the extent of cemeteries to ensure that all graves are included within the protected area—especially if fencing or nearby land disturbance for roads, paths, or structures could possibly impact the site. If cemeteries are to be maintained by an HOA, specify the requirements and resources the HOA will have to maintain the site;
  - (j) Describe plans for demolishing or rebuilding any structures; and
  - (k) Provide relevant correspondence with the Chatham County Historical Association and N.C. State Historic Preservation Office.
8. *Air Quality.*
- (a) Describe the project's impacts on ambient air quality;
  - (b) Describe plans for any open burning during or after construction;
  - (c) Indicate the number of proposed parking spaces, if applicable;

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<sup>876</sup> Incorporates additional items recommended by the Chatham County Historical Association (in (a), (d), (e), (f), (g), and (i)).

- (d) Describe whether the project will increase odor levels, or the likelihood of odor complaints; and
  - (e) Provide a copy of any required traffic studies.
9. *Noise Levels.*
- (a) Discuss current noise levels; use a benchmark, if possible;
  - (b) Describe any increases in noise levels expected from this project;
  - (c) Specify the distance at which the increased noise will be heard;
  - (d) Discuss whether surrounding properties will be affected by noise levels; and
  - (e) If commercial uses are proposed, specify the hours of operation.
10. *Light Levels.* Describe exterior lighting plans for the project, including how lighting will impact adjacent residents and wildlife.
11. *Surface and Groundwater Resources and Watershed Area.*
- (a) Describe groundwater (aquifers) in the project area;
  - (b) Discuss any known groundwater quality issues;
  - (c) Specify and show on a map the river basin in which the project is located;
  - (d) List the type(s) of Watershed Area(s) on the property and show a map; and
  - (e) Discuss drinking water sources.
12. *Fish and Aquatic Habitats.*
- (a) Describe fish and aquatic habitats in and adjacent to the site/project area; and
  - (b) Discuss impacts to fish and aquatic life and their habitats, including a map showing those habitats.
13. *Wildlife and Natural Vegetation.*
- (a) Describe and provide a map of natural community types on and adjacent to the site/project area;
  - (b) List the species of dominant plants and animals observed on the site that typify those communities;
  - (c) Evaluate and discuss whether suitable habitat exists for rare, threatened, and/or endangered species, as described by the N.C. Natural Heritage Program;
  - (d) If wildlife will be displaced, discuss any limitations of adjacent areas to support them;
  - (e) Identify, list, and describe the distribution of the invasive species present on the site [see [Appendix B: Invasive Plants](#)]; and



- (f) If forests will be cleared, discuss the extent of planned deforestation, and specify the forestry methods to be used, including BMPs.
14. *Hazardous Materials.*
- (a) List all hazardous materials to be stored or introduced during construction or operation; and
  - (b) For each hazardous material, other than in de minimis quantities or for routine housekeeping purposes, describe the procedures to be used to ensure their proper management, storage, and disposal.
- D. **References.** Provide references to additional reports, materials, etc. as needed.
- E. **Exhibits (maps, figures, tables, photos, etc.).** Include any exhibits relevant to the information required by this Subsection.
- F. **State and Federal Permits Required.** Include a list of any required state or federal permits.

#### 18.4.5 ROLE OF EIA IN DEVELOPMENT REVIEW PROCESS

The Board of Commissioners receives the EIA and all related comments from reviewing bodies (see Chapter 12: *Procedures*) as information only. The information presented may be used only to determine compliance with specific development standards established in this UDO.

## 18.5 TRAFFIC IMPACT ANALYSES<sup>877</sup>

### 18.5.1 PURPOSE

- A. A traffic impact analysis is a specialized engineering study that evaluates the effects of a proposed development on the surrounding transportation network. These analyses range in detail and complexity depending on the type, size, and location of the proposed development.
- B. Reviewing and decision-making bodies use a traffic impact analysis in their evaluation of a proposed development.

### 18.5.2 APPLICABILITY

- A. **Trips Threshold.** This Section applies to developments that are projected to generate 500 or more average daily trips (ADT).

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<sup>877</sup> ZO Section 5.3B(3) [Conditional Zoning Districts] allows the County to request an applicant provide a TIA. This Section proposes to require TIAs for conditional districts and major subdivisions. The NCDOT already requires TIAs for developments that are projected to generate 3,000+ average daily trips.

- B. **Application Types.** A Level 1 or Level 2 Analysis is required in conjunction with all of the following application types if the proposed development meets the thresholds specified in 18.5.4: *Thresholds & Type of Analysis Required*:
1. A Conditional District Rezoning application for a new conditional district;
  2. A Conditional District Rezoning application that involves a physical expansion of the project approved under an existing Conditional Zoning District;
  3. A Major Subdivision Sketch Plan application for a non-residential development, excepting bona fide farm activities; and
  4. A Major Subdivision Sketch Plan application for a residential development.
- C. **Exception.** When an applicant has already completed a traffic impact analysis for the proposed development through another approval process, an additional traffic impact analysis is not required. For example, if the applicant completes an analysis as part of a conditional district rezoning, another analysis is not required for a major subdivision sketch plan for the same development.

### 18.5.3 DEVELOPMENT PHASING & REDEVELOPMENT

A. **Phased Developments.**

1. Development projects shall not be phased or subdivided in order to avoid the requirement to conduct a traffic impact analysis. The Zoning Administrator may consider two or more developments represented as separate projects to be a single development for the purposes of traffic impact analysis. This determination shall consider the following factors, which may indicate a common development effort:
  - (a) Unified ownership or common management of the developments;
  - (b) Voluntarily shared infrastructure or infrastructure that is specifically designed to accommodate both developments;
  - (c) A reasonable closeness in time between the construction of one development and the submission to the County of an application for a subsequent development;
  - (d) A common advertising scheme or promotional plan for the developments; and
  - (e) Any information provided by the applicants indicating the development projects are not being phased or subdivided to avoid the requirements of this Section.
2. In phased developments, a traffic impact analysis is required if:
  - (a) The projected vehicle trip generation for the proposed phase meets the minimum threshold requirements; or
  - (b) The projected vehicle trip generation for the proposed phase, in addition to the trips associated with earlier phases, meets the minimum threshold requirements.

- B. **Redevelopment.** For redevelopment projects, trip generation thresholds are defined as the number of net new trips projected to be generated by the proposed development over and above the number of trips generated by the current use of the site.

**18.5.4 THRESHOLDS & TYPE OF ANALYSIS REQUIRED**

A. **Thresholds.**

1. A Level 1 or Level 2 traffic impact analysis is required based on the number of average daily trips (ADT) the proposed development is projected to generate, as indicated in Table 18.5.4-1: *Type of Analysis Required*.
2. Prior to final approval of the associated application, the Board of Commissioners may require a development that is projected to generate less than 3,000 ADT to conduct a Level 2 analysis if the proposed development:
  - (a) Is likely to have a significant impact on transportation capacity, transportation levels of service, or traffic safety in the vicinity of the proposed development indicated by factors other than ADT;
  - (b) Affects a location with a high vehicle crash history;
  - (c) Takes place at a high congestion location;
  - (d) Creates the fourth leg of an existing signalized intersection; or
  - (e) Exacerbates an already difficult situation, such as at a railroad crossing, fire station access, school access, or where there is poor roadway alignment.

**Table 18.5.4-1: Type of Analysis Required**

Type of Analysis	Threshold
Level 1 – Trip Generation Memo	≥ 500 ADT to < 3,000 ADT
Level 2 – Traffic Impact Analysis	≥ 3,000 ADT

**Key:** ADT = average daily trips

- B. **Land Uses Unknown at Time of Application Submittal.** When the final land uses are unknown at the time of application submittal, the applicant shall submit an analysis for a likely mix of land uses based on:
  1. The uses allowed in the zoning district; and
  2. The applicant’s analysis of the market.
- C. **Level 1 Analysis – Trip Generation Memo.**
  1. *Purpose.* A Level 1 analysis is intended as information for review and decision-making bodies and to identify whether further analysis is needed based on unique site attributes or development characteristics.
  2. *Contents.* A trip generation memo includes, at a minimum, all of the following information, as applicable:

- (a) General site information (location, acreage, current and proposed zoning);
- (b) Existing and proposed use(s);
- (c) Square footage of existing and proposed non-residential structures;
- (d) Number and type of existing and proposed dwelling units;
- (e) Description of all known land uses and structures located on the site for the five years preceding the date of the trip generation memo, regardless of whether the land use or structure still exists on-site;
- (f) Existing and proposed trips associated with the site;
- (g) Description of anticipated impacts on the transportation network and site access points;
- (h) A list of all previous traffic impact analyses conducted for the site; and
- (i) A list of projects in the [State Transportation Improvement Program](#) that affect or are adjacent to the proposed development.

**D. Level 2 Analysis – Traffic Impact Analysis.**

1. *Purpose.* A Level 2 analysis is intended:

- (a) As information for the review and decision-making bodies;
- (b) To quantitatively assess the nature and extent of the proposed development's impact on the transportation network; and
- (c) To identify transportation improvements (and their associated costs) that would offset the proposed development's impact on the transportation network.

2. *Contents.* A Level 2 Analysis:

- (a) Must follow [NCDOT Traffic Impact Analysis requirements](#) and include consideration for non-motorized and public transportation; and
- (b) Is prepared in consultation with the NCDOT District Engineer.

**E. Preparation by Professional Engineer Required.** A professional engineer registered in the State of North Carolina that specializes in transportation and has experience preparing TIAs must prepare the Level 1 or Level 2 analysis.

### 18.5.5 ROLE OF TIA IN DEVELOPMENT REVIEW PROCESS

- A. -The Board of Commissioners receives the TIA as information only. The information presented may be used only to determine compliance with specific development standards established in this UDO.
- B. However, as specified in 18.5.4A: *Thresholds*, the Board of Commissioners may require a development that is projected to generate less than 3,000 ADT to conduct a Level 2 analysis.

## 18.6 SPECIAL STUDIES<sup>878</sup>

### 18.6.1 PURPOSE

- A. In the administration of this UDO, reviewing and decision-making bodies occasionally will consider proposed land uses with the potential to have unusually significant impacts on adjacent lands and resources and other members of the community.
- B. In those cases, additional study is needed to demonstrate how the potential negative impact of these uses will be mitigated.
- C. A special study is used to help determine whether a use is consistent with the findings required by 12.15.8: *Review Criteria* [for Rezoning (Conditional Districts)].

### 18.6.2 APPLICABILITY<sup>879</sup>

- A. This Section applies to the following land uses, which must be located in a conditional zoning district (see Chapter 3: *Use Regulations*):
  1. All restricted industrial uses<sup>880</sup>;

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<sup>878</sup> This Section carries forward ZO Section 17.9 *Additional Information for Certain Special Use Permits*, and *requires* a special study for the listed land uses (the current language appears to provide discretion for the County to determine whether a study is required for these uses).

Since the release of the Public Review Draft of Chapter 3: Use Regulations, staff and the consultant team have proposed to eliminate the Special Use Permit (SUP) process. All uses currently designated as “S” (Special Uses) in Section 3.2: Principal Use Tables will instead require rezoning to a conditional use district. This will necessitate revisions to Chapter 2: Zoning Districts to establish another type of conditional use zoning district. This also will change the process to establish these uses from a quasi-judicial procedure to a legislative procedure.

<sup>879</sup> This Section applies to all land uses subject to ZO Section 17.9 *Additional Information for Certain Special Use Permits*, except:

- Heavy manufacturing, processing, or assembly uses not otherwise listed in the use table, which is replaced by the general “heavy industrial uses” use classification and is a permitted use in the IH District;
- Light manufacturing, processing, or assembly uses not otherwise listed in the use table, which is replaced by the general “light industrial uses” use classification and is a permitted use in the IL and IH Districts; and
- Laboratories for research and testing, which is replaced in the use table by the new use “research and development facility” and is a permitted use in all the districts in which it is allowed.

<sup>880</sup> The proposed definition of *restricted industrial uses* is land uses that “involve the use, storage, production, or processing of dangerous materials or substances that present immediate or long-term physical or chemical hazards, such as fire, explosion, corrosion, or toxicity, and that are used or stored in sufficient quantities such that accidental release or explosion may affect life, health, property, or the environment beyond the immediate perimeter of the facility...”

2. Aviation/aerospace equipment, engine, and instrument manufacturing and/or assembly;
  3. Coal or coke yards;
  4. Cosmetics and perfume manufacturing;
  5. Electric light or power generating station;
  6. Flammable liquids - bulk plants and storage;
  7. Garbage and waste incinerators (except hazardous waste);
  8. Mining;
  9. Natural gas compressor station;
  10. Non-metallic mineral product manufacturing;
  11. Oil and gas exploration, development, and production;
  12. Pharmaceutical products manufacturing;
  13. Sanitary landfill, excluding the burning of trash outdoors; and
  14. Semiconductor manufacturing.
- B. This Section also applies to an application for any use that must be established via a conditional zoning district (see Section 3.2: *Principal Use Tables*) and that is subject to 18.4: *Environmental Impact Assessments*.

### 18.6.3 PROCEDURE

- A. Prior to submittal of a Conditional District Rezoning application (see Section 12.15) that involves one or more of the uses subject to this Section, the applicant must meet with the Zoning Administrator to determine the scope of the required special study and select a consultant.
1. Chatham County will retain the services of a consultant that is mutually acceptable to the County and the applicant to conduct the special study.
  2. The applicant must pay a fee as part of the Conditional District Rezoning application for the reasonable costs of the consulting services incurred by the County.
- B. The completed special study becomes part of the Conditional District Rezoning application.

# APPENDIX A: PLANT LIST<sup>881</sup>

Note: Evergreen plants are highlighted in green.

Scientific Name	Common Name	Native - N Native Cultivar - C	Mature Height	Mature Width	Sun Exposure	Evergreen - G	Drought Tolerant - D	Wet Soil Tolerant - W	Tough Urban Sites - U	Resistant to Deer - R	Edible - E
<b>Large Trees (Height: &gt; 50')</b>											
<i>Acer rubrum</i>	Red Maple	N	40-120'	30-50'	●○			W		R	
<i>Acer rubrum</i> 'Franksred' and other cultivars	Red Sunset Maple	C	50-60'	35-40'	●○			W		R	
<i>Acer saccharum</i> subsp. <i>floridanum</i>	Southern Sugar Maple	N	20-70'	20-30'	●●○○			W		R	
<i>Aesculus flava</i>	Yellow Buckeye	N	40-60'	30-40'	●○					R	
<i>Betula nigra</i>	River Birch	N	40-90'	40-60'	●○			W		R	
<i>Betula nigra</i> 'Dura Heat'	Dura Heat River Birch	C	40-70'	40-60'	●○			W	U	R	
<i>Carpinus betulus</i>	European Hornbeam	E	40-60'	30-40'	●○		D		U		
<i>Carya glabra</i>	Pignut Hickory	N	60-80'	25-40'	●○		D			R	
<i>Carya illinoensis</i>	Pecan Tree	N	70-100'	40-75'	●○		D	W			E
<i>Catalpa speciosa</i>	Northern Catalpa	N	40-70'	20-40'	●○		D	W			
<i>Celtis laevigata</i>	Sugar Hackberry	N	50-70'	30-60'	●○		D		U	R	
<i>Celtis occidentalis</i>	Hackberry	N	40-100'	40-60'	●●○○		D	W	U		E
<i>Chamaecyparis obtusa</i>	Hinoki Falsecypress	E	50-75'	10-25'	●○	G					
<i>Chamaecyparis thyroides</i>	Atlantic White Cedar	N	60-80'	30-40'	●○	G		W			
<i>Corylus colurna</i>	Turkish Filbert	E	40-80'	30-50'	●○		D		U		E
<i>Cryptomeria japonica</i>	Japanese Cedar	E	50-60'	20-30'	●○	G				R	
<i>Cupressus sempervirens</i> and other varieties	Italian Cypress	E	40-70'	3-6'	○	G	D		U		
<i>Diospyros virginiana</i>	Persimmon	N	30-80'	20-35'	●○		D				E
<i>Fagus grandifolia</i>	American Beech	N	60-80'	40-80'	●○					R	

<sup>881</sup> This is the plant list from the Chatham County Appearance Commission's Design Guidelines.

Scientific Name	Common Name	Native - N Native Cultivar - C	Mature Height	Mature Width	Sun Exposure	Evergreen - G	Drought Tolerant - D	Wet Soil Tolerant - W	Tough Urban Sites - U	Resistant to Deer - R	Edible - E
<i>Ginkgo biloba</i> 'Autumn Gold' and other fruitless males only	Ginkgo	E	50-80'	30-40'	○		D		U	R	
<i>Gleditsia triacanthos</i>	Thornless Honeylocust	N	30-70'	30-50'	○		D		U	R	
<i>Gymnocladus dioicus</i>	Kentucky Coffeetree	N	60-75'	40-50'	○		D		U		
<i>Liquidambar styraciflua</i>	Sweetgum	N	60-100'	40-50'	◐○		D	W	U	R	
<i>Liriodendron tulipifera</i>	Tulip Poplar	N	70-130'	30-60'	◐○					R	
<i>Magnolia acuminata</i>	Cucumber Tree	N	50-80'	35-60'	◐○						
<i>Magnolia grandiflora</i>	Southern Magnolia	N	60-80'	30-50'	◐○	G			U	R	
<i>Nyssa Sylvatica</i>	Black Gum	N	30-100'	20-35'	◐○		D	W	U	R	E
<i>Nyssa sylvatica</i> 'JFS-PN Legacy' and other cultivars	Gum Drop Black Gum	C	30'	20'	◐○		D	W	U	R	E
<i>Pinus sylvestris</i>	Scotch Pine	E	30-70'	20-35'	○	G			U	R	
<i>Pinus taeda</i>	Loblolly Pine	N	60-90'	20-40'	○	G	D	W	U	R	
<i>Platanus occidentalis</i>	Sycamore	N	75-110'	75-100'	◐○		D	W	U	R	
<i>Platanus x acerifolia</i>	London Planetree	E	75-100'	60-75'	○				U	R	
<i>Prunus serotina</i>	Black Cherry	N	60-80'	30-60'	○					R	
<i>Quercus alba</i>	White Oak	N	50-135'	50-80'	◐○		D			R	
<i>Quercus coccinea</i>	Scarlet Oak	N	50-80'	45-78'	◐○		D			R	
<i>Quercus falcata</i>	Southern Red Oak	N	60-100'	50-60'	◐○		D			R	
<i>Quercus imbricaria</i>	Shingle Oak	N	50-70'	50-60'	◐○		D	W		R	
<i>Quercus laurifolia</i>	Laurel Oak	N	40-60'	30-40'	◐○			W			
<i>Quercus macrocarpa</i>	Bur Oak	N	70-80'	70-80'	◐○		D			R	
<i>Quercus montana</i>	Chestnut Oak	N	50-70'	50-70'	◐○		D			R	
<i>Quercus nigra</i>	Water Oak	N	50-100'	35-60'	◐○			W		R	
<i>Quercus pagoda</i>	Cherrybark Oak	N	90-130'	30-70'	◐○					R	
<i>Quercus palustris</i>	Pin Oak	N	70-90'	40-50'	◐○			W		R	
<i>Quercus phellos</i>	Willow Oak	N	50-80'	30-40'	◐○			W	U	R	
<i>Quercus rubra</i>	Northern Red Oak	N	60-90'	60-75'	◐○		D			R	
<i>Robinia pseudoacacia</i>	Black Locust	N	50-70'	20-35'	◐○		D		U		
<i>Sassafras albidum</i>	Sassafras	N	40-70'	25-40'	◐○		D			R	



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<i>Styphnolobium japonicum</i>	Japanese Pagoda Tree	E	50-75'	50-75'	●○		D		U	R	
<i>Taxodium distichum</i>	Baldcypress	N	50-100'	15-40'	●○			W	U	R	
<i>Tilia americana</i>	American Basswood, Linden	N	50-80'	30-50'	●○		D				
<i>Ulmus americana</i> 'Lewis & Clark'	Prairie Expedition® American Elm	C	55-60'	35-40'	●○		D		U	R	
<i>Zelkova serrata</i>	Japanese Zelkova	E	50-80'	50-80'	●○		D		U		
<b>Medium Trees (Height: 30-50')</b>											
<i>Acer buergerianum</i>	Trident Maple	E	25-35'	20-30'	○		D		U		
<i>Aesculus x carnea</i>	Red Horsechestnut	E	30-40'	25-35'	●○					R	
<i>Castanea mollissima</i>	Chinese Chestnut	E	35-40'	40-50'	○		D				E
<i>Cedrus deodara</i>	Deodar Cedar	E	30-50'	30-40'	●○	G	D		U	R	
<i>Celtis occidentalis</i> 'Prairie Sentinel'	Prairie Sentinel® Hackberry	C	36-42'	9-12'	●○		D		U	R	
<i>Cladrastis kentukea</i>	Yellowwood	N	30-45'	40-45'	●○		D				
<i>Hesperocyparis arizonica</i>	Arizona Cypress	E	40-60'	15-20'	○	G	D		U	R	
<i>Ilex opaca</i>	American Holly	N	40-60'	10-20'	●●○	G				R	
<i>Ilex opaca</i> cultivars	American Holly	C	40-60'	10-20'	●●○	G				R	
<i>Juniperus virginiana</i>	Eastern Red Cedar	N	30-40'	10-20'	●○	G	D		U	R	
<i>Koelreuteria paniculata</i>	Golden Raintree	E	30-40'	15-35'	●○		D		U	R	
<i>Parrotia persica</i>	Persian Ironwood	W	20-40'	15-30'	●○						
<i>Pistacia chinensis</i>	Chinese Pistache	E	25-40'	25-35'	○		D		U		
<i>Prunus x yedoensis</i>	Yoshino Cherry	E	30-40'	20-50'	●○		D		U		
<i>Quercus stellata</i>	Post Oak	N	40-50'	35-50'	○		D		U	R	
<i>Thuja occidentalis</i>	American Arborvitae	N	40-60'	10-15'	●○	G		W			
<i>Ulmus parvifolia</i>	Chinese Elm	E	40-60'	50-60'	●○		D		U		
<b>Small Trees (Height: &lt; 30')</b>											
<i>Acer griseum</i>	Paperbark Maple	E	20-30'	15-25'	●○						
<i>Acer leucoderme</i>	Chalk Maple	N	20-30'	15-25'	●●○		D		U		
<i>Acer palmatum</i> varieties and cultivars	Japanese Maple	E	15-25'	10-25'	●●					R	
<i>Aesculus pavia</i>	Red Buckeye	N	15-25'	10-20'	●			W		R	

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<i>Alnus serrulata</i>	Tag Alder	N	10-15'	8-15'	●○		D	W	U		
<i>Amelanchier</i>	Common Serviceberry	N	15-25'	15-25'	●●○						E
<i>Amelanchier x grandiflora</i>	Apple Serviceberry	C	15-25'	15-25'	●○					R	E
<i>Amelanchier arborea</i>	Downy Serviceberry	N	15-25'	10-15'	●○			W		R	E
<i>Asimina trioba</i>	Pawpaw	N	15-30'	15-30'	●●○					R	E
<i>Carpinus caroliniana</i>	American Hornbeam	N	20-30'	20-30'	●●			W			
<i>Castanea pumila</i>	Chinquapin	N	15-30'	10-20'	●○		D				E
<i>Cercis canadensis</i>	Eastern Redbud	N	20-30'	25-35'	●○					R	
<i>Cercis canadensis cultivars</i>	Redbud	C	20-30'	25-35'	●○					R	
<i>Chamaecyparis pisifera</i>	Japanese Falsecypress	E	20-30'	10-20'	●●○	G	D				
<i>Chionanthus retusus</i>	Chinese Fringetree	E	18-35'	10-25'	●○						
<i>Chionanthus virginicus</i>	American Fringetree	N	12-30'	12-20'	●○		D		U	R	
<i>Cornus alternifolia</i>	Pagoda Dogwood	N	15-25'	20-32'	●○					R	
<i>Cornus florida</i>	Flowering Dogwood	N	15-25'	15-30'	●○					R	
<i>Cornus florida cultivars</i>	Flowering Dogwood	C	15-25'	15-30'	●○					R	
<i>Cornus kousa</i>	Kousa Dogwood	E	20-30'	15-20'	●○					R	
<i>Cornus mas</i>	Cornelian Cherry Dogwood	E	20-25'	15-20'	●○					R	
<i>Cotinus coggygria</i>	Smoketree, Smokebush	E	10-15'	10-15'	○		D			R	
<i>Crataegus phaenopyrum</i>	Washington Hawthorn	N	25-30'	20-25'	●○		D		U	R	
<i>Crataegus viridis</i>	Green Hawthorn	N	20-35'	20-35'	○		D				
<i>Crataegus viridis 'Winter King'</i>	Winter King Hawthorn	C	20-35'	20-35'	○		D				
<i>Euscaphis japonica</i>	Korean Sweetheart Tree	E	12-20'	10-15'	●○		D				
<i>Halesia carolina</i>	Carolina Silverbell	N	10-40'	25-35'	●○						
<i>Hamamelis virginiana</i>	Common Witchhazel	N	15-30'	15-20'	●○					R	
<i>Ilex x attenuata 'Fosteri'</i>	Foster's Holly	N	20-30'	10-20'	●○	G				R	
<i>Lagerstroemia indica</i>	Crapemyrtle	E	8-40'	15-25'	○		D		U	R	
<i>Magnolia tripetala</i>	Umbrella magnolia	N	15-40'	15-30'	●○						
<i>Magnolia virginiana</i>	Sweetbay Magnolia	N	10-20'	10-20'	●○	G		W		R	
<i>Magnolia soulangeana</i>	Saucer Magnolia	E	15-33'	15-25'	●○					R	
<i>Magnolia stellata</i>	Star Magnolia	E	15-24'	10-15'	●○						

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<i>Malus hybrids</i>	Crabapple	E	15-26'	10-20'	○						E
<i>Ostrya virginiana</i>	Hop-Hornbeam	N	20-30'	10-15'	●●○		D		U	R	
<i>Oxydendrum arboreum</i>	Sourwood	N	20-30'	10-15'	●●○		D			R	
<i>Prunus Americana</i>	American Plum	N	10-20'	15-25'	●○						E
<i>Prunus caroliniana</i>	Carolina Cherry Laurel	N	15-35'	15-20'	●○	G	D			R	
<i>Prunus mume</i>	Flowering Apricot	E	10-20'	10-20'	○						
<i>Prunus virginiana</i>	Choke Cherry	N	20-30'	18-25'	○						
<i>Ptelea trifoliata</i>	Hoptree	N	15-20'	10-20'	●○		D				
<i>Stewartia ovata</i>	Mountain Stewartia	N	10-15'	10-15'	●○						
<i>Styrax japonicus</i>	Japanese Snowbell	E	20-30'	20-30'	●○						
<i>Syringa reticulata</i>	Japanese Tree Lilac	E	20-30'	15-20'	○				U	R	
<b>Large Shrubs (Height: 10-20')</b>											
<i>Aralia spinosa</i>	Devil's Walkingstick	N	10-35'	6-10'	●○		D		U	R	
<i>Camellia japonica</i>	Japanese Camellia	E	10-13'	5-10'	●	G				R	
<i>Chamaecyparis thyroides</i> 'Rubicon' and other cultivars	Rubicon White Cedar	C	15-25'	4-12'	●○	G		W		R	
<i>Clethra acuminata</i>	Cinnamonbark	N	8-20'	4-6'	●●○					R	
<i>Cleyera japonica</i>	Japanese Cleyera	E	10-15'	8-10'	●○	G	D				
<i>Corylus americana</i>	Hazelnut	N	9-12'	8-13'	●●○						E
<i>Hesperocyparis arizonica</i> 'Limelight' and other cultivars	Yellow Arizona Cypress	C	15-20'	4-5'	○	G	D		U	R	
<i>Hamamelis virginiana</i>	Witchhazel	N	15-30'	15-20'	●○					R	
<i>Ilex cornuta</i> 'Needlepoint'	Needlepoint Holly	E	15-20'	10-20'	●○	G	D		U	R	
<i>Ilex cornuta</i> 'Sizzler'	Sizzler Holly	E	10-15'	10-15'	●○	G	D		U	R	
<i>Ilex decidua</i>	Possumhaw	N	7-15'	5-12'	●○			W			
<i>Ilex latifolia</i>	Lusterleaf Holly	E	20-23'	7-12'	●○	G	D			R	
<i>Ilex x 'Mary Nell'</i>	Mary Nell Holly	E	10-25'	5-10'	●○	G	D			R	
<i>Ilex x 'Nellie R. Stevens'</i>	Nellie Stevens Holly	E	15-25'	8-15'	●○	G	D		U	R	
<i>Ilex verticillata</i>	Winterberry Holly	N	3-15'	3-12'	●●○			W		R	
<i>Ilex vomitoria</i>	Yaupon Holly	N	10-20'	8-12'	●●○	G	D	W	U	R	
<i>Ilex vomitoria pendula</i>	Weeping Yaupon Holly	N	15-30'	6-12'	●○	G	D	W	U	R	

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<i>Juniperus scopulorum</i> 'Blue Arrow'	Blue Arrow Juniper	N	12-15'	2'	○	G	D		U	R	
<i>Juniperus scopulorum</i> 'Skyrocket'	Skyrocket Juniper	N	15-30'	6-8'	○	G	D		U	R	
<i>Juniperus chinensis</i> 'Torulosa'	Hollywood Juniper	E	10-15'	6-15'	○	G	D			R	
<i>Kalmia latifolia</i>	Mountain Laurel	N	4-15'	4-8'	●○	G				R	
<i>Lindera benzoin</i>	Spicebush	N	8-15'	6-15'	●		D	W	U		E
<i>Myrica cerifera</i>	Wax Myrtle, Bayberry	N	20-25'	8-10'	●○	G	D	W	U	R	
<i>Osmanthus fragrans</i>	Fragrant Tea Olive	E	10-20'	10-14'	●	G	D			R	
<i>Osmanthus heterophyllus</i>	Holly Leaf Tea Olive	E	6-21'	5-10'	●○	G	D		U	R	
<i>Podocarpus macrophyllus</i>	Chinese Podocarpus	E	15-50'	6-8'	●○	G	D			R	
<i>Rhus copallinum</i>	Flameleaf Sumac	N	7-15'	10-20'	●○		D				
<i>Rhus glabra</i>	Smooth Sumac	N	9-15'	9-15'	●○		D				
<i>Thuja occidentalis</i> 'Degroot's Spire'	Degroot's Spire Arborvitae	C	15-30'	4-5'	●○	G					
<i>Vaccinium virgatum</i>	Rabbiteye Blueberry	N	10-15'	6-8'	●○			W			E
<i>Viburnum rufidulum</i>	Blackhaw Viburnum	N	10-20'	10-20'	●○		D			R	
<b>Medium Shrubs (Height: 6-10')</b>											
<i>Aronia arbutifolia</i>	Red Chokeberry	N	6-10'	3-5'	●○		D	W			
<i>Aesculus parviflora</i>	Bottlebrush Buckeye	N	6-10'	8-15'	●○		D		U	R	
<i>Aucuba japonica</i>	Japanese Aucuba	E	6-10'	4-6'	●●	G	D				
<i>Calycanthus floridus</i>	Sweetshrub, Carolina Allspice, Bubby Bush	N	6-12'	6-12'	●●○					R	
<i>Camellia sasanqua</i>	Sasanqua Camellia	E	6-14'	5-7'	●●	G	D			R	
<i>Cephalanthus occidentalis</i>	Buttonbush	N	5-8'	3-6'	●○			W		R	
<i>Cephalotaxus harringtonia</i>	Japanese Plum Yew	E	5-10'	5-14'	●●	G	D			R	
<i>Chaenomeles speciosa</i>	Flowering Quince	N	6-10'	6-10'	●○						E
<i>Clethra alnifolia</i>	Sweet Pepperbush	N	5-10'	4-6'	●●○			W		R	
<i>Cornus amomum</i>	Silky Dogwood	N	6-12'	6-12'	●●○			W		R	
<i>Cornus sericea</i>	Red Twig Dogwood	N	5-9'	5-10'	●○		D	W		R	
<i>Ficus carica</i>	Fig	E	7-10'	6-10'	●○						E
<i>Forsythia x intermedia</i>	Forsythia	E	8-10'	10-12'	●○						

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<i>Fothergilla latifolia</i>	Large Fothergilla	N	6-12'	6-10'	●			W			
<i>Hydrangea quercifolia</i>	Oakleaf Hydrangea	N	4-8'	4-10'	○○		D				
<i>Ilex crenata</i> 'Soft Touch' and other cultivars	Japanese Holly	E	2-3'	2-3'	○					R	
<i>Ilex crenata</i> 'Sky Pencil'	Sky Pencil Holly	E	4-10'	1-3'	○○	G					
<i>Ilex glabra</i>	Inkberry Holly	N	5-10'	5-8'	○○	G		W		R	
<i>Illicium floridanum</i>	Florida Anise Tree	N	6-10'	6-8'	●●	G		W		R	
<i>Illicium</i> cultivars	Anise Tree	C	6-10'	6-8'	●●	G		W		R	
<i>Itea virginica</i>	Virginia Sweetspire	N	4-8'	3-6'	●		D	W		R	
<i>Juniperus communis</i>	Common Juniper	N	5-10'	8-12'	○	G	D		U	R	
<i>Linnaea x grandiflora</i> and cultivars	Glossy Abelia	E	2-8'	3-6'	○○	G	D		U	R	
<i>Loropetalum chinensis</i> cultivars	Loropetalum	E	6-10'	6-10'	○○	G				R	
<i>Osmanthus heterophyllus</i> 'Goshiki'	Varigated False Holly	E	5-10'	4-8'	○○	G				R	
<i>Philadelphus inodorus</i>	Mock Orange	N	3-10'	4-6'	○○		D				
<i>Pieris japonica</i>	Japanese Pieris	E	9-13'	4-8'	○○	G				R	
<i>Rhododendron austrinum</i>	Florida Azalea	N	8-10'	8-10'	●		D				
<i>Rhododendron catawbiense</i>	Mountain Rosebay	N	6-10'	8-10'	●●○	G				R	
<i>Rhododendron maximum</i>	Rosebay Rhododendron	N	5-15'	5-12'	●●○	G				R	
<i>Rhododendron periclymenoides</i>	Pinxterbloom Azalea	N	4-10'	4-5'	○○		D				
<i>Salix sericea</i>	Silky Willow	N	6-13'	4-12'	●●○			W			
<i>Sambucus canadensis</i>	Elderberry	N	9-12'	6-12'	○○		D	W			E
<i>Vaccinium corymbosum</i>	Highbush Blueberry	N	3-12'	3-10'	○○			W			E
<i>Vaccinium stamineum</i>	Deerberry	N	5-15'	6-12'	○○		D				
<i>Viburnum cassinoides</i>	Blue Haw Viburnum	N	5-10'	5-8'	○○			W		R	
<i>Viburnum dentatum</i>	Arrowwood Viburnum	N	5-10'	6-10'	○○					R	
<i>Viburnum lantanooides</i>	Hobblebush	N	3-10'	6-12'	●					R	
<i>Viburnum nudum</i>	Possumhaw Viburnum	N	5-12'	5-12'	○○			W	U		
<i>Viburnum tinus</i> 'Spring Bouquet' and other cultivars	Spring Bouquet Tinus Viburnum	E	5-6'	5-6'	○○	G	D			R	
<i>Weigela florida</i>	Weigela	E	6-10'	6-12'	○○					R	

Scientific Name	Common Name	Native - N	Native Cultivar - C	Mature Height	Mature Width	Sun Exposure	Evergreen - G	Drought Tolerant - D	Wet Soil Tolerant - W	Tough Urban Sites - U	Resistant to Deer - R	Edible - E
<b>Small Shrubs (Height: 1-5')</b>												
<i>Aronia melanocarpa</i>	Black Chokeberry	N		3-6'	3-6'	●○		D	W			
<i>Buddleja Lo &amp; Behold® cultivars only</i>	Dwarf Butterfly Bush	E		1-2.5'	2-2.5'	○		D		U	R	
<i>Buxus microphylla</i>	Littleleaf Boxwood	E		3-4'	3-4'	●○	G				R	
<i>Buxus sinica</i>	Korean Boxwood	E		2-10'	4-20'	●○	G	D			R	
<i>Buxus sempervirens 'Suffruticosa'</i>	English Boxwood	E		2-3'	2-4'	●	G				R	
<i>Callicarpa americana</i>	American Beautyberry	N		3-8'	3-6'	●○						E
<i>Callicarpa americana cultivars</i>	American Beautyberry	C		3-8'	3-6'	●○						E
<i>Callicarpa dichotoma 'Issai' and other cultivars</i>	Purple Beautyberry	E		2-4'	2-4'	●○		D			R	
<i>Caryopteris x clandonensis</i>	Bluebeard	E		2-3'	2-3'	○		D			R	
<i>Ceanothus americanus</i>	New Jersey Tea	N		2-3'	3-5'	●○		D		U		E
<i>Cephalotaxus harringtonia 'Prostrata'</i>	Prostrate Plum Yew	E		2-6'	2-6'	●●	G	D			R	
<i>Daphne odora</i>	Fragrant Daphne	E		3-6'	2-4'	●○	G					
<i>Deutzia gracilis</i>	Slender Deutzia	E		2-5'	3-4'	●○		D		U	R	
<i>Diervilla sessilifolia</i>	Bush Honeysuckle	N		3-5'	3-5'	●○		D			R	
<i>Distylium</i>	Winter-hazel	E		2-10'	3-8'	●○	G	D	W			
<i>Edgeworthia chrysantha</i>	Paper Bush	E		4-6'	4-6'	●○						
<i>Euonymus</i>	Strawberry Bush, Hearts-a-bustin'	E		4-6'	4-6'	●○		D				
<i>Fothergilla gardenii</i>	Dwarf Fothergilla	N		3-6'	2-6'	●○			W		R	
<i>Gardenia jasminoides</i>	Cape Jasmine Gardenia	E		4-8'	4-8'	●○	G	D			R	
<i>Hydrangea arborescens</i>	Smooth Hydrangea	N		3-5'	3-5'	●●					R	
<i>Hydrangea arborescens 'Annabelle' and other cultivars</i>	Annabelle Hydrangea	C		3-5'	3-5'	●●					R	
<i>Hydrangea macrophylla</i>	Bigleaf Hydrangea	E		3-6'	3-6'	●●						
<i>Hypericum densiflorum</i>	Bushy St. John's Wort	N		2-7'	3-6'	●○		D				
<i>Hypericum frondosum</i>	St. John's Wort	N		3-4'	3-4'	●○		D				
<i>Hypericum prolificum</i>	Shrubby St. Johnswort	N		1-5'	1-5'	●○		D		U		
<i>Ilex crenata 'Compacta'</i>												

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<i>Ilex cornuta</i> 'Carissa' and other cultivars	Carissa Holly	E	3-4'	4-6'	●○	G	D		U	R	
<i>Ilex glabra</i> 'Shamrock' and other cultivars	Shamrock Inkberry Holly	C	3-5'	4-5'	●○	G		W		R	
<i>Ilex vomitoria</i> 'Nana'	Dwarf Yaupon Holly	C	3-5'	3-6'	●○	G	D		U	R	
<i>Itea virginica</i> 'Henry's Garnet'	Henry's Garnet Sweetspire	C	3-5'	3-6'	●○			W			
<i>Itea virginica</i> 'Little Henry'	Little Henry Sweetspire	C	2-3'	2-3'	●○			W			
<i>Jasminum nudiflorum</i>	Winter Jasmine	E	3-4'	4-7'	●○		D			R	
<i>Lavandula x intermedia</i>	French Lavender	E	2-3'	2-3'	○	G	D			R	E
<i>Lavandula stoechas</i>	Spanish Lavendar	E	1-1.5'	1.5-2'	○	G	D			R	E
<i>Leucothoe axillaris</i>	Leucothoe, doghobble	N	2-4'	3-6'	●●	G				R	
<i>Myrica cerifera</i> var. <i>pumila</i> and other dwarf varieties	Dwarf Wax Myrtle	N	4-6'	4-6'	●●○	G				R	
<i>Nandina domestica</i> (dwarf, non-berried or sterile cultivars only)	Heavenly Bamboo	E	2-4'	3-5'	●○	G				R	
<i>Osmanthus heterophyllus</i> 'Rotundifolius'	Roundleaf Osmanthus	E	4-5'	4-5'	●○	G	D			R	
<i>Prunus laurocerasus</i> 'Otto Luyken'	Otto Luyken Cherry Laurel	E	3-4'	6-8'	●●	G	D		U		
<i>Rhododendron Encore</i> ® and other dwarf cultivars	Azalea	C	2-5'	3-4'	●○						
<i>Rhododendron minus</i>	Carolina Rhododendron	N	3-6'	3-6'	●●	G				R	
<i>Rosa carolina</i>	Carolina Rose	N	3-6'	5-10'	●○						
<i>Rosa hybrida</i>	Knock out Rose	C	3-10'	3-10'	●○						
<i>Rosa palustris</i>	Swamp Rose	N	3-6'	3-6'	●○						
<i>Salvia rosmarinus</i>	Rosemary	E	2-6'	3-4'	●○	G	D			R	E
<i>Sarcococca hookeriana</i> var. <i>humilis</i>	Sweetbox	E	1-3'	2-3'	●●	G				R	
<i>Spiraea japonica</i>	Japanese Spirea	E	4-6'	4-7'	●○		D				
<i>Spiraea tomentosa</i>	Steeplebush	N	2-4'	3-5'	○			W		R	
<i>Spiraea x bumalda</i>	Bumald Spiraea	E	2-3'	3-5'	○		D			R	
<i>Symphoricarpos orbiculatus</i>	Coralberry	N	2-4'	3-6'	●●○		D				
<i>Vaccinium pallidum</i>	Lowbush Blueberry	N	2-3'	2-3'	●●		D				
<i>Viburnum acerifolium</i>	Mapleleaf Viburnum	N	4-6'	2-6'	●					R	

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<i>Viburnum obovatum</i> 'Mrs. Schiller's Delight'	Mrs. Schiller's Delight Viburnum	C	3-5'	3-5'	●○	G	D	W	U	R	
<i>Viburnum obovatum</i> 'Raulston Hardy'	Raulston's Hardy Viburnum	C	3-4'	3-4'	●○	G	D	W	U	R	
<i>Xanthorrhiza simplicissima</i>	Yellowroot	N	2-3'	6-10'	●					R	
<i>Yucca filamentosa</i>	Adam's Needle Yucca	N	3-8'	3-5'	●○	G	D		U	R	E
<b>Vines</b>											
<i>Actinidia arguta</i> 'Issai'	Issai Hardy Kiwi	E	12-20'	3-5'	●○						E
<i>Aristolochia macrophylla</i>	Dutchman's Pipe	N	15-40'	15-20'	●○					R	
<i>Bignonia capreolata</i>	Crossvine, Trumpet Flower	N	30-50'	6-9'	●●○	G	D		U		
<i>Bignonia capreolata</i> 'Tangerine Beauty'	Tangerine Beauty Crossvine	C	30-50'	6-9'	●●○	G	D		U		
<i>Campsis radicans</i>	Trumpet Vine	N	30-40'	4-10'	●○		D		U	R	
<i>Clematis armandii</i>	Armand Clematis	E	15-30'	10-15'	●○	G				R	
<i>Clematis virginiana</i>	Woodbine	N	15-20'	3-6'	●●○					R	
<i>Ficus pumila</i>	Climbing Fig	E	8-15'	3-6'	●○	G	D			R	
<i>Gelsemium sempervirens</i>	Carolina Jasmine, Yellow Jessamine	N	10-20'	20-30'	●○	G				R	
<i>Hydrangea anomala</i>	Japanese Climbing Hydrangea	E	30-60'	5-6'	●●		D				
<i>Hydrangea barbara</i>	Climbing Hydrangea	N	12-36'	1-3'	●●○			W		R	
<i>Lonicera sempervirens</i>	Coral Honeysuckle	N	10-20'	3-6'	●○	G				R	
<i>Lonicera sempervirens</i> 'John Clayton'	John Clayton Coral Honeysuckle	C	10-20'	3-6'	●○	G				R	
<i>Parthenocissus quinquefolia</i>	Virginia Creeper	N	30-50'	5-10'	●●○		D		U	R	
<i>Passiflora incarnata</i>	Passion Flower	N	6-8'	3-6'	●○		D			R	E
<i>Rosa banksiae</i> 'Lutea'	Lady Banks' Rose	E	15-20'	6-10'	○					R	
<i>Trachelosperum asiaticum</i>	Yellow Star Jasmine	E	1-2'	10-12'	●●○	G	D			R	
<i>Trachelosperum jasminoides</i>	Confederate Jasmine	E	20'	4-5'	●○	G				R	
<i>Vitis rotundifolia</i>	Muscadine Grape	N	60-80'		●○						E
<b>Grasses</b>											
<i>Acorus calamus</i>	Sweet Flag	E	24-30"	18-24"	●●○	G		W		R	
<i>Acorus gramineus</i>	Grassy-leaved Sweet Flag	E	6-12"	6-12"	●○	G		W		R	



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<i>Andropogon gerardii</i>	Big Bluestem	N	4-8'	2-3'	○		D		U	R	
<i>Andropogon virginicus</i>	Beard Grass	N	2-4'	1-2'	●○		D		U	R	
<i>Arundinaria gigantea</i>	River Cane, Switchcane	N	4-25'	8-25'	●●○	G		W		R	
<i>Calamagrostis x acutiflora 'Karl Foerster'</i>	Karl Foerster Feather Reed Grass	E	3-5'	1-3'	●○		D	W	U	R	
<i>Carex cherokeensis</i>	Cherokee Sedge	N	12-24"	12-18"	●○			W		R	
<i>Carex pensylvanica</i>	Pennsylvanica Sedge	N	1-8"	1-12"	●●○		D	W	U	R	
<i>Carex plantaginea</i>	Broad-Leafed Sedge	N	6-36"	10-12"	●●			W			
<i>Cenchrus alopecuroides</i>	Fountain Grass	E	2-4'	2-4'	●○					R	
<i>Cenchrus alopecuroides 'Hameln' and other cultivars</i>	Hameln Fountain Grass	E	2-3'	2-3'	●○		D	W	U	R	
<i>Chasmanthium latifolium</i>	River Oats	N	2-5'	1-2.5'	●		D	W	U	R	
<i>Elmus hystrix</i>	Bottle Brush Grass	N	2-4'	1-2'	●●		D				
<i>Iris cristata</i>	Dwarf Crested Iris	N	6-9"	6-12"	●○		D			R	
<i>Juncus effusus</i>	Common Rush	N	1-3'	1-3'	○	G		W			
<i>Juncus effusus 'Spiralis'</i>	Corkscrew Rush	C	12-18"	12-18"	●○	G		W			
<i>Mitchella repens</i>	Partridgeberry	N	1-3"	12-16"	●●○	G	D			R	
<i>Muhlenbergia capillaris</i>	Pink Muhly Grass	N	1-3'	16-36"	○		D		U	R	
<i>Nassella tenuissima</i>	Mexican Feather Grass	N	1-2'	1-2'	●○		D		U	R	
<i>Panicum virgatum</i>	Switchgrass	N	3-7'	2-3'	●○		D	W	U	R	
<i>Panicum virgatum 'Heavy Metal' and other cultivars</i>	Heavy Metal Switchgrass	C	4-5'	1-2'	○		D	W	U	R	
<i>Schizachyrium scoparium</i>	Little Bluestem	N	1-4'	18-24"	○		D		U	R	
<i>Sisyrinchium angustifolium</i>	Blue-Eyed Grass	N	18-24"	6-12"	●○						
<i>Sorghastrum nutans</i>	Indiangrass	N	5-7'	1-2'	○		D			R	
<b>Groundcovers</b>											
<i>Ajuga reptans cultivars</i>	Bugleweed, ajuga	E	6"-12"	6-12"	●●○	G				R	
<i>Antennaria plantaginifolia</i>	Pussytoes	N	4-6"	12-24"	●○	G	D				
<i>Asarum arifolium</i>	Arrowhead Wild Ginger	N	4-6"	12-24"	●	G	D			R	
<i>Asarum canadense</i>	Wild Ginger	N	4-6"	6-12"	●●	G		W		R	
<i>Chrysogonum virginianum</i>	Green and Gold	N	1-2"	12-24"	●●	G				R	
<i>Fragaria virginiana</i>	Wild Strawberry	N	3-9"	12-24"	●○		D			R	E

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<i>Gaultheria procumbens</i>	Wintergreen	N	4-8"	6-12"	●●	G	D				E
<i>Iberis sempervirens</i>	Candytuft	E	9-18"	1.5'	○	G	D			R	
<i>Liriope muscari</i>	Liriope, Lilyturf	E	1-1.5'	1-1.5'	●●○	G	D		U	R	
<i>Ophiopogon japonicus 'Nana'</i>	Dwarf Mondo Grass	E	3-6"	4-6"	●	G				R	
<i>Pachysandra procumbens</i>	Allegheny Spurge	N	6-12"	12-24"	●●	G	D				
<i>Phlox stolonifera</i>	Creeping Phlox	N	6-12"	9-18"	○○	G	D		U	R	
<i>Rubus hayata-koidzumii 'Emerald Carpet'</i>	Emerald Carpet Creeping Raspberry	E	9-12"	3-5'	○○	G	D			R	
<i>Salvia lyrata</i>	Lyreleaf Sage	N	12-24"	6-12"	●●○		D	W	U	R	
<i>Stachys byzantina</i>	Lamb's Ear	E	12-18"	12-18"	○○	G	D		U	R	
<i>Thymus pulegioides 'Foxy' and other cultivars</i>	Broad-Leaved Thyme	E	8-12"	16-36"	○	G	D			R	E
<i>Thymus vulgaris cultivars</i>	Common Thyme	E	12"	1.5'	○	G	D			R	E
<b>Ferns</b>											
<i>Athyrium asplenoides</i>	Southern Lady Fern	N	2-3'	2-3'	●●					R	
<i>Hemionitis lanosa</i>	Hairy Lipfern	N	6-12"	15-18"	○○		D			R	
<i>Osmunda regalis</i>	Royal Fern	N	5-6'	2-3'	●●			W		R	
<i>Osmundastrum cinnamomea</i>	Cinnamon Fern	N	2-6'	2-4'	●●			W		R	
<i>Polystichum acrostichoides</i>	Christmas Fern	N	1-3'	1-3'	●●	G				R	
<b>Perennials</b>											
<i>Achillea</i>	Yarrow	E	2-3'	2-3'	○○		D			R	
<i>Achillea filipendulina 'Coronation Gold' and other cultivars</i>	Fernleaf Yarrow	E	3-4'	2-3'	○		D		U	R	
<i>Agastache 'Blue Fortune' and other cultivars</i>	Hummingbird Mint	E	2-3'	18-24"	○		D			R	
<i>Allium 'Millenium'</i>	Millenium Allium	E	15-20"	10-15"	○○		D		U	R	
<i>Allium schoenoprasum</i>	Chives	E	12-18"	12-18"	○○	G	D			R	E
<i>Ampelaster carolinianus</i>	Climbing Aster	N	6-12'	3-6'	○○		D	W		R	
<i>Amsonia hubrichtii</i>	Threadleaf Blue Star	N	2-3'	2-3'	○○					R	
<i>Amsonia tabernaemontana 'Blue Ice' and other cultivars</i>	Blue Ice Blue Star	C	12-18"	12-24"	○○		D			R	
<i>Asclepias incarnata</i>	Swamp Milkweed	N	3-5'	2-3'	●○			W		R	
<i>Asclepias tuberosa</i>	Butterfly Weed	N	12-24"	12-18"	○○		D			R	

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<i>Baptisia</i>	Wild Indigo	N	3-4'	3-4'	●○		D		U	R	
<i>Baptisia</i> 'Cherries Jubilee' and other cultivars	Cherries Jubilee False Indigo	C	2-3'	1-3'	●○		D		U	R	
<i>Coreopsis auriculata</i>	Mouse-Eared Coreopsis	N	12-24"	12-18"	●○		D			R	
<i>Coreopsis verticillata</i>	Threadleaf Coreopsis	N	2.5-3'	1.5-2'	●○		D		U	R	
<i>Coreopsis verticillata</i> 'Moonbeam' and other cultivars	Moonbeam Coreopsis	C	12-18"	12-24"	●○		D		U	R	
<i>Echinacea purpurea</i>	Purple Coneflower	N	3-4'	1-2'	●○		D		U	R	
<i>Eryngium yuccifolium</i>	Rattlesnake Master	N	4-6'	3-6'	●○		D	W	U	R	
<i>Eupatorium perfoliatum</i>	Boneset	N	4-6'	3-4'	●○			W		R	
<i>Eutrochium dubium</i>	Coastal Plain Joe Pye Weed	N	3-6'	2-4'	●○			W		R	
<i>Eutrochium maculatum</i>	Joe Pye Weed	N	4-7'	3-4'	●○			W		R	
<i>Gaillardia aestivalis</i>	Lance Leaf Blanketflower	N	12-18"	8-12"	○		D			R	
<i>Gaillardia x grandifolia</i>	Blanket Flower	C	1-3'	2'	○		D		U	R	
<i>Heuchera</i>	Coral Bells	N	12-18"	12-18"	●○	G				R	
<i>Hemerocallis</i> 'Stella de Oro' and other cultivars. No <i>Hemerocallis fulva</i> (Orange Daylilies).	Stella de Oro Daylily	E	12-18"	12-18"	●○		D		U		
<i>Hibiscus moscheutos</i>	Rose Mallow	N	4-7'	2-4'	●○			W			
<i>Hylotelephium</i> 'Herbstfreude'	Autumn Joy Sedum	E	18-24"	18-24"	○		D		U	R	
<i>Kniphofia uvaria</i>	Red-Hot Poker	E	3-4'	2-3'	●○					R	
<i>Liatis spicata</i>	Blazing Star	N	3-6'	3-18"	○					R	
<i>Liatis spicata</i> 'Kobold'	Kobold Blazing Star	C	1-3'	1-2'	○					R	
<i>Lobelia siphilitica</i>	Great Blue Lobelia	N	3-4'	12-18"	●●○			W		R	
<i>Monarda didyma</i>	Beebalm	N	2-4'	2-3'	○					R	
<i>Monarda punctata</i>	Spotted Horsemint	N	1-3'	1-2'	●○		D			R	
<i>Penstemon</i> 'Dark Towers'	Dark Towers Beardtongue	C	36-42"	30-36"	○	G	D			R	
<i>Perovskia atriplicifolia</i>	Russian Sage	E	3-4'	3-4'	○		D		U	R	
<i>Pycnanthemum</i>	Mountain Mint	N	1-3'	1-3'	●○					R	
<i>Rudbeckia fulgida</i>	Black-Eyed Susan	N	2-3'	1-2'	●○		D		U	R	
<i>Rudbeckia fulgida</i> 'Goldsturm'	Goldsturm Coneflower	C	23-29"	18-23"	●○		D		U	R	
<i>Salvia nemorosa</i>	Meadow Sage	E	18"-36"	6-24"	●○		D		U	R	

APPENDIX A: PLANT LIST

Scientific Name	Common Name	Native - N Native Cultivar - C	Mature Height	Mature Width	Sun Exposure	Evergreen - G	Drought Tolerant - D	Wet Soil Tolerant - W	Tough Urban Sites - U	Resistant to Deer - R	Edible - E
<i>Salvia officinalis</i>	Garden Sage	E	2-3'	3'	●○		D		U	R	E
<i>Salvia x digenea</i>	Hybrid Sage	E	2-3'	12-18"	○		D		U	R	
<i>Solidago rugosa</i>	Goldenrod	N	3-4'	2-3'	●○			W		R	
<i>Solidago rugosa 'Fireworks'</i>	Fireworks Goldenrod	C	30-42"	30-36"	○		D	W		R	
<i>Stokesia laevis</i>	Stoke's Aster	N	12-24"	12-18"	●○	G	D			R	
<i>Stokesia laevis 'Peachie's Pick'</i>	Peachie's Pick Stoke's Aster	C	12-18"	18-24"	●○	G	D			R	
<i>Tiarella cordifolia</i>	Foamflower	N	5-12"	12-18"	●●					R	
<i>Tradescantia virginiana</i>	Spiderwort	N	17"-36"	12-18"	●●						
<i>Verbena hastata</i>	Blue Vervain	N	2-5'	12-30"	●○			W			
<i>Vernonia noveboracensis</i>	New York Ironweed	N	5-8'	3-4'	●○			W		R	
<i>Veronicastrum virginicum</i>	Culver's Root	N	4-7'	2-4'	○			W		R	
<i>Zizia aurea</i>	Golden Alexander	N	1-2'	1-2'	●○		D				

# APPENDIX B: INVASIVE PLANT LIST<sup>882</sup>

Scientific Name	Common Name
<b>Trees</b>	
<i>Ailanthus altissima</i>	Tree-of-Heaven
<i>Albizia julibrissin</i>	Mimosa
<i>Melia azedarach</i>	Chinaberry
<i>Paulownia tomentosa</i>	Princess Tree
<i>Pyrus calleryana</i>	Bradford Pear
<i>Triadica sebifera</i>	Chinese Tallowtree Tree
<b>Shrubs</b>	
<i>Berberis (Mahonia) bealei</i>	Leatherleaf Mahonia
<i>Berberis thunbergii</i>	Japanese Barberry
<i>Buddleja davidii</i>	Butterfly Bush
<i>Eleagnus angustifolia</i>	Russian Olive
<i>Eleagnus pungens</i>	Thorny Olive
<i>Eleagnus umbellata</i>	Autumn Olive
<i>Euonymus alata</i>	Burning Bush
<i>Ligustrum japonicum</i>	Japanese Privet
<i>Ligustrum sinense</i>	Chinese Privet
<i>Lonicera fragrantissima</i>	Fragrant Honeysuckle
<i>Lonicera maackii</i>	Bush Honeysuckle
<i>Nandina domestica</i>	Heavenly Bamboo
<i>Poncirus trifoliata</i>	Trifoliolate Orange
<i>Rosa multiflora</i>	Multiflora Rose
<i>Tamarix ramosissima</i>	Salt Cedar
<b>Vines</b>	
<i>Akebia quinata</i>	Chocolate Vine
<i>Ampelopsis brevipedunculata</i>	Porcelain Berry
<i>Cayratia japonica</i>	Bushkiller
<i>Celastrus orbiculatus</i>	Oriental Bittersweet
<i>Clematis terniflora</i>	Sweet Autumn Virgin's Bower
<i>Euonymus fortunei var. radicans</i>	Wintercreeper
<i>Hedera helix</i>	English Ivy
<i>Lonicera japonica</i>	Japanese Honeysuckle
<i>Persicaria perfoliata</i>	Mile-A-Minute Vine

<sup>882</sup> This is the invasive plant list from the Chatham County Appearance Commission's Design Guidelines. It is the N.C. Invasive Plant Council's list for the N.C. piedmont.

Scientific Name	Common Name
<i>Pueraria montana</i>	Kudzu
<i>Tribulus terrestris</i>	Puncturevine
<i>Wisteria floribunda</i>	Japanese Wisteria
<i>Wisteria sinensis</i>	Chinese Wisteria
<b>Grasses</b>	
<i>Arthraxon hispidus</i>	Small Carpetgrass
<i>Arundo donax</i>	Giant Reed
<i>Cyperus entrerianus</i>	Deep-Rooted Sedge
<i>Microstegium vimineum</i>	Japanese Stilt Grass
<i>Miscanthus sinensis</i>	Chinese Silvergrass
<i>Oplismenus hirtellus subsp. undulatifolius</i>	Wavyleaf Basketgrass
<i>Phalaris arundinacea</i>	Reed Canarygrass
<i>Phragmites australis</i>	Common Reed
<i>Phyllostachys aurea</i>	Golden Bamboo
<i>Sorghum halepense</i>	Johnson Grass
<b>Ferns</b>	
<i>Lygodium microphyllum</i>	Old World Climbing Fern
<b>Perennials</b>	
<i>Alliaria petiolata</i>	Garlic Mustard (biennial herb)
<i>Ficaria verna</i>	Fig Buttercup
<i>Glechoma hederacea</i>	Ground Ivy
<i>Heracleum mantegazzianum</i>	Giant Hogweed
<i>Imperata cylindrica</i>	Cogongrass
<i>Iris pseudacorus</i>	Yellowflag Iris
<i>Lespedeza bicolor</i>	Bicolor/Shrub Lespedeza
<i>Lespedeza cuneata</i>	Chinese Lespedeza
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Perilla frutescens</i>	Beefsteak Plant (annual)
<i>Reynoutria japonica</i>	Japanese Knotweed
<i>Solanum viarum</i>	Tropical Soda Apple
<i>Stellaria media</i>	Common Chickweed (annual)
<i>Youngia japonica</i>	Asiatic Hawksbeard (annual herb)
<b>Aquatic Plants</b>	
<i>Alternanthera philoxeroides</i>	Alligatorweed
<i>Egeria densa</i>	Brazilian Waterweed
<i>Hydrilla verticillata</i>	Hydrilla
<i>Ludwigia hexapetala</i>	Creeping Water Primrose
<i>Myriophyllum aquaticum</i>	Parrot Feather
<i>Nymphoides cristata</i>	Crested Floating Heart
<i>Salvinia molesta</i>	Giant Salvinia

# APPENDIX C: PLAT CERTIFICATES

## C.1 PRELIMINARY PLAT CERTIFICATES

### C.1.1 ADEQUATE SOILS CERTIFICATION OF REVIEW BY LICENSED SOIL SCIENTIST

I hereby certify that lot(s) \_\_\_\_\_ shown on this plat for \_\_\_\_\_ have been reviewed as appropriate and with respect to the requirements set forth in 15A NCAC 02T .0600 for single-family residence wastewater irrigation systems as amended from time to time. As of this date, and based on this review of existing site conditions, the lot (s) numbered above on this plat meets these regulations.

Certification does not represent approval or a permit for any site work. The North Carolina Department of Environment and Natural Resources, Division of Water Quality has the authority for the review, approval, or denial of applications for non-discharge permits. The issuance of non-discharge permits is based on regulations in force at the time of permitting and is dependent on the satisfactory completion of a permit application and all required supporting information.

Any change in use or any site alteration may result in suspension or revocation of certification.

Date                      NC Licensed Soil Scientist (Seal)

### C.1.2 ADEQUATE SOILS CERTIFICATION OF REVIEW BY LICENSED SOIL SCIENTIST

I hereby certify that lot(s) \_\_\_\_\_ shown on this plat for \_\_\_\_\_ have been reviewed in accordance with the .1900 North Carolina laws and rules for sewage treatment and disposal systems. As of this date, and based on this review of existing site conditions, the lots numbered above on this plat meets these regulations.

Certification does not represent approval or a permit for any site work. Final site approval for issuance of improvement permits is based on regulations in force at the time of permitting and is dependent on satisfactory completion of individual site evaluations following application for an improvement permit detailing a specific use and siting.

Any change in use or any site alteration may result in suspension or revocation of certification.

Date                      NC Licensed Soil Scientist (Seal)

**C.1.3 CERTIFICATION OF PLANS OF STREETS**

I hereby certify that the plans for streets in the subdivision shown hereon meet the design standards and specifications of the Department of Transportation, Division of Highways except as noted hereon.

---

Date                      District Engineer

**C.2 FINAL PLAT CERTIFICATES**

**C.2.1 CERTIFICATE OF APPROVAL FOR RECORDING**

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations for Chatham County, with the exception of such variances, if any, as noted in the minutes of the Board of Commissioners, and that it has been approved by the body for recording in the Office of the County Register of Deeds.

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Date                      Chairman, Chatham County Board of Commissioners  
Chatham County  
Subdivision Administrator

**C.2.2 APPROVAL FOR MINOR SUBDIVISIONS**

I hereby certify that the subdivision plat shown hereon is a minor subdivision and has been found to comply with the subdivision regulations for Chatham County. The plat has been approved for recording in the Office of the County Register of Deeds.

---

Date                      Director of Planning or Authorized Agent  
Chatham County Subdivision  
Administrator

**C.2.3 OWNER CERTIFICATION OF PLAT BEING EXEMPT FROM THE SUBDIVISION REGULATIONS**

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that said property is exempt from the subdivision regulations of Chatham County by definition.

---

Date                      Owner(s) or Authorized Agent and Title



**C.2.4 CERTIFICATION OF PLAT BEING EXEMPT FROM THE SUBDIVISION REGULATIONS**

I hereby certify that the property shown and described hereon is exempt from the subdivision regulations of Chatham County by definition.

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Date                      Planning Director or Authorized Representative Chatham County  
Subdivision Administrator

**C.2.5 CERTIFICATION OF OWNERSHIP AND DEDICATION**

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, and dedicate all rights-of-way, streets, alleys, walks, easements, parks, and other open spaces to public or private use as noted.

---

Date                      Owner(s)

**C.2.6 CERTIFICATE FOR LOTS CREATED FOR NON-RESIDENTIAL USES**

I hereby certify that this plat creates lot(s) for non-residential uses, and such lot(s) were exempt from UDO Subsection 6.1.8: Recreation Area Required for Residential Subdivisions Section 7.5(A)(2) of the Chatham County Subdivision Regulations. Any conversion of the lot(s) shown on this plat as non-residential lot(s) to residential uses shall require compliance with Section 7.5(A)(2) of the Chatham County Subdivision Regulations before any residential use may be made of the lot(s).

---

Date                      Owner(s)

**C.2.7 CERTIFICATION OF THE APPROVAL OF STREETS**

I hereby certify that the streets and related improvements have been installed according to plans approved by the Division of Highways, except as noted hereon; or proper provisions have been made for their installation.

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Date                      District Engineer, N.C. Division of Highways

**C.2.8 CERTIFICATION OF THE APPROVAL OF UTILITIES**

I hereby certify that the \_\_\_\_\_ improvements have been installed in an acceptable manner and according to the specifications of the Chatham County utility policy and/or the Chatham County ~~Subdivision Regulations~~ Unified Development Ordinance, except as noted hereon; or proper provisions have been made for their installation.

---

Date                      Signature, Title

**C.2.9 CERTIFICATE OF AGRICULTURAL DISTRICT**

Note: These parcels are located near an area that is presently used for agricultural purposes. Normal agricultural operations may conflict with residential use. N.C.G.S § 106-701 provides some protection for existing agricultural operations.

**C.2.10 NOTE FOR PRIVATE TRAVELWAYS/DRIVEWAYS**

Construction of the entire private travelway/driveway shall be completed prior to the issuance of a building permit for a building on any lot served by the ~~easement~~ driveway per UDO Subsection 7.2.8: *Private Driveways* ~~section 7.4.B(3)~~.

**C.2.11 NOTE FOR STUB STREETS**

The stub street(s) shown on this plat is provided for the purpose of future road extension. Once the road is extended and/or connects to another road, any easement provided for the purpose of a temporary turn around may be removed through the lawful actions of the property owner.

**C.2.12 NOTE FOR LOTS FOR MINOR UTILITIES**

Lots to be created for the express purpose of minor utilities are exempt from the required minimum lot area per UDO Subsection 2.1.5: *Lots for Minor Utility Uses*.

**C.2.13 NOTE FOR WATER FEATURES**

Field location to locate perennial, intermittent, and ephemeral streams, perennial water bodies, and wetlands has been completed by Chatham County. Lot number(s) \_\_\_\_\_ does not have any water features subject to Chatham County riparian buffer requirements.

**C.2.14 NOTE FOR BUFFERS**

Jurisdictional and permanence of the features shown has been determined by Chatham County. Required buffers were measured landward from the outer limit of jurisdiction. Chatham County Watershed Protection Ordinance provides descriptions of allowable uses within protected buffer areas. Lot number(s) is subject to Chatham County buffer requirements.

**C.2.15 NOTE FOR LOTS SUBJECT TO WATERSHED PROTECTION**

Lot number(s) \_\_\_\_\_ is subject to the ~~Chatham CountyUDO Chapter 8: Watershed & Riparian Buffer Protection~~~~Watershed Protection Ordinance~~ and all applicable provisions thereof. Site verification of all surface waters must be conducted by a qualified environmental professional, as described in ~~8.6.2D: Identification of Waters with Riparian Buffers Subject to this Chapter-Section 304(B)~~ of the ordinance, prior to any ground-disturbing activities. Regulated surface waters and protected buffer areas must be depicted on all future development plans.

**C.2.16 NOTE FOR LOTS SUBJECT TO WATERSHED PROTECTION BUFFERS**

Jurisdiction and permanence of the features shown has been determined by (insert name of environmental professional). Required buffers were measured landward from the outer limit of jurisdiction. ~~Chatham CountyUDO Chapter 8: Watershed Protection Ordinance~~ provides descriptions of allowable uses within protected areas. Lot number(s) \_\_\_\_\_ is subject to Chatham County buffer requirements.

**C.2.17 NOTE FOR LAND DISTURBANCE**

Development or redevelopment of a Minor Subdivision or an individual residential lot cumulatively exceeding 20,000 square feet of land disturbance shall comply with UDO Paragraph ~~9.2.8B.4-Section 165.045 (E) (d) and (e) [formerly Section 400 (5) (d) and (e)]~~ of the ~~Chatham County Stormwater Ordinance~~.

**C.2.18 OWNER CERTIFICATION OF NON-BUILDING LOT**

I hereby certify that this plat creates non-building lot(s). Any conversion of the lot(s) shown on this plat to buildable lots ~~shall~~ requires compliance with Section ~~12.6: Minor Subdivisions~~~~5.3~~ of the Chatham County Subdivision Regulations.

Date

Owner(s)

**C.2.19 NOTE FOR STORMWATER MANAGEMENT PLAN**

Any non-residential development or redevelopment that disturbs 20,000 square feet or more shall submit a Stormwater Management Plan that meets the requirements of the Chatham CountyUDO Chapter 9: Stormwater Ordinance-Management and receive a Stormwater Permit prior to commencement of land disturbing activities.

**C.2.20 NOTE FOR EXPEDITED SUBDIVISIONS**

Minor Subdivision on parcel # \_\_\_\_\_ was reviewed and approved as an Expedited Subdivision. ~~No~~A Subdivider shall not use the Expedited Subdivision process on any portion of the parent tract or resultant lots for a period of ~~ten (10)~~ years from the date of recordation of the final plat.

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Date                      Owner Signature

**C.2.21 CERTIFICATE FOR RESIDENTIAL RECREATION AREA**

**SR Section 7.5: Public Use and Service Areas, Paragraph A(2): Recreation Sites,**

The plat for a non-residential or family subdivision must include a certificate stating that any conversion of a non-residential lot to residential use requires compliance with 6.1.8: Recreation Area Required for Residential Subdivisions before the residential use may be made of the lot.

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Date                      Owner Signature